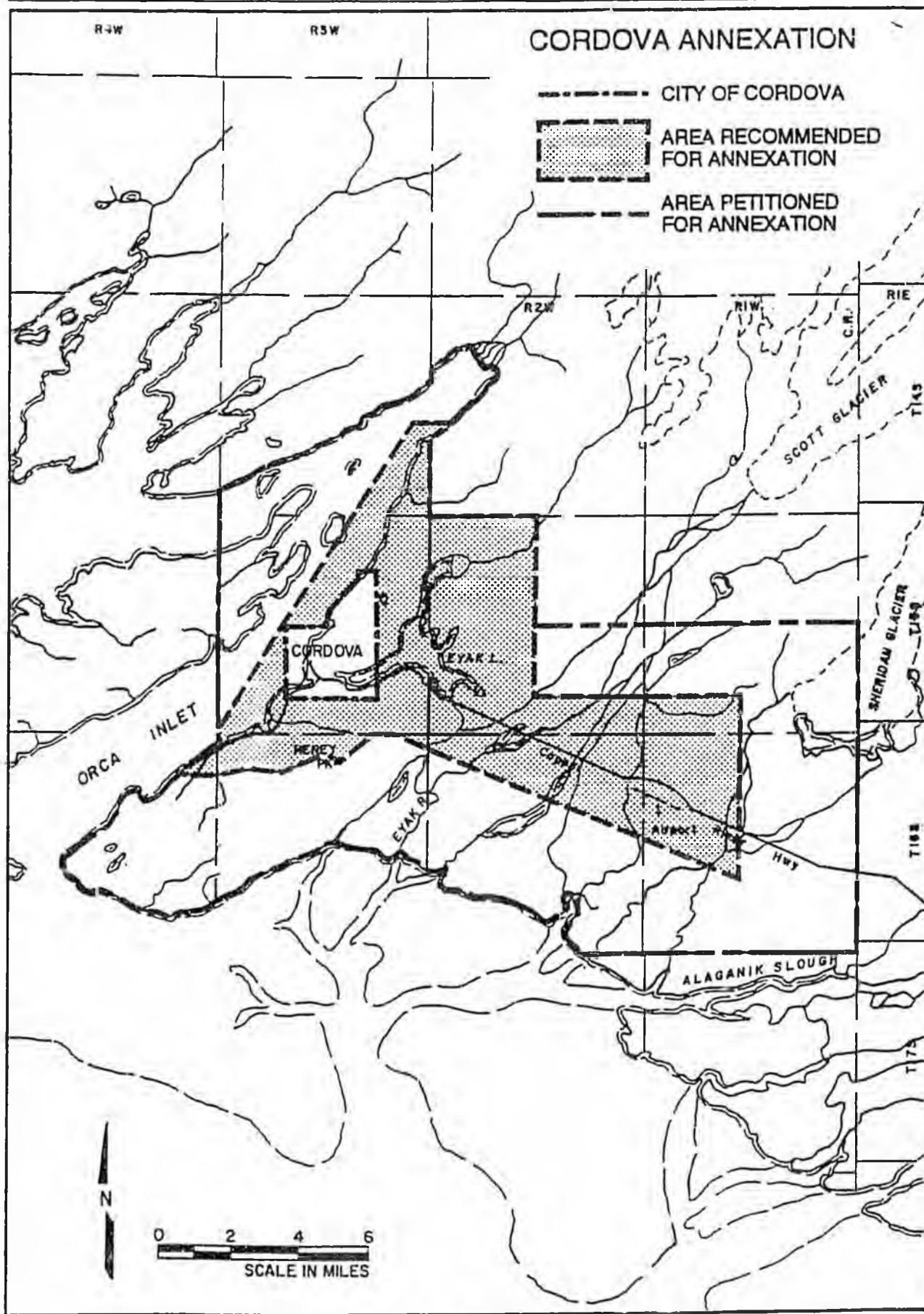


ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8235 SENATE COMMUNITY & REGIONAL AFFAIRS



LOCAL BOUNDARY COMMISSION

PALMER

On February 28, 1992, the City of Palmer filed a petition for annexation of approximately 7.5 acres using the legislative review method.

The Commission conducted a public hearing on November 20, 1992, in Palmer. On December 18, the Commission approved the petition. Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Palmer's annexation petition are discussed in detail in the Commission's December 30, 1992, Statement of Decision. That document, comprising 11 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500 Fax: 269-4520

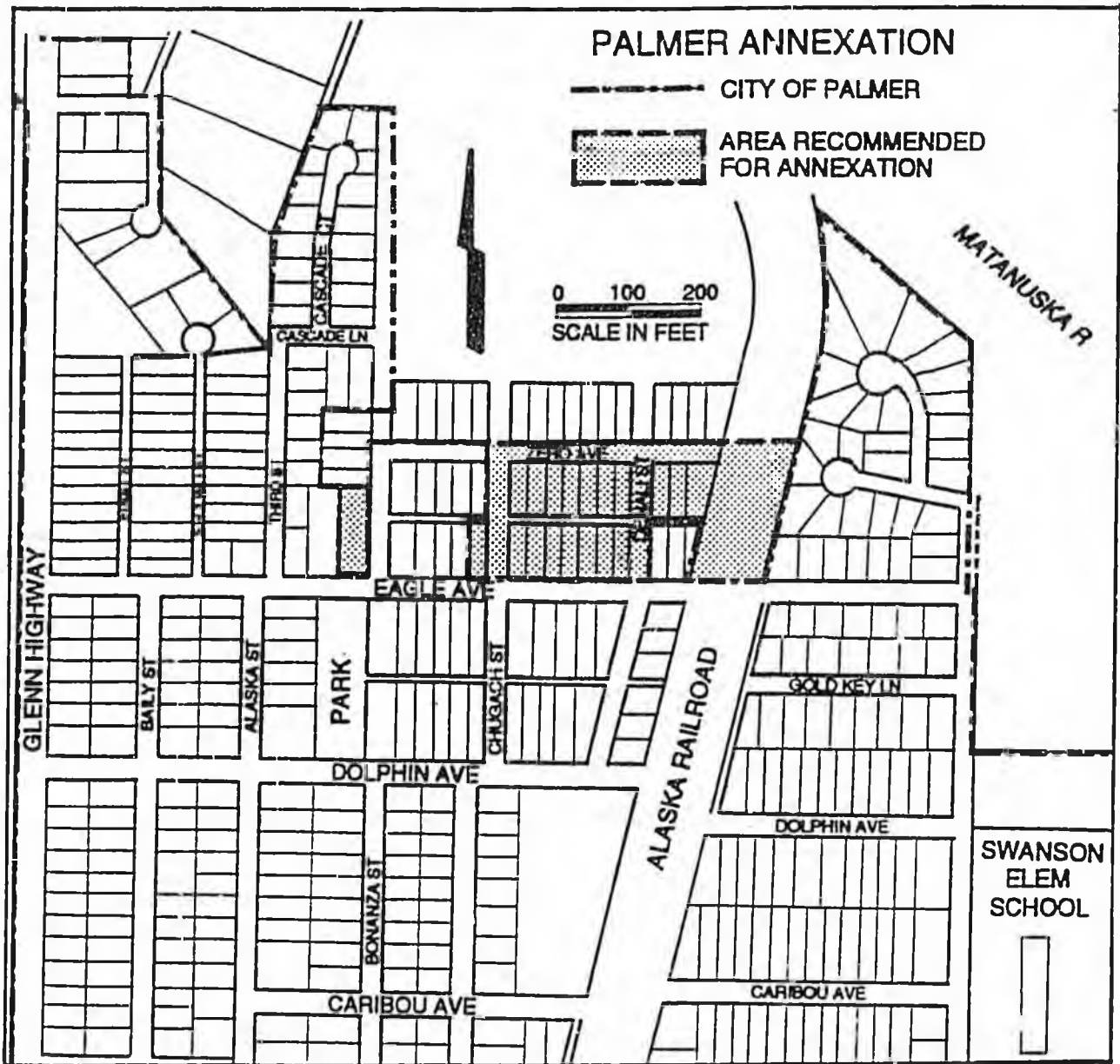
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Palmer:

Within Section 2 , Township 18N, Range 2E, Seward Meridian:

Pribyl, Grasse and Grasse Subdivision - Lot 22; Riverside Subdivision - Block 1, Lots 1 through 10 and Lots 20 through 27; and a portion of the right-of-way of the Alaska Railroad as shown on the City of Palmer's petition for annexation.

A map of the area recommended for annexation is presented on the following page.

PALMER ANNEXATION



APPENDIX A 1992 LOCAL BOUNDARY COMMISSION MEETINGS

JANUARY (3 Meetings)

January 17, 1992: Public hearing on City & Borough of Yakutat incorporation petition and model boundaries of Prince William Sound, Yakutat and Cross Sound/Icy Straits. Parties participated from **Whittier, Cordova, Valdez, Tatitlek, Elfin Cove and Yakutat.**

January 17, 1992: Public hearing in **Hoonah** on Yakutat and Cross Sound/Icy Straits Model Boundaries. Parties from **Gustavus, Juneau, and Pelican** participated via teleconference.

January 18, 1992: Public hearing in **Yakutat** on City and Borough of Yakutat incorporation petition and model boundaries for Prince William Sound, Yakutat and Cross Sound/Icy Straits areas.

FEBRUARY (2 Meetings)

February 5, 1992: Meeting in **Anchorage** with teleconference hookup to **Yakutat** to conduct decisional session on **Yakutat Borough** incorporation and dissolution of the City of Yakutat.

February 26, 1992: Continuation of February 5 meeting in **Anchorage** with teleconference hookup to **Yakutat** on Yakutat Borough incorporation and dissolution of the City of Yakutat.

Consideration of petition from the **City of Palmer** to annex **35 acres** of city-owned property.

MARCH (1 Meeting)

March 17, 1992: Continuation of February 5 and 26 meetings with teleconference hookup to **Yakutat.**

APRIL (1 Meeting)

April 10, 1992: teleconference from Anchorage, North Pole, Nome, Fairbanks and Ketchikan to adopt Statement of Decision approving dissolution of the City of Yakutat and the incorporation of the City and Borough of Yakutat.

MAY (5 Meetings)

May 8, 1992: Meeting in **Fairbanks** to review certain requests for reconsideration of decision approving City of Yakutat dissolution and Yakutat Borough incorporation. Determination of model unorganized borough boundaries of **Cross Sound/Icy Straits** Model Boundaries and **Prince William Sound** model boundaries.

May 8, 1992: Public hearing in **Delta Junction** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Tok** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Glennallen** on model unorganized borough boundaries of the Copper River Basin.

May 22, 1992: Teleconference originating from Anchorage to review additional requests for reconsideration of decision approving the dissolution of the City of Yakutat and incorporation of the City and Borough of Yakutat.

JUNE (1 Meeting)

June 6, 1992: Public hearing in **Tok** on Alaska Gateway Region Model Unorganized Borough Boundaries.

JULY (1 Meeting)

July 20, 1992: Teleconference originating from Anchorage for consideration/action on City of **Palmer's** petition to annex 2-acre William Fogg Property. Consideration/action on City of **Wasilla** petition to annex 252.34 acres of city-owned property (new airport site). Scheduling of hearings regarding annexation petitions from Cities of **Haines, Hoonah, Cordova, Palmer** and **Whittier**. Scheduling of **Greater Bristol Bay** model borough boundaries; **Calista** region model borough boundaries; **Aleutians/Pribilof** region model borough boundaries; **East Central** Alaska region model borough boundaries decision.

SEPTEMBER (1 Meeting)

September 25, 1992: Approval of **City of Seldovia's** annexation of approximately 110 acres of City-owned property (including the boat harbor). Training on due process, taking of evidence, evaluation of evidence on record, standards of review, Open Meetings Act and Executive Branch Ethics Act.

October (7 Meetings)

October 9 1992: Hearing and approval of **City of Haines'** petition for annexation of 4.75 square miles.

October 10, 1992: Public hearing in **Hoonah** concerning the City's proposed annexation of 18.5 square miles. The Commission deferred action on the matter principally because a City Council member testified that he and three newly elected Council members did not support the City's petition. In particular, the Council member opposed the annexation of the Mt. Bether Bible Center at **Game Creek** and the **Whitestone Logging Camp**.

October 20, 1992: Teleconference public hearing on Aleutian/Pribilof model unorganized borough boundaries. Representatives of **St. Paul, St. George** and the **Tanadusix Corporation** testified.

October 21, 1992: Teleconference hearing on Western Aleutian model unorganized borough boundaries was conducted with **Adak**.

LOCAL BOUNDARY COMMISSION

October 23, 1992: **Aniak** hearing on model unorganized borough boundaries for Kuspuk REAA.

October 23, 1992: **St. Mary's** hearing on model unorganized borough boundaries for Lower Yukon REAA model borough boundaries.

October 24, 1992: **Bethel** hearing on model unorganized borough boundaries for Lower Kuskokwim REAA.

NOVEMBER (6 Meetings)

November 5, 1992: Teleconference hearing regarding Western Aleutians model unorganized borough boundary. **Akutan, Atka** and **Unalaska** participated via teleconference. Adopted written decisional statement regarding Haines #1 legislative review annexation.

November 20, 1992: Public hearing regarding **City of Palmer** petition for annexation of 7.5 acres in Prybl, Grasse & Grasse subdivision.

November 21, 1992: Public hearing in **Cordova** regarding the **Cordova** annexation petition. Model boundaries were set for the following;

- Upper Tanana Basin (combining Delta Greely & Alaska Gateway REAAs);
- Copper River Basin (following boundaries of Copper River REAA);
- Lower Yukon (combining Lower Yukon and Kashunamiut REAAs);
- Lower Kuskokwim (combining Lower Kuskokwim and Yupiit REAAs);
- Kuspuk (following Kuspuk REAA);
- Pribilofs (following Pribilofs REAA);
- Aleutians West (from Aleutians East Borough to mid-point of Fenimore Pass;
- Aleutians - Military (from mid-point of Fenimore Pass to the western boundary of the State.

Approve annexation of 10 acres to the City of **Seldovia**.

November 23, 1992: Public hearing in **Naknek** regarding model boundaries of the Greater Bristol Bay region.

November 24, 1992: Public hearing in **Togiak** on model unorganized borough boundaries for Nushagak/Dillingham area.

November 24, 1992: Public hearing in **Dillingham** on model unorganized borough boundaries for Nushagak/Dillingham area, with teleconference participation from **Chignik, Chignik Lake, Egegik, Kokhanok, Levelock, Newhalen, Nondalton, Pilot Point**.

DECEMBER (4 Meetings)

December 4, 1992: Decisional meeting regarding City of **Palmer** petition for annexation of about 7.5 acres in Prybl, Grasse & Grasse subdivision. Decisional meeting regarding model unorganized borough boundaries for **Nushagak/Dillingham** region. Decisional meeting regarding annexation of 7 square miles of tidelands and submerged lands to the City of **Haines**.

December 18, 1992: Continuation of December 4 decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition. Adopted written decisional statements concerning Hoonah legislative review annexation and Haines #2 legislative review annexation,

December 21, 1992: Completion of decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition.

December 30, 1992: Meeting to approve statement of decision regarding **Palmer** 7.5 acre Prybl, Grasse & Grasse annexation.

APPENDIX B

SUMMARY OF STANDARDS & PROCEDURES

Portions of the Alaska Constitution, statutes and regulations governing LBC matters are listed below, followed by a summary of standards and procedures.

On June 29, 1991, the Local Boundary Commission adopted a revised set of regulations. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code.

Alaska Constitution

- Article X, Section 3 - Boroughs
- Article X, Section 7 - Cities
- Article X, Section 12 - Boundaries
- Article X, Section 14 - Local Government Agency

Alaska Statutes

- AS 29.05.011-031 - Standards for incorporation of cities and boroughs
- AS 29.05.060-150 - Procedures for incorporation of cities and boroughs
- AS 29.06.040-060 - Annexation and detachment
- AS 29.06.090-170 - Merger and consolidation
- AS 29.06.450-530 - Dissolution
- AS 44.47.565-583 - General provisions concerning the LBC

LBC Regulations

- 19 AAC 10.010-040 - Standards for incorporation of cities
- 19 AAC 10.045-060 - Standards for incorporation of boroughs
- 19 AAC 10.090-150 - Standards for annexation to cities
- 19 AAC 10.160-210 - Standards for annexation to boroughs or unified municipalities
- 19 AAC 10.220-230 - Standards for merger of municipalities
- 19 AAC 10.240-250 - Standards for consolidation of municipalities
- 19 AAC 10.260 - Standards for detachment from cities
- 19 AAC 10.270 - Standards for detachment from boroughs or unified municipalities
- 19 AAC 10.280-300 - Standards for dissolution of cities
- 19 AAC 10.310-330 - Standards for dissolution of boroughs or unified municipalities
- 19 AAC 10.400-660 - Procedures for petitioning
- 19 AAC 10.900-990 - General Provisions

City Incorporation

The standards for incorporation of a city relate to the following factors:

1. The need for city government.
2. The community's human and economic resources.
3. The size and stability of the community's population.
4. Suitable boundaries.
5. Whether annexation to an existing city, or services performed by a borough, is more appropriate.

All of the standards must be met for the LBC to approve an incorporation petition.

The procedure for incorporation:

1. Residents submit a petition with supporting brief to the Department of Community and Regional Affairs.
2. DCRA reviews the form and content of the petition and determines whether it has enough valid signatures.
3. DCRA assists the petitioners in correcting any deficiencies in the petition and assists petitioners in mailing and publishing notice of the petition.
4. Interested parties are allowed at least seven weeks to review and submit comments on the incorporation proposal.
5. Petitioners are allowed at least two weeks to respond to comments from interested parties.
6. DCRA examines the petition and comments, and otherwise investigates the incorporation proposal. DCRA holds a public informational meeting in the area proposed for incorporation.
7. DCRA prepares a draft report and recommendation for the Commission on the proposed incorporation. The draft is circulated for public review for a minimum of four weeks. Following consideration of the comments, DCRA issues its final report.
8. The LBC holds at least one public hearing in the area. Within 90 days, the LBC makes a decision on the petition. The Commission may change the proposed municipal boundaries, and it may impose conditions on the incorporation. These conditions can include a requirement for voter approval of authority to levy municipal taxes (to ensure that the city will be financially viable).
9. If the LBC approves the incorporation petition, the Director of the Alaska Division of Elections orders a local election. This election includes selection of council members and possible council authorization to levy municipal taxes. DCRA prepares and submits the request to the U.S. Justice Department for federal Voting Rights Act preclearance.
10. After the election is held, the Division of Elections certifies the results. If a majority of those voting approve the incorporation (with any stated conditions) DCRA issues a certificate of incorporation for the city.

LOCAL BOUNDARY COMMISSION

Borough Incorporation

The standards for incorporation of a borough relate to:

1. Social, cultural, and economic integration;
2. Population size and stability;
3. Human and financial resources to maintain and operate the mandatory powers of the borough on an efficient and cost-effective level;
4. The proposed boundaries and their conformance with the natural geography of the area and whether they include all of the territory necessary to provide the full development of borough services on an efficient, cost-effective level.

As with city incorporations, all of the borough incorporation standards must be met for the LBC to approve a petition. Borough incorporation procedures are the same as those set out above for city incorporation.

Boundary Change Procedures

Procedures for annexation, detachment, merger, consolidation, and dissolution are similar in many respects to the procedures previously outlined for incorporation. However, there are some important differences.

Under current law, an incorporation petition can only be initiated by the resident voters. However, annexation, detachment, merger, consolidation and dissolution may be initiated in a variety of ways. Petitioners for those procedures may include a political subdivision of the State of Alaska, the Alaska Legislature, the Commissioner of DCRA, LBC staff or designee, or voters.¹²

In the case of simple and non-controversial boundary proposals, certain of the procedural steps can be eliminated. The Commission's new regulations give it flexibility to ensure that the rights of interested parties are protected while at the same time, the process used to consider the proposal is reasonable, speedy and inexpensive.

The method of final approval in these instances will vary. Some will involve elections conducted by the State or local government. In other cases final approval may be sought from the Legislature. In simple and non-contested boundary proposals, no approval beyond that of the Commission may be necessary.

¹² A political subdivision is defined under 19 AAC 10.990(a)(11) to mean a borough, unified municipality, city, regional educational attendance area, or coastal resource service area organized and operated under state law.

Details about a particular process are available from:

Local Boundary Commission Staff
Department of Community & Regional Affairs
333 West 4th Avenue, Suite 220
Anchorage, Alaska 99501-2341
Telephone: 269-4500 Fax: 269-4520

Annexation Standards

Standards for annexation to cities relate to:

1. The need for city government;
2. Whether the territory is compatible in character with the annexing city;
3. Whether the post-annexation boundaries of the city include the human and financial resources necessary to provide city services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries include a population sufficiently large and stable enough to support the extension of city government;
5. Whether the post annexation boundaries include all of the territory necessary to provide essential city services on an efficient, cost-effective level;
6. Whether the annexation serves the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

In order for any annexation to occur, the first five standards must be satisfied. In order for an annexation to be approved using the legislative review method for final approval, the sixth standard must also be met. In considering whether this sixth standard is met, the Commission may consider factors including whether the (1) territory is an enclave within the existing boundaries of the city; (2) health, safety, or general welfare of city residents is endangered, (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, (4) residents and/or property owners receive benefits from the city without commensurate tax contributions, (5) annexation will enable the city to plan and control anticipated growth or development and (6) the territory is so sparsely inhabited or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

Standards for annexation to boroughs relate to:

1. Whether the social, cultural and economic characteristics of the people are interrelated and integrated;
2. Whether the area has sufficient population size and stability;
3. Whether the post-annexation boundaries of the borough include the human and financial resources necessary to provide borough services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries conform to natural geography and include all of the territory necessary to provide essential borough services on an efficient, cost-effective level;
5. Annexation by the legislative review process requires a determination of whether the annexation services the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

LOCAL BOUNDARY COMMISSION

The factors to be considered with respect to the interests of parties are similar to those noted earlier for annexation to cities.

Detachment Standards

Standards for detachment from cities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the city and the territory after detachment;
3. The ability of the city or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the area after detachment;
5. The historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
6. The historical pattern of cooperation and shared commitment between the people of the city and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining city to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining city, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Standards for detachment from boroughs and unified municipalities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the borough or unified municipality and the territory after detachment;
3. The ability of the borough or unified municipality or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
5. The historical pattern of providing to the territory municipal services that have been or should be, supported by tax levies in the territory;

6. The historical pattern of cooperation and shared commitment between the people of the borough or unified municipality and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining borough or unified municipality to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining borough or unified municipality, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Consolidation and/or Merger Standards

Consolidation of municipal governments is the creation of a new municipality from the union of two or more existing municipalities. Merger of municipalities is the absorption of one or more existing municipality by another existing municipality. The primary standard for either action is whether the successor municipality meets the applicable standards for incorporation for its type of municipality. Merger and consolidation are initiated with a petition to the LBC .

Municipal Dissolution Standards

The standards for dissolution of a municipality relate to the following factors:

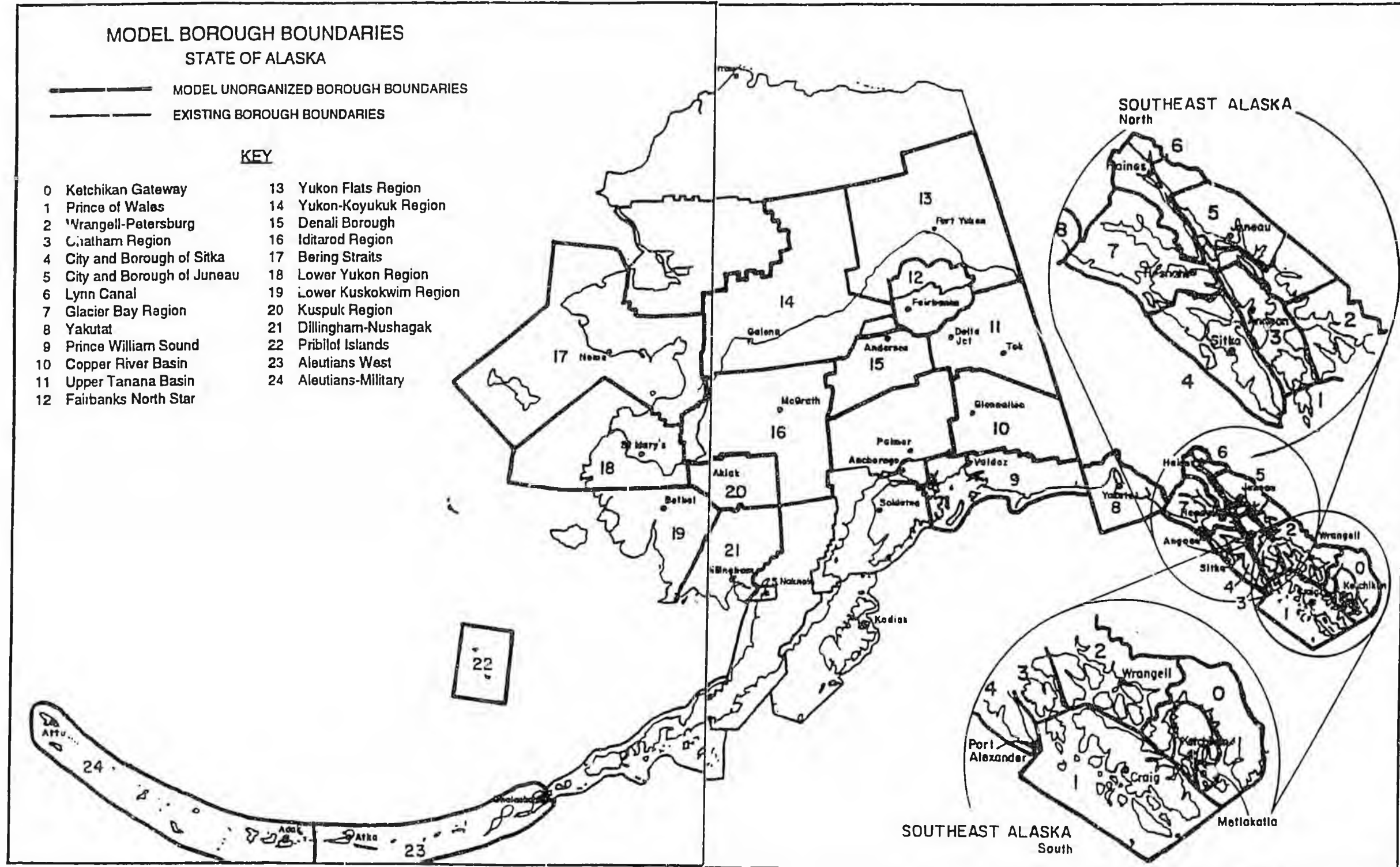
1. Whether the municipality is free of debt, or has satisfied each of its creditors;
2. Whether the municipality has ceased to use each of its mandatory powers;
3. Whether dissolution is in the best interests of the state;
4. Whether the municipality continues to meet the standards for incorporation;
5. Whether the municipality still meets the standards for incorporation;
6. Whether the municipality has ceased to exercise its mandatory powers.

MODEL BOROUGH BOUNDARIES
STATE OF ALASKA

—— MODEL UNORGANIZED BOROUGH BOUNDARIES
—— EXISTING BOROUGH BOUNDARIES

KEY

- | | |
|------------------------------|---------------------------|
| 0 Ketchikan Gateway | 13 Yukon Flats Region |
| 1 Prince of Wales | 14 Yukon-Koyukuk Region |
| 2 Wrangell-Petersburg | 15 Denali Borough |
| 3 Chatham Region | 16 Iditarod Region |
| 4 City and Borough of Sitka | 17 Bering Straits |
| 5 City and Borough of Juneau | 18 Lower Yukon Region |
| 6 Lynn Canal | 19 Lower Kuskokwim Region |
| 7 Glacier Bay Region | 20 Kuspuk Region |
| 8 Yakutat | 21 Dillingham-Nushagak |
| 9 Prince William Sound | 22 Pribilof Islands |
| 10 Copper River Basin | 23 Aleutians West |
| 11 Upper Tanana Basin | 24 Aleutians-Military |
| 12 Fairbanks North Star | |



III. MAJOR PROJECTS

Model Borough Boundaries Project

On December 4, 1992, the Commission set model unorganized borough boundaries for the Dillingham/Nushagak area. That action was especially significant since it marked the conclusion of three years of public hearings and meetings on model borough boundaries statewide. The LBC has now adopted model boundaries for the entire unorganized borough. During the course of the model boundaries study, the Commission held public hearings in 88 separate communities. The extensive public hearing process familiarized the Commission with existing and potential regional government boundary issues throughout Alaska.

In 1992, the LBC held model borough boundary hearings in 22 communities in the following six regions:

Southeast;
Prince William Sound;
East Central (Delta Greely, Copper River, Alaska Gateway);
Calista, (Lower Yukon, Lower Kuskokwim, Kuspuk);
Western Aleutian/Pribilofs (Adak, Unalaska, St. George-St. Paul);
Greater Bristol Bay.

Every LBC decision regarding borough boundaries affects three groups; residents within the proposed boundaries, people of the adjacent areas and the state as a whole. Formation of new regional governments is a sensitive issue in Alaska. Lawsuits or long-standing boundary disputes tend to erupt each time a borough incorporation or annexation proposal is advanced. On the basis of such factors, the LBC concluded that, rather than examining regional boundaries only when petitions are lodged, the Commission would invite public testimony from throughout the entire state and adopt 'model' boundaries. Such 'model' boundaries will be used as a frame of reference to help evaluate future petitions. They will be considered when existing organized boroughs seek to annex unorganized borough territory or when unorganized borough residents petition for borough incorporation.

The Commission and its DCRA staff began planning the model boundary study in mid-1989. The Commission decided to focus first on the areas for which petitions for incorporation or annexation were pending. Research on the project began in earnest in 1990.

The LBC began its study of each area by sending out a large eight-page tabloid which explained the study and set out the questions the LBC expected to consider in its decision-making process. Each tabloid included a map on which recipients were requested to draw suggested boundaries. DCRA prepared and widely distributed a report of its findings and recommendations for the area, and then the LBC held hearings in as many communities as resources allowed.

The study prompted residents and organizations throughout the state to articulate where they believed future boundaries should be set. Municipal governments and other public and

private local and regional organizations helped execute the model boundaries project. Many hundreds of interested parties provided written comment or oral testimony.

Completion of the study renders the LBC and DCRA much better prepared to evaluate future petitions. A wealth of information and public comment was obtained in the study process.

'Model' boundaries are not rigid or unchangeable. Petitioners for borough incorporation or alteration of existing borough boundaries can successfully propose different boundaries if they make a specific and persuasive showing to the Commission why other boundaries are more appropriate.⁷

Conclusion

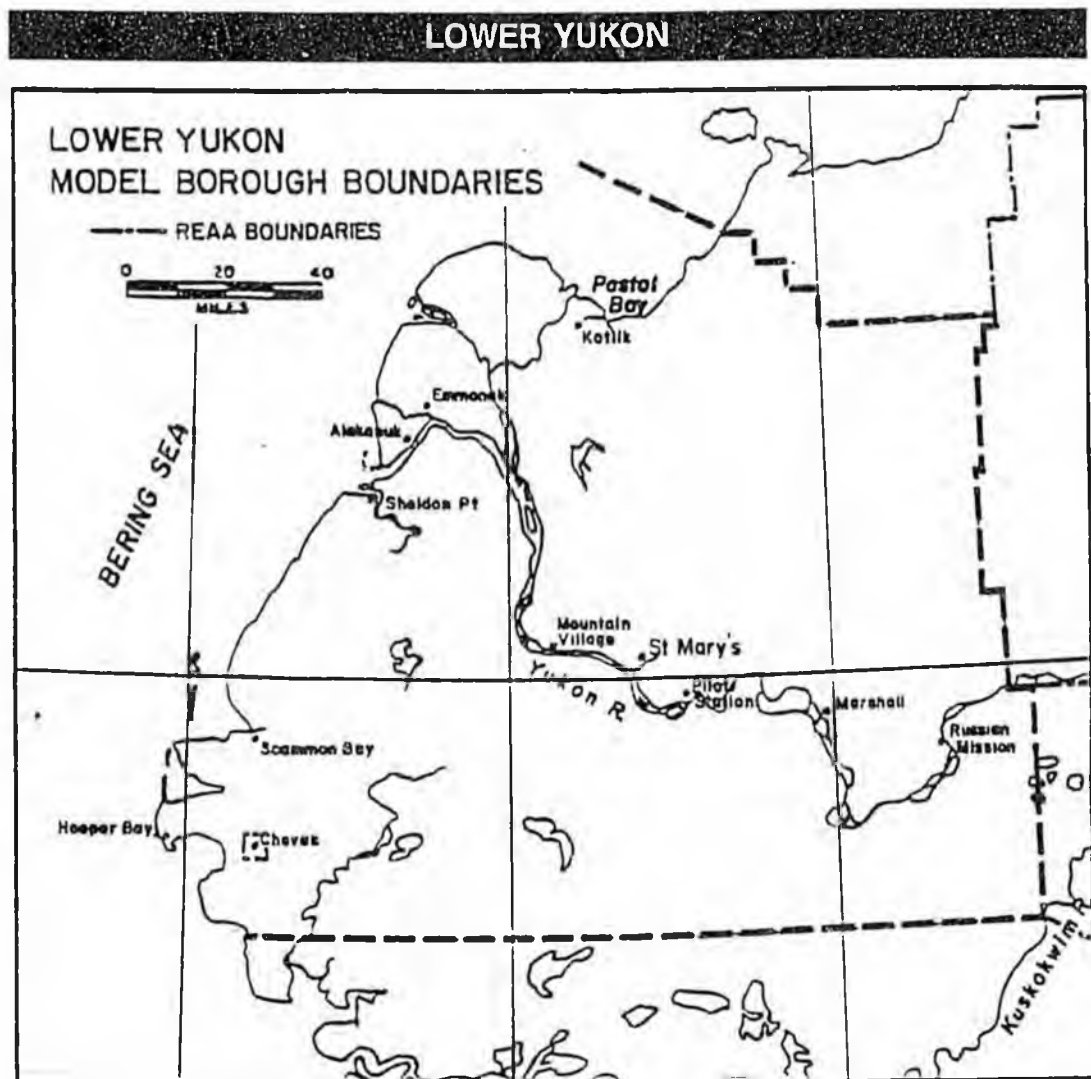
The goal of the study has been achieved. The Commission has developed a useful tool for long-term regional government boundary planning. The LBC based its model boundaries map upon extensive testimony from throughout Alaska. Alaskans have become better acquainted with the LBC, borough incorporation standards and their neighbors' perspectives. A statewide map of model boundaries adopted by the Commission is shown on pages 26 and 27 of this report.

⁷ 19 AAC 10.060(b) and 19 AAC 10.190(c).

LOCAL BOUNDARY COMMISSION

Lower Yukon Model Unorganized Borough

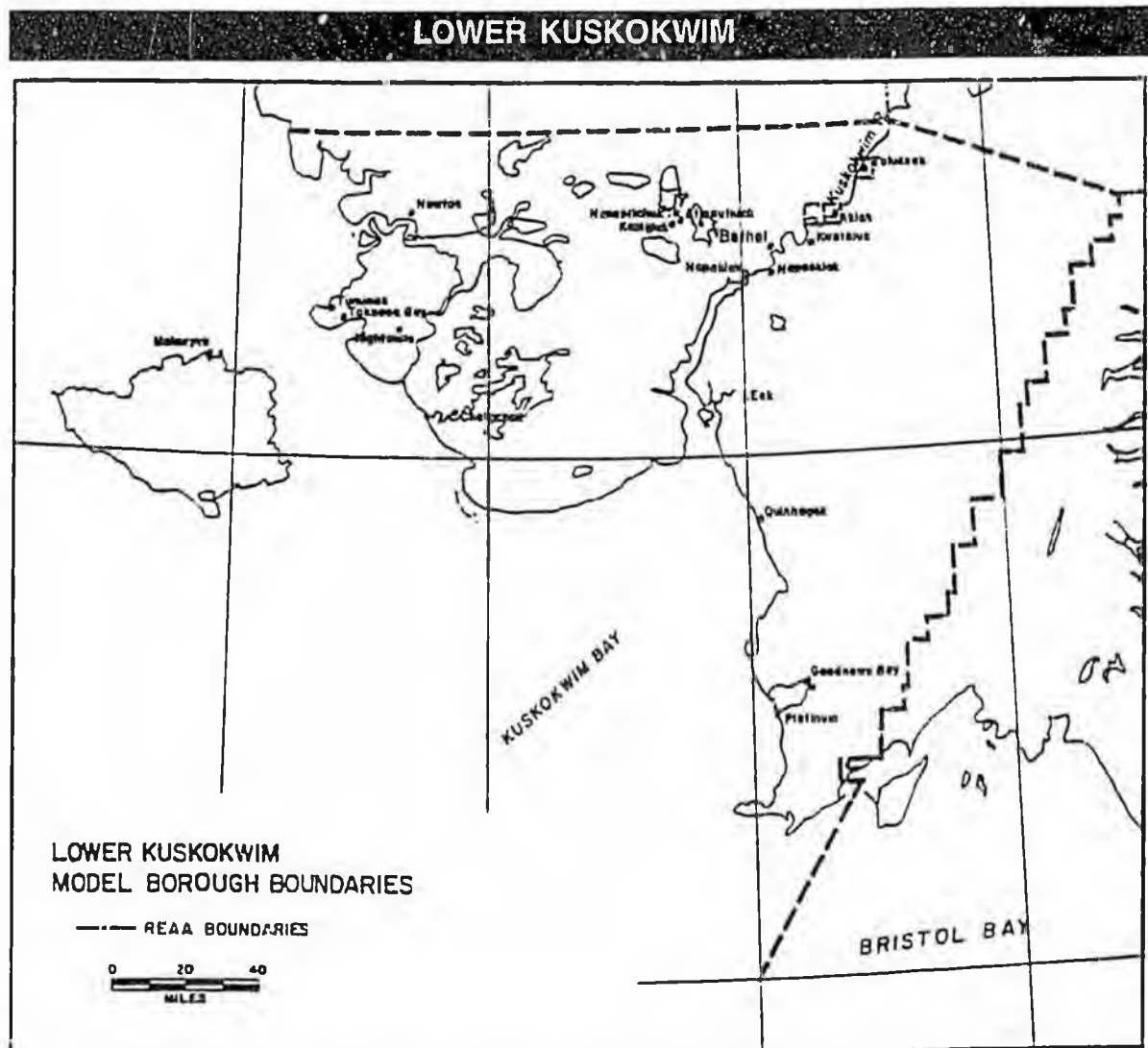
Model borough boundaries for this area combined the Lower Yukon and Kashunamiut REAs, the first class City of St. Mary's and eleven second class cities. These are Alakanuk, Chevak, Emmonak, Hooper Bay, Kotlik, Marshall, Mountain Village, Pilot Station, Russian Mission, Scammon Bay and Sheldon Point. The area's population totals approximately 5,791. The LBC held model borough boundary hearings in St. Mary's on October 23, 1992.



Lower Kuskokwim Model Unorganized Borough

Model borough boundaries for this area are based upon boundaries of the Lower Kuskokwim and Yupiit REAs. The LBC held model borough boundary hearings in Bethel on October 24, 1992. On November 21, 1992, the Local Boundary Commission set Lower Yukon, Lower Kuskokwim and Kuspuk model boundaries.

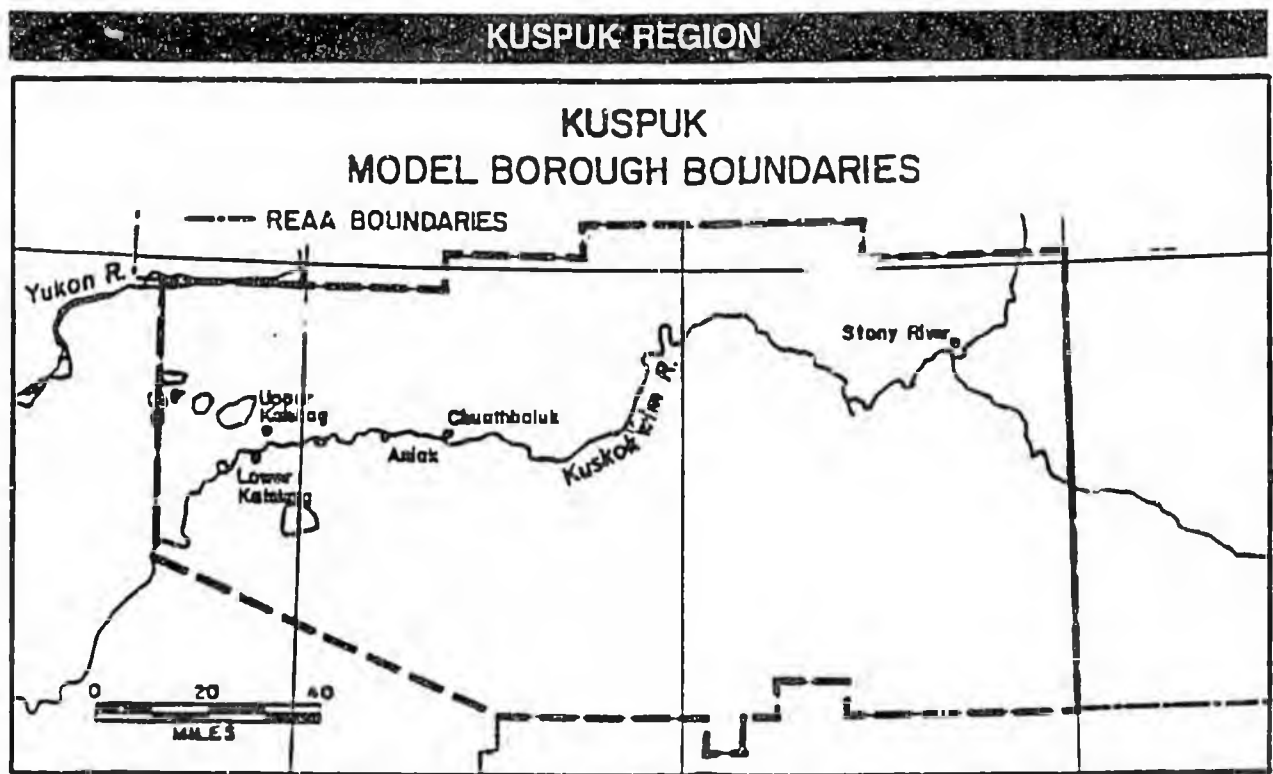
Twenty-five communities with a total population of approximately 12,125 are included in this area. These include Akiachak, Akiak, Atnautluak, Bethel, Chefornak, Eek, Goodnews Bay, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Oscarville, Platinum, Quinhagak, Toksook Bay, Tuluksak, Tuntutuliak, and Tununak.



LOCAL BOUNDARY COMMISSION

KuspuK Region Model Unorganized Borough

KuspuK unorganized borough model boundaries follow the KuspuK REAA boundaries. The LBC conducted a public hearing in Aniak on October 23, 1992. The area has about 1,490 residents distributed among Aniak, Chuathbaluk, Crooked Creek, Sleetmute, Stony River, Upper Kalskag and Lower Kalskag.



Glacier Bay Model Unorganized Borough

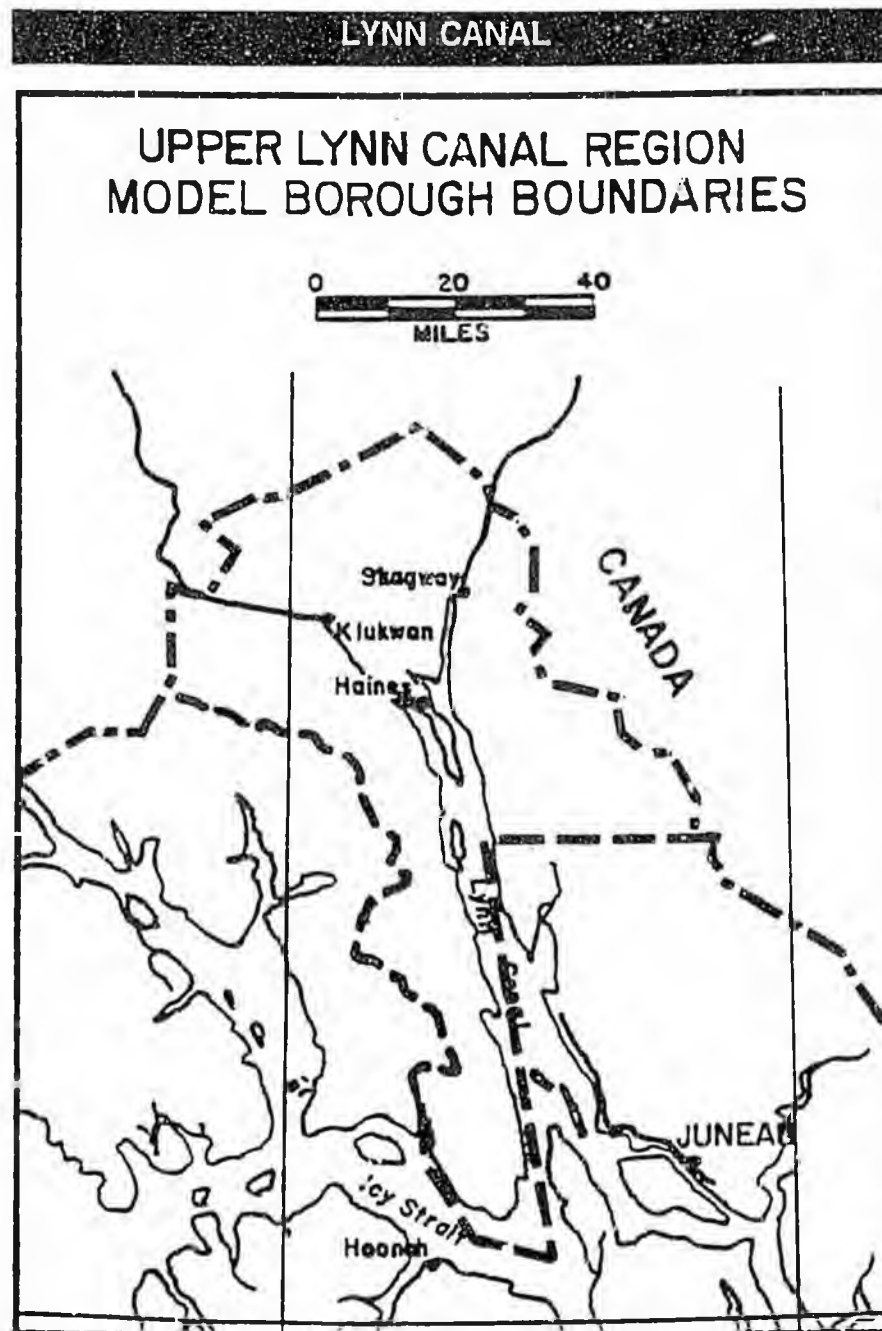
The LBC conducted hearings on model boundaries for this region in Hoonah, Pelican and Gustavus in January, 1992. After taking testimony, the LBC defined Glacier Bay model borough boundaries extending from Cape Fairweather to Chatham Strait. These model boundaries encompass Glacier Bay and the communities of Elfin Cove, Pelican, Hoonah, Gustavus and Tenakee Springs. The area had a 1990 population of 1,858. The Commission set model boundaries for the region on May 8, 1992.



LOCAL BOUNDARY COMMISSION

Upper Lynn Canal - Haines Borough

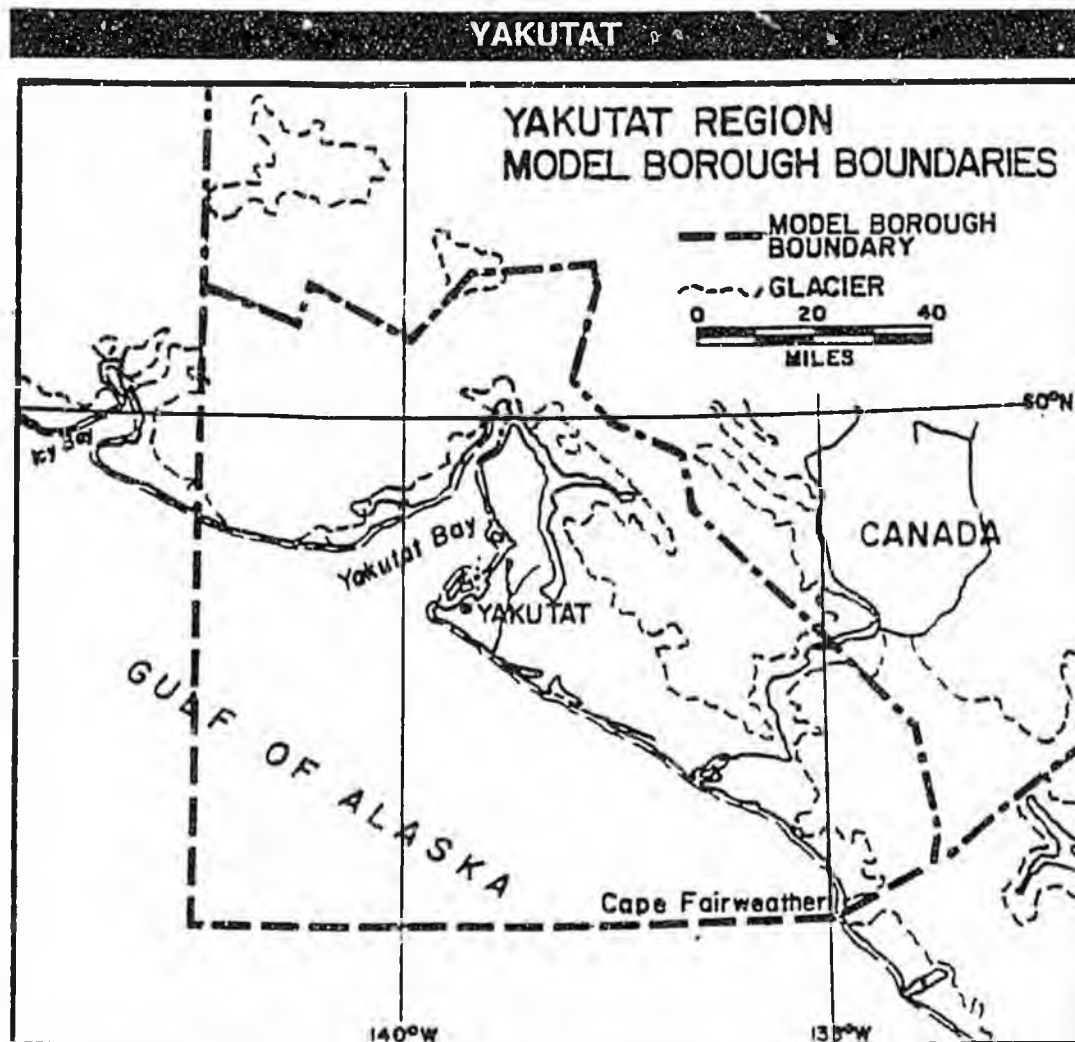
The LBC identified model boundaries encompassing the area within the present Haines Borough as well as Skagway and Klukwan. The area had a 1990 population of 2,938. The Commission set Upper Lynn Canal model boundaries on May 8, 1992.



Yakutat Borough

Yakutat model boundaries set by the LBC are identical to those approved for incorporation. The amended Yakutat model boundaries encompassed approximately 4,224 square miles with boundaries extending from the 141st Meridian to Cape Fairweather. The area has a population of approximately 705.

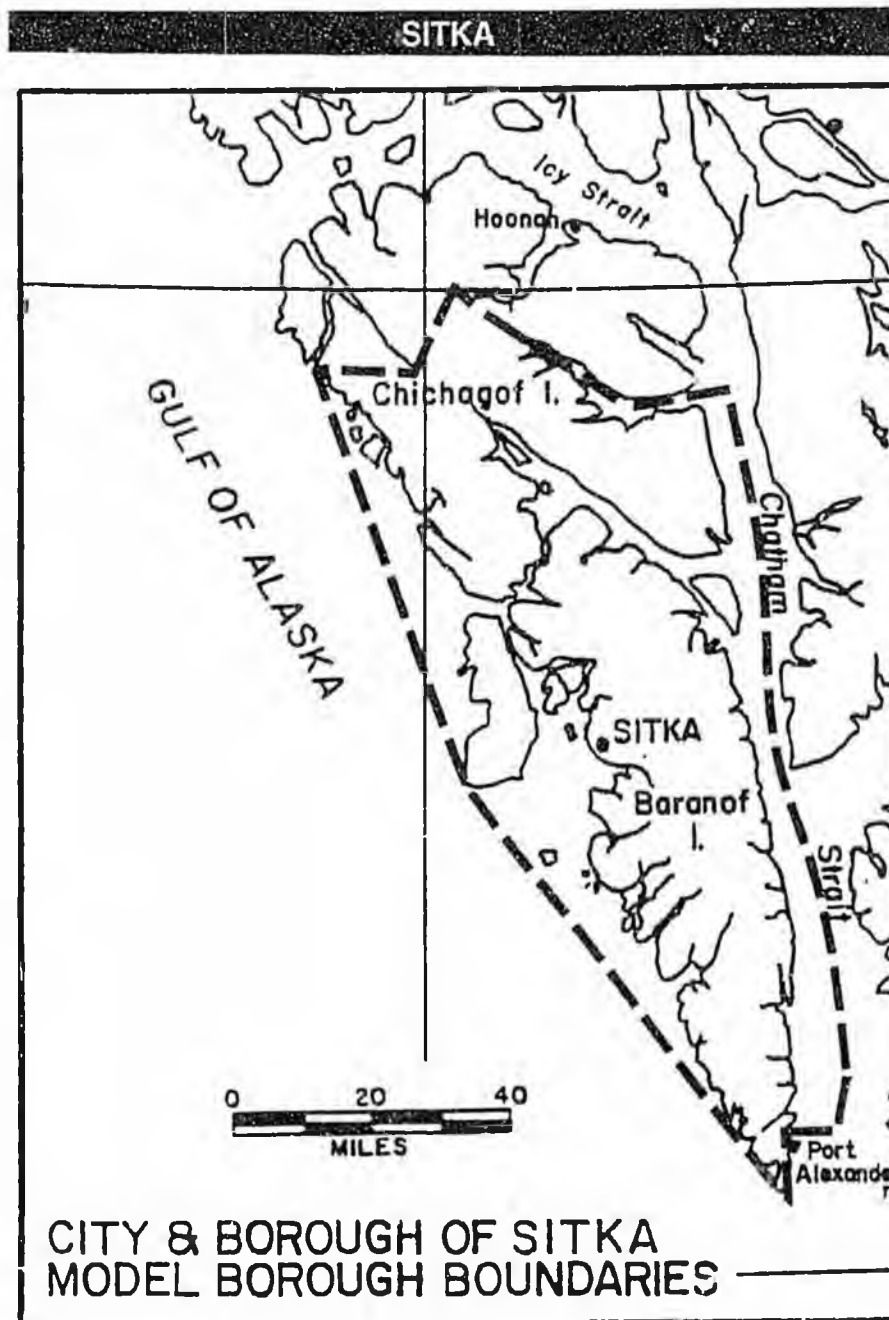
(The Yakutat Borough incorporation is more fully discussed in Section II of this report.) The Commission set Yakutat model boundaries on May 8, 1992.



LOCAL BOUNDARY COMMISSION

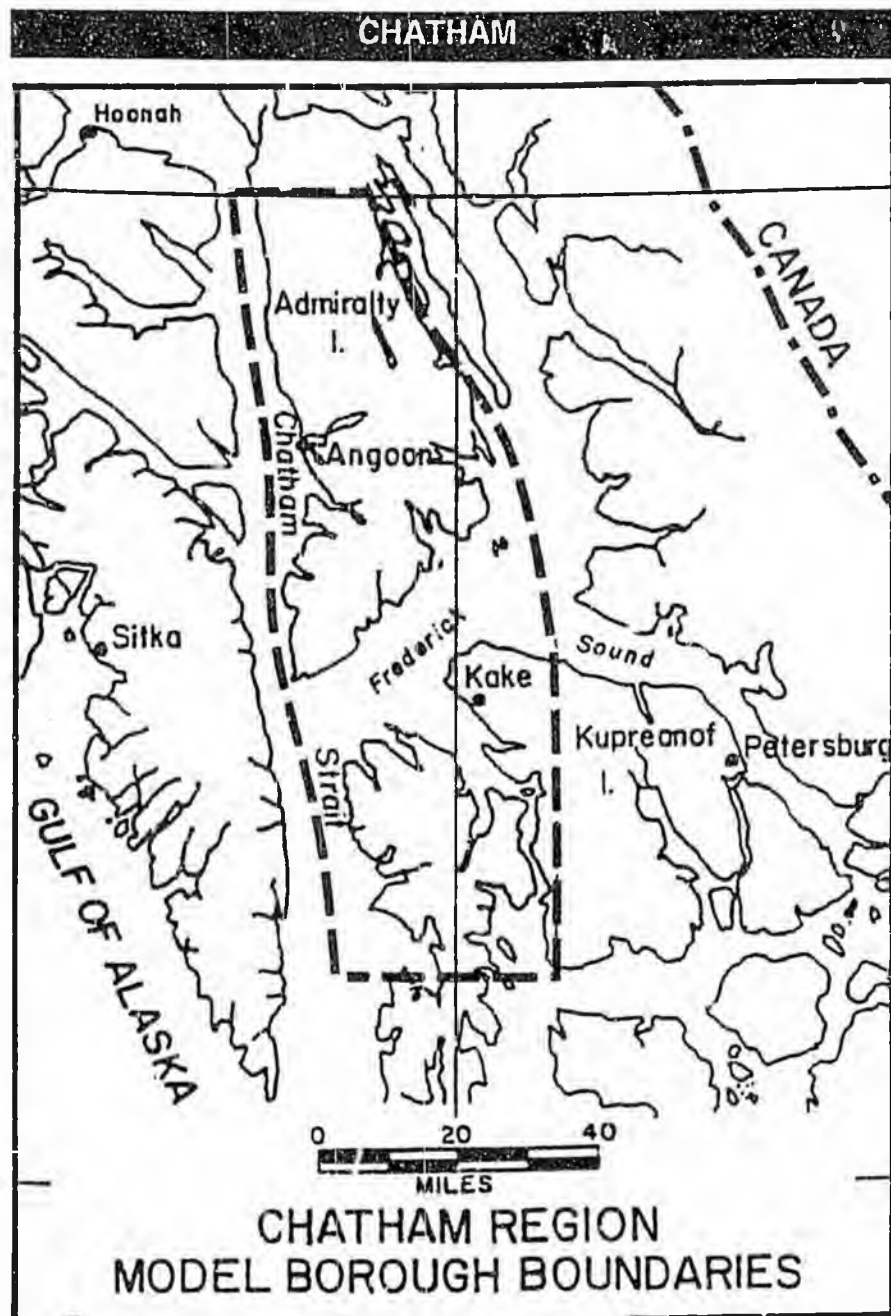
City and Borough of Sitka

Model boundaries for the City & Borough of Sitka were identified as the same as its existing boundaries, which encompass 4,849 square miles and a population of 8,588. The Commission conducted teleconferenced public hearings regarding the area in November, 1990. The Commission set Sitka model boundaries on May 8, 1992.



Chatham Unorganized Borough

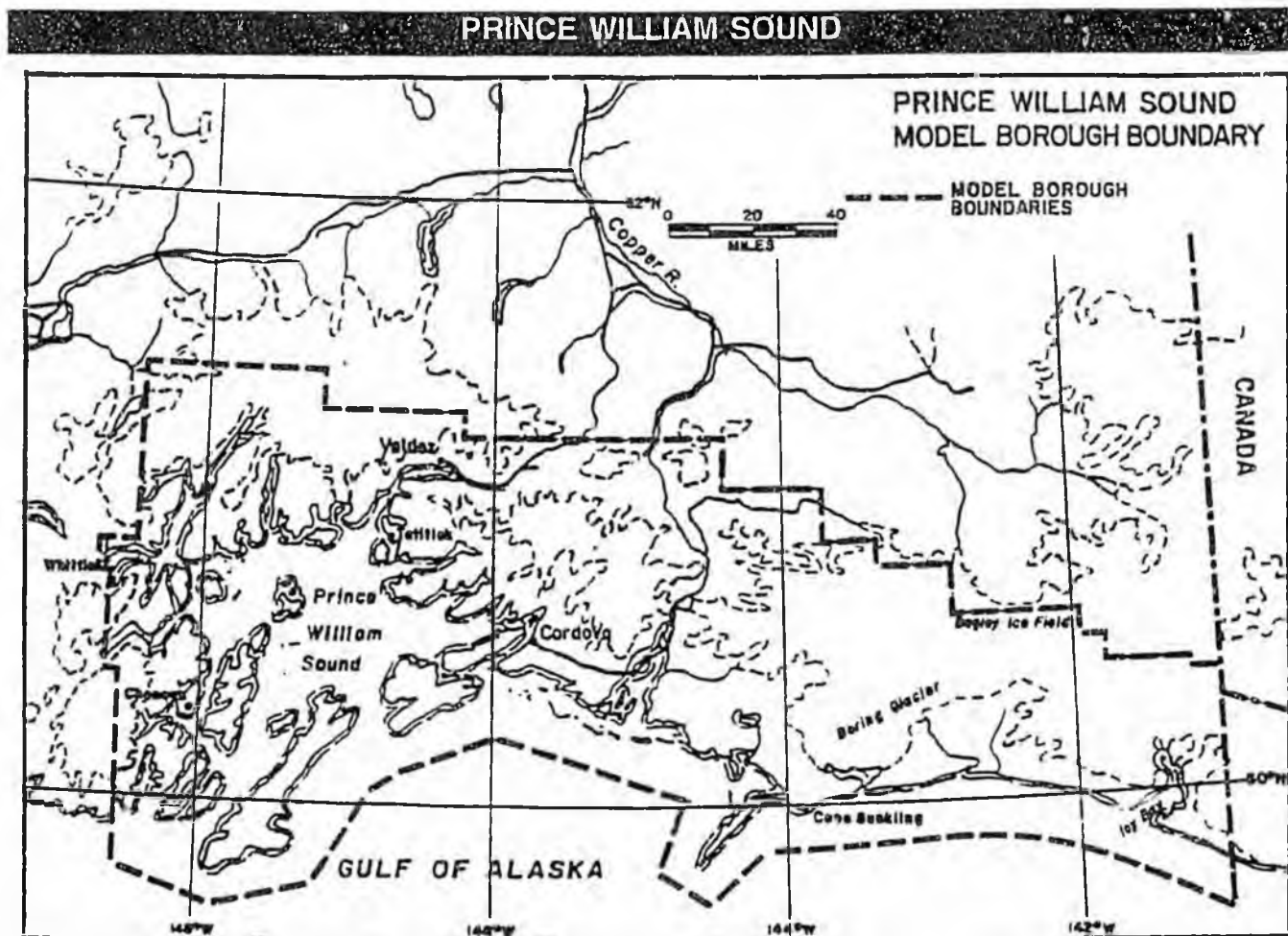
In November, 1990, the Commission conducted public hearings throughout Central Southeast Alaska. Parties in Gustavus, Haines, Skagway, Yakutat, Tenakee Springs, Pelican, Sitka, Elfin Cove, Port Alexander, Angoon, Hoonah, Kake and Cube Cove participated. On May 8, 1992, the Commission adopted model boundaries for the Chatham Unorganized Borough encompassing Kake and Angoon. The area had a 1990 population of 1,663.



LOCAL BOUNDARY COMMISSION

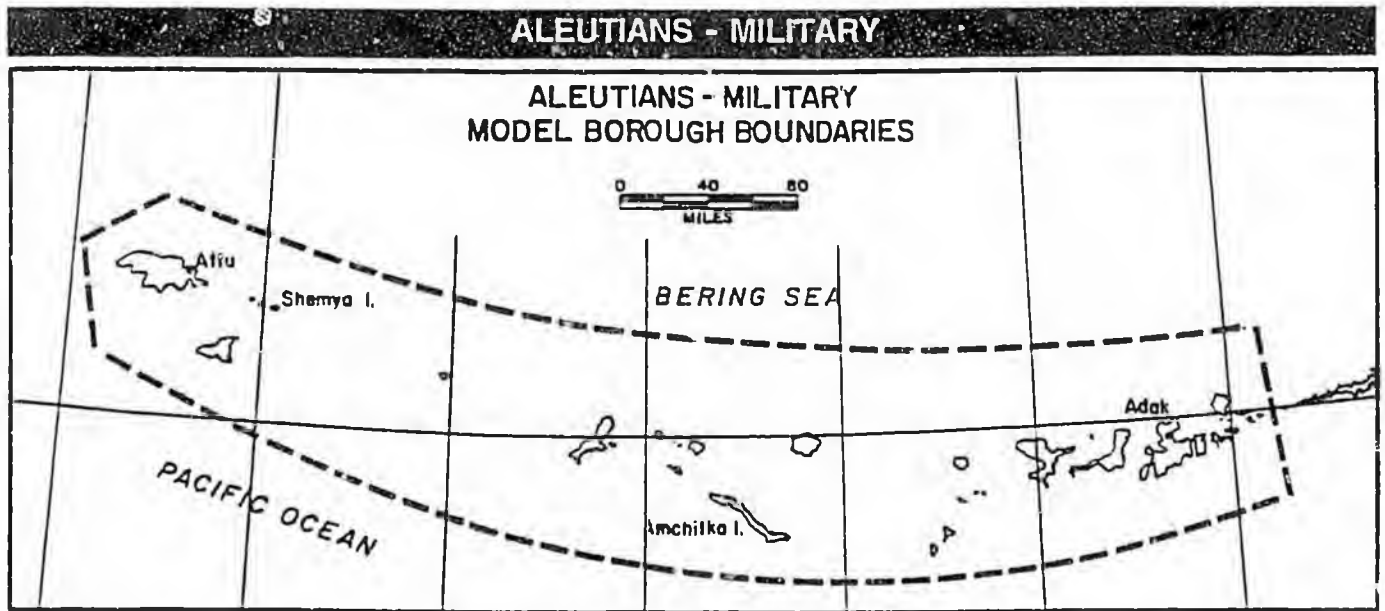
Prince William Sound Unorganized Borough

Model boundaries for this area conform to the Chugach REAA, encompassing the Cities of Cordova, Valdez and Whittier and the unincorporated communities of Chenega and Tatitlek. The area had a 1990 population of 7,189. The Commission set model boundaries for the area on May 8, 1992. The LBC conducted a public hearing in the area in January, 1992.



Aleutians - Military Unorganized Borough

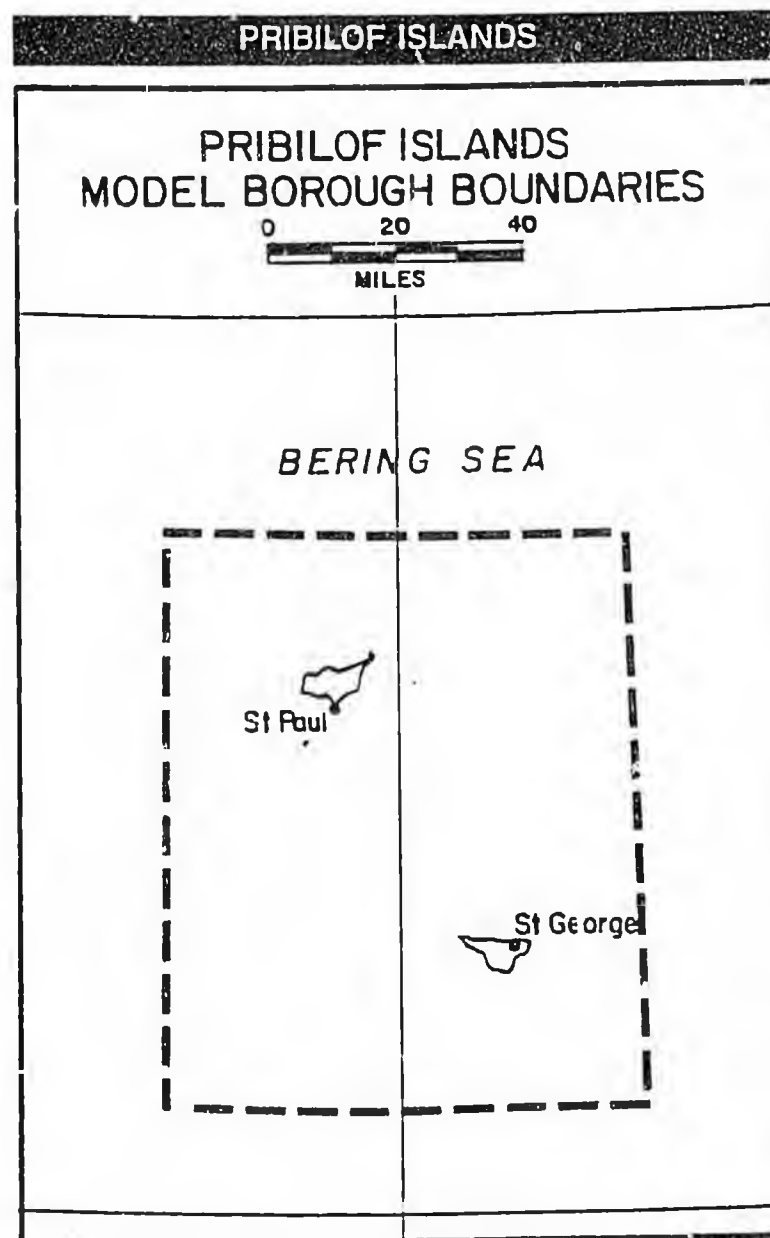
Model boundaries for this region extend from the mid-point of Fenimore Pass to the boundary of the State at the western end of the Aleutian Chain. The boundaries include the military settlements of Adak, Attu and Shemya. The area had a 1990 population of 5,345. The Commission conducted a public hearing on model boundaries via teleconference on October 21, 1992. The Commission set model boundaries for the region on November 21, 1992.



LOCAL BOUNDARY COMMISSION

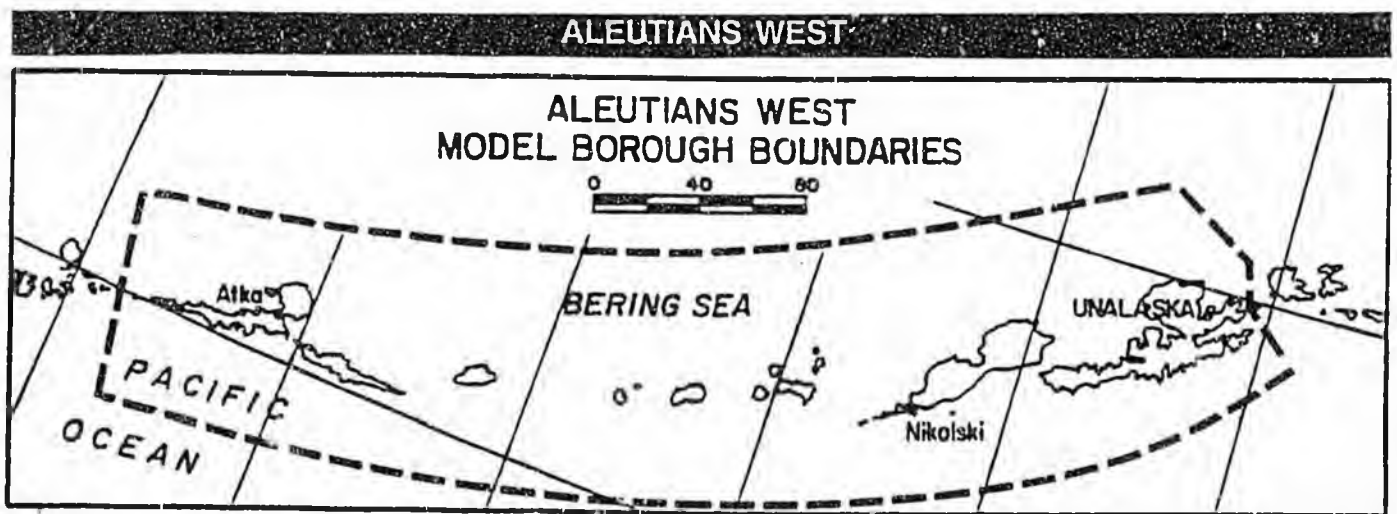
Pribilof Unorganized Borough

Model boundaries designated by the Commission conform to the Pribilof REAA and include the Cities of St. Paul and St. George. The area had a 1990 population of 901. The boundaries reflected testimony received via teleconference from representatives of St. Paul, St. George and the Tanadusix Corporation at the October 20, 1992, public hearing. The Commission set model boundaries for the area on November 21, 1992.



Aleutians West Unorganized Borough

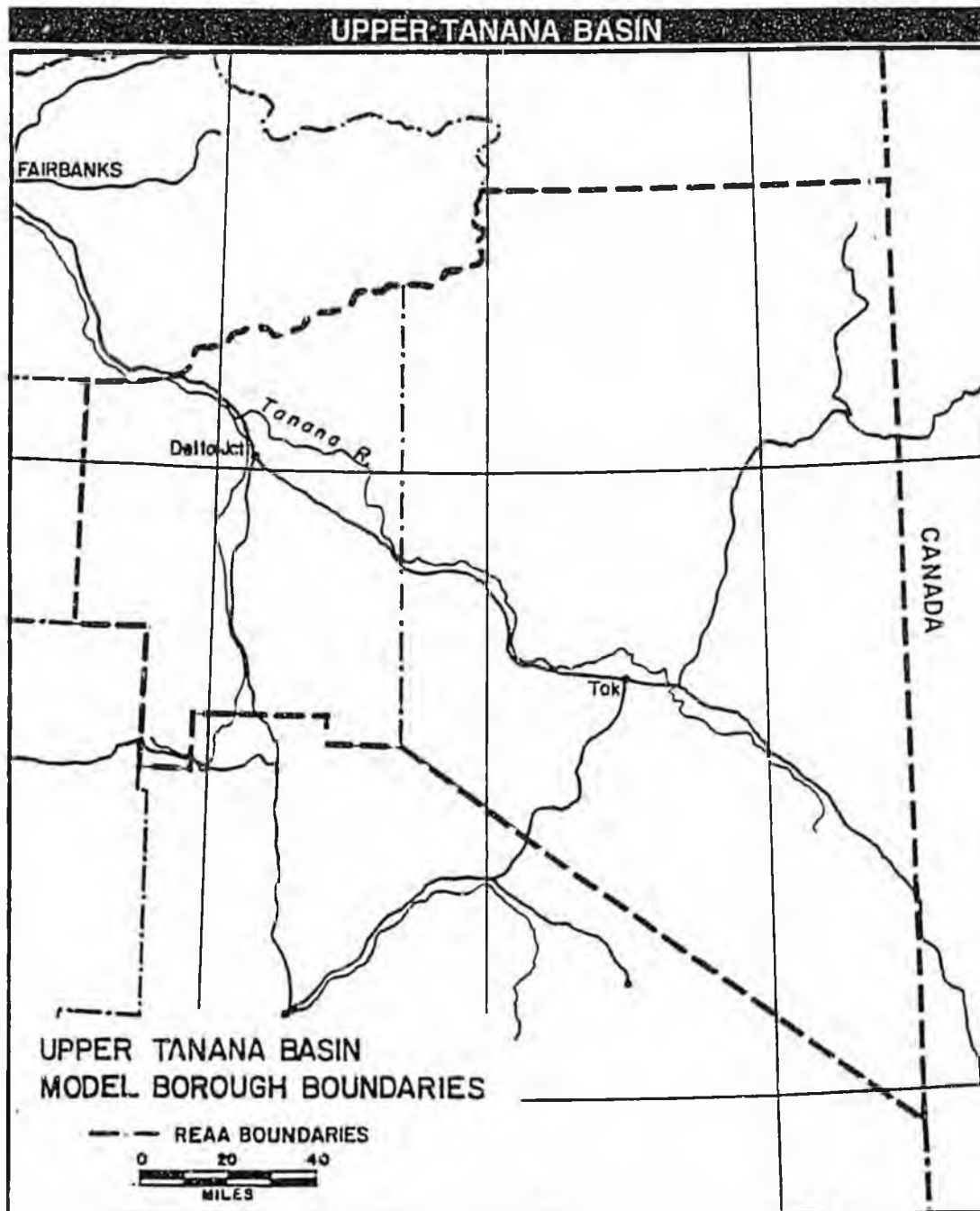
Boundaries designated by the Commission extend from the western boundary of the Aleutians East Borough to the mid-point of Fenimore Pass, including Atka, Nikolski and Unalaska. The area had a 1990 population of 3,232. The LBC received testimony on model boundaries in the area through public hearings with teleconference participation from Atka, Unalaska and Akutan on November 5. The Commission set model boundaries for the area on November 21, 1992.



LOCAL BOUNDARY COMMISSION

Upper Tanana Basin Unorganized Borough

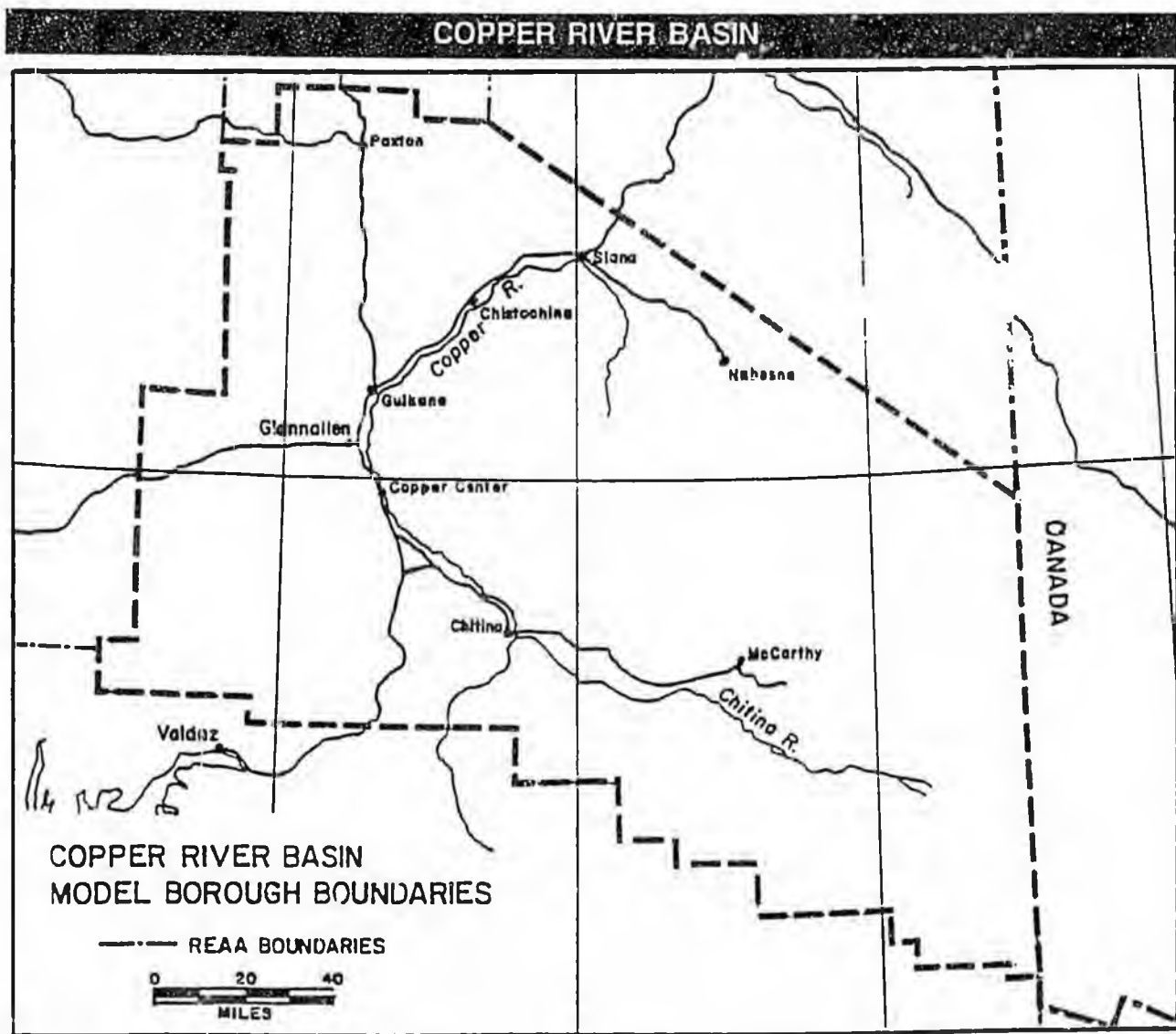
The Commission determined that the Upper Tanana Basin model boundaries should encompass the Delta Greely and Alaska Gateway REAA areas. The area had a 1990 population of 6,021. These model boundaries encompass an estimated 26,235 square miles. The LBC conducted hearings on model borough boundaries for the region in Delta Junction on May 8, 1992 and in Tok on May 9 and June 6. The Commission set model boundaries for the area on November 21, 1992. Communities within the region include two second class cities, the City of Delta Junction and the City of Eagle. Unincorporated communities in the area include Boundary, Chicken, Dot Lake, Dry Creek, the Native Village of Eagle, Fort Greely, Healy Lake, Mentasta Lake, Northway, Tanacross, Tetlin and Tok.



Copper River Basin Unorganized Borough

The LBC held a hearing on model boundaries in Glennallen on May 9, 1992. Additional information concerning the model boundaries for the Copper River Basin was provided to the Commission from residents of the region in June. On November 21, the Commission determined that the Copper Basin model unorganized borough boundaries should follow boundaries of the Copper River REAA. The area encompasses an estimated 20,649 square miles and a 1990 population of 2,638.

Copper River Basin model borough boundaries defined by the Commission conform to the boundaries of the Copper River School District, extending from the Canadian Border on the east to the boundaries of the Matanuska-Susitna Borough on the west. Communities within the area include, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy, Paxson, Slana, Tazlina and Tonsina.



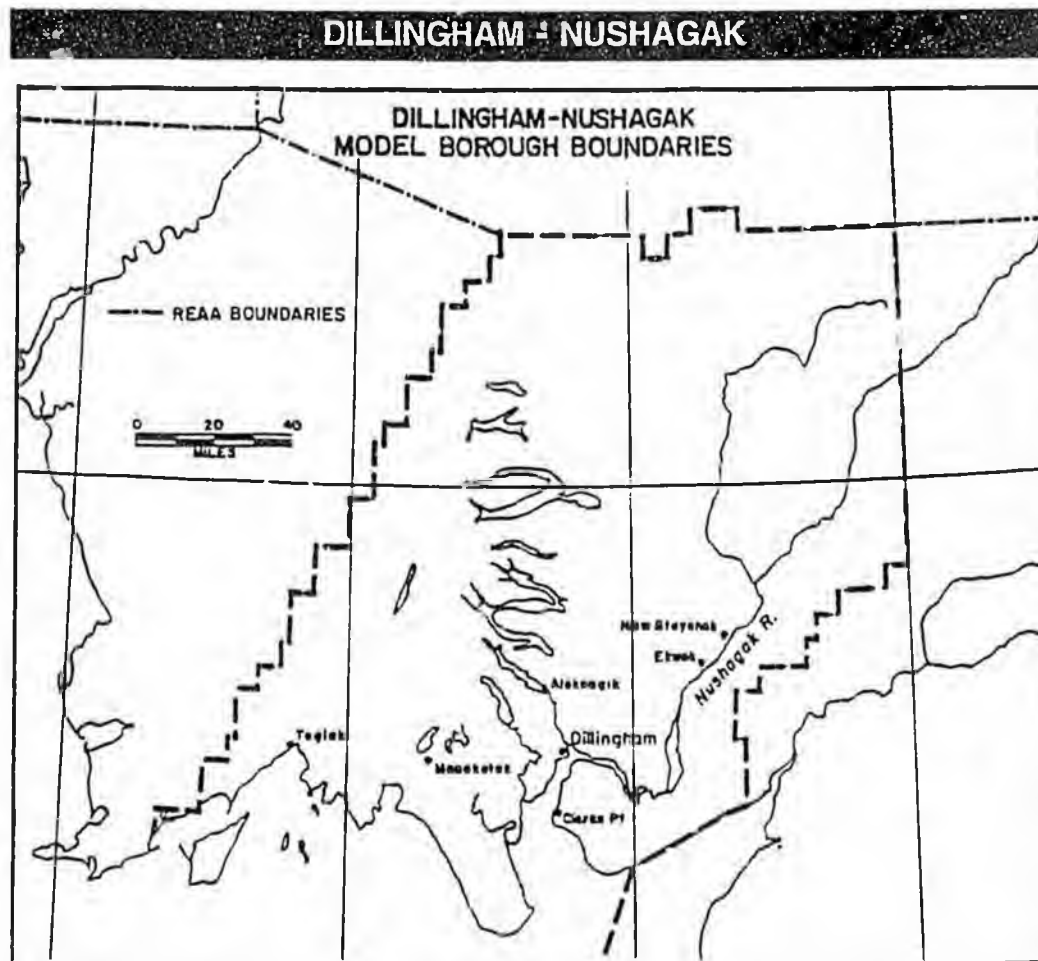
LOCAL BOUNDARY COMMISSION

Bristol Bay Study

The LBC approved Lake & Peninsula Borough incorporation in 1989. At that time, the Commission directed that staff revisit boundary questions raised during the incorporation public hearing process. In June of 1991, the City of Dillingham asked that the Commission's staff also analyze the merits of forming a "super borough" which would include the Bristol Bay Borough, the Lake & Peninsula Borough and the Dillingham Census Area.

The Commission conducted public hearings in Dillingham, Naknek and Togiak on November, 23-24, 1992. At the request of local residents, Kokhanok, Pilot Point, Chignik, Levelock, Egegik, Newhalen, Nondalton and Chignik Lake participated in the November 24 Dillingham hearing by teleconference. Most of the comment and testimony at Naknek urged that Bristol Bay Borough boundaries be left unaltered. Testimony at Togiak suggested a local preference for a Northwest Bristol Bay unorganized borough. Testimony at Dillingham suggested that boundaries based upon existing Dillingham Census Area boundaries would be most appropriate.

On December 4, 1992, the LBC identified model boundaries encompassing the existing Dillingham Census Area. Dillingham, Aleknagik, Clark's Point, Ekuk, Ekwok, Koliganek, Manokotak, New Stuyahok, Portage Creek, Togiak and Twin Hills are included in the model boundaries.



SUMMARY OF STANDARDS FOR BOROUGH INCORPORATION

The standards applied by the Department of Community and Regional Affairs and the Local Boundary Commission in reviewing a borough incorporation petition are set out in the Alaska Constitution, Alaska Statutes and the Local Boundary Commission's regulations in the Alaska Administrative Code.

CONSTITUTION

Article X is the Local Government Article. Its purpose is "to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions."

Each borough is to be established according to standards which shall "include population, geography, economy, transportation and other factors," and shall embrace an area and population with common interests to the maximum degree possible." (Article X, Section 3)

STATUTES

AS 29.05.031(a) provides four general standards applicable to all boroughs.

1. The population of the area is interrelated and integrated as to its social, cultural and economic activities, and is large and stable enough to support borough government;
2. The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of municipal services.
3. The economy of the area includes human and financial resources capable of providing municipal services. Evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough.
4. Land, water and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Reqs 19 AAC 10.160-19 AAC 10.210

SUMMARY OF REGULATIONS

COMMUNITY OF INTERESTS (19 AAC 10.045): The social, cultural, and economic characteristics and activities of the people in the proposed borough must be interrelated and integrated. Considerations include:

- √ compatibility of urban and rural areas within the proposed borough;
- √ compatibility of economic lifestyles;
- √ existence of customary and simple transportation and communication patterns;
- √ the languages spoken throughout the proposed borough;

PRESUMPTIONS:

- at least two communities;
- all communities within the proposed borough are connected to the borough seat by road, regularly scheduled airline flights on at least a weekly basis, local air charter services or sufficient electronic media;

POPULATION (19 AAC 10.050): The population must be sufficiently large and stable to support the proposed borough government. Considerations include:

- √ total census enumeration
- √ duration of residency
- √ historical population changes
- √ age distributions.

PRESUMPTIONS:

- at least 1,000 permanent residents

RESOURCES (19 AAC 10.055): The economy of the proposed borough must contain the human and financial resources necessary to provide essential borough services on an efficient, cost effective level. Considerations include:

- √ reasonably anticipated borough functions
- √ reasonably anticipated borough expenses
- √ reasonably anticipated borough income
- √ anticipated operating budget through the third full fiscal year of operation
- √ economic base of proposed borough
- √ property valuations
- √ land use
- √ existing and anticipated industrial, commercial and resource development
- √ personal income of residents
- √ need for and availability of employable skilled and unskilled people
- √ predictable level of commitment and interest of population in maintaining a borough government.

BOUNDARIES (19 AAC 10.060): The proposed borough boundaries must conform generally to natural geography and include all land and water necessary to provide for full development of borough services on an efficient, cost-effective level. Considerations include:

- √ land use and ownership patterns
- √ ethnicity and cultures
- √ population density patterns
- √ existing and reasonably anticipated transportation patterns and facilities
- √ natural geographic features and environmental factors
- √ extraterritorial powers of boroughs.

PRESUMPTIONS: • boundaries will not extend beyond model boundaries.



FEB 13 1993

SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

DATE: February 14, 1994
TO: Senator Randy Phillips, Chair
Senate Community and Regional Affairs
FROM: Senator Dave Donley *DD*
RE: Scheduling of SB 291

I request a hearing on SB 291, relating to including all regions of the state in an organized borough or unified municipality.

Article X of the state constitution supports the concept that all areas of Alaska should have some form of local government. The recent report by the Local Boundary Commission has identified the inequities in our current system. Residents and property owners in mandatory boroughs pay local taxes for basic services, while residents in towns or areas outside local governments typically pay no taxes to support these same services.

I think it is unfair that some residents must pay for services used by others who do not pay simply because they live in an unorganized borough. Currently about 20 percent of the state falls in this category. Which means state governments must bear the financial responsibility for providing services that local governments provide in organized areas.

SB 291 simply sets out a process by which the 20 percent of Alaska without local government would be organized. This legislation will substantially downsize state bureaucracy and reduce the state's operating budget. It is a modest step toward uniform and fair local responsibility for the cost of government.

If you need additional information please don't hesitate to contact my office. Thanks for your attention to this request.

DD/arm

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-5571

CO-CHAIR: Anchorage Caucus • MEMBER: Senate Judiciary Committee • Senate Resources Committee



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

CONTACT: Alexis Miller
465-3892

DATE: February 9, 1994

DONLEY BILL ESTABLISHES PROCESS TO PLACE ALL AREAS OF ALASKA UNDER LOCAL GOVERNMENT

In an effort to reduce state government and more fairly distribute financial responsibility, Senator Dave Donley (D-Anchorage) today introduced SB 291 to fulfill the intent of Article X of the state constitution that all of Alaska have some form of local government.

The 1994 report of the Local Boundary Commission identified the basic problem as one of inequity:

"There are inequities in the manner in which the borough concept has been implemented. In 1963, the Legislature mandated the formation of eight boroughs. Today, those eight mandatorily formed boroughs encompass about 80% of Alaska's population. The residents and property owners in the mandatory boroughs typically pay substantial local taxes for basic services. In contrast, there are other areas of the state that lie outside any local government. Some of those areas enjoy services comparable to the services in the mandatory boroughs. Further, some of these areas have resources at least comparable to areas within the mandatorily formed boroughs. Notwithstanding, the areas outside local government pay no taxes to support the services.

SB 291 sets out a process by which the approximately 20 percent of Alaska, currently without local government, would be organized. Currently in these unorganized areas the state must bear total responsibility and cost for providing services that local governments provide elsewhere in Alaska.

This is unfair to the citizens of Alaska in organized areas who pay local taxes for these kinds of government services. It also places an undue burden on state government, which is forced to act as the local government for unorganized areas.

"It is in the best interests of the state for all its residents to have the opportunity to participate in government on the local level and enjoy the benefits and share the responsibility of local government," Senator Donley said.

"I recognize that all the unorganized areas of Alaska may not be able to fairly carry an equal financial burden as the more populated areas, but all Alaskans who are able should pay something toward the cost of providing local government services."

"With declining state revenues Alaskans can simply not expect the state to do everything for them anymore. This legislation will substantially downsize state bureaucracy and reduce the state's operating budget. It is a modest step toward uniform and fair fundamental local responsibility for the cost of government," Senator Donley added.

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CO-CHAIR: Anchorage Caucus • MEMBER: Senate Judiciary Committee • Senate Resources Committee



OTHER ISSUES

Occasionally, concerns beyond those noted previously are brought to the LBC. Typically, such concerns deal directly or indirectly with State laws and policies on municipal incorporations and boundary changes. Examples of such include the following.

- ❖ There are inequities in the manner in which the borough concept has been implemented. In 1963, the Legislature mandated the formation of eight boroughs. Today, those eight mandatorily formed boroughs encompass about 80% of Alaska's population. The residents and property owners in the mandatory boroughs typically pay substantial local taxes for basic services. In contrast, there are other areas of the state that lie outside any local government. Some of those areas enjoy services comparable to the services in the mandatory boroughs. Further, some of these areas have resources at least comparable to areas within the mandatorily formed boroughs. Notwithstanding, the areas outside local government pay no taxes to support the services.
- ❖ There are disparities in funding for education. Because of requirements for local contributions, some areas of Alaska receive State and federal aid amounting to only about two-thirds of their defined level of "basic need" for education. Other districts receive more State funding because they are required to contribute little or nothing in support of education. Further, some districts receive funding not available to other districts (e.g., National Forest Receipts). The result is that some districts receive substantially more State and federal aid for education – upwards of twice the level of basic need – than other districts.

Here again, the Commission raises these issues simply in order to keep the legislature informed of the nature of concerns brought to the attention of the LBC.

FOOTNOTE 14 CONTINUED FROM PREVIOUS PAGE:

each person residing within the municipal boundaries; or (2) upon value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality." The Attorney General's Office takes the position that this law applies only to property taxes.

| | July 1, 1992 Population | Land Area Sq. Miles |
|------------------------------|-------------------------------|---------------------------|
| Alaska | 586,900 | 570,373.6 |
| Juneau Borough | 28,621 | 2,593.6 |
| Sitka Borough | 9,100 | 2,881.5 |
| Anchorage Borough | 240,258 | 1,697.6 |
| Denali Borough | 1,670 | 8,872.7 |
| Lake & Peninsula Borough | 1,789 | 23,632.3 |
| North Slope Borough | 6,691 | 87,860.5 |
| Northwest Arctic Borough | 6,514 | 35,862.5 |
| Aleutians East Borough | 2,567 | 6,984.8 |
| Bristol Bay Borough | 14,561 | 519.2 |
| Fairbanks North Star Borough | 81,383 | 7,362.4 |
| Kenai Peninsula Borough | 44,019 | 16,078.9 |
| Ketchikan Gateway Borough | 14,664 | 1,219.6 |
| Kodiak Island Borough | 15,245 | 6,462.6 |
| Matanuska-Susitna Borough | 44,582 | 24,693.6 |
| Haines Borough | 2,267 | 2,357.0 |
| Not in Boroughs | 73,069 | 341,294.8 |
| % Not in Boroughs | 12.4 | 59.8 |

22,978.8
 1
 24,14.8
 270,373.6

Alaska Department of Labor, Research & Analysis. Demographic Unit.

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
Juneau, Alaska 99801-2196

Phone: (907) 465-3991
Fax: (907) 463-3351

April 7, 1993

MEMORANDUM

TO: Representative Eileen MacLean

FROM: Dale O. Brandt ³⁵
Legislative Analyst

RE: Population of Boroughs at Date of Incorporation
Research Request 93.199

You asked us to provide the name of each borough, date of incorporation, population at date of incorporation and the present population. This information is presented in the attached table.

If you have any questions or need additional information, please contact this office.

Attachment

**ALASKA BOROUGHS
YEAR INCORPORATED AND POPULATION**

| Borough | Year of Incorporation | Population in Year of Incorporation* | 1991 Population |
|------------------------------|--------------------------------------|--|--------------------|
| Aleutians East Borough | 1987 | 1,573 | 2,464 |
| Municipality of Anchorage | 1975 (Unification) 1964 (Borough) | 173,600 81,160 | 237,907 |
| Bristol Bay Borough | 1962 | 1,040 | 1,410 |
| Denali Borough | 1990 | 1,797 | 1,783 |
| Fairbanks North Star Borough | 1964 | 27,250 | 77,720 |
| Haines Borough | 1968 | 1,240 | 2,212 |
| City and Borough of Juneau | 1970 (Unification) 1963 (Borough) | 13,556 10,888 | 28,965 |
| Kenai Peninsula Borough | 1964 | 11,786 | 40,802 |
| Ketchikan Gateway Borough | 1963 | 9,150 | 13,828 |
| Kodiak Island Borough | 1963 | 5,020 | 15,535 |
| Lake and Peninsula Borough | 1989 | 1,793 | 1,668 |
| Matanuska-Susitna Borough | 1964 | 5,720 | 41,797 |
| North Slope Borough | 1972 | 3,700 | 8,288 |
| Northwest Arctic Borough | 1986 | 6,010 | 6,113 |
| City and Borough of Sitka | 1971 (Unification) 1963 (Borough) | 6,100 6,130 | 8,588 |
| City and Borough of Yakutat | 1992 | 729 | N/A |

* Estimated populations are interpolated using decennial census statistics. N/A = Not available

Source: Year of incorporation and 1991 population -- Department of Community and Regional Affairs, "1992 Community/Borough Map;" Population at date of incorporation -- Alaska Department of Labor, Demographic Unit.

Prepared by the Legislative Research Agency, April 1993 (93.199)

ARTICLE X

LOCAL GOVERNMENT

Like Article VIII (Natural Resources), Article X reflects considerable constitutional innovation. In drafting this article, the delegates tried to steer a middle course between too little and too much detail about local government structure. Existing constitutional provisions varied between New Jersey's silence on the subject and New York's long, discursive local government article.

Looking at metropolitan government elsewhere in the United States, members of the local government committee saw a ragged patchwork of counties and cities crisscrossed with single-purpose, special service districts, all pursuing their duties narrowly without regard for economies that could be realized from consolidation and cooperation. County and city governments were inflexible, physically and functionally. This rigidity, financial handicaps, the absence of centralized control over the activities of the various jurisdictions, the distance of these governmental units from the average voter and the lack of an integrated budget for their operations made local government despairingly inefficient and irrational in many parts of the country.

Furthermore, the courts tended to construe the powers of local governments very narrowly (unlike state governments with inherent power, local governments derive their authority solely from the state via express constitutional and statutory grants of power). Thus, municipal governments were often barred from dealing with pressing problems because they could not find some explicit provision that authorized them to act in the area.

At the time of the convention, local government institutions were quite undeveloped in Alaska. Scattered around the territory were small cities and a few school and public utility districts (Congress had prohibited the creation of counties in the Territorial Act of 1912). It was evident that a majority of Alaskans would live in or near cities. Unincorporated areas on the periphery of cities, such as Spenard and Fairview near Anchorage, for example, were growing rapidly. Conflicts between special purpose districts and cities were already occurring. Things were not yet as bad as in other parts of the country, and the delegates wanted to prevent problems by limiting the number of permissible local government units.

There was general agreement on the long-term need for a unit of general purpose government between the state and the city. The delegates feared that in the absence of

As events unfolded in some areas, particularly areas with a single urban core, it became evident that local government could be provided more efficiently with a single unit. A movement to unify cities and boroughs emerged, and today Anchorage, Juneau and Sitka are unified home-rule municipalities. Thus, the ideal of a single areawide government has been realized to some extent. In other areas, city and borough governments have generally accommodated to each other, and relationships among boroughs, cities and school districts have tended to stabilize.

The brief 15 sections of this article provide a unique and flexible framework for the development of local government institutions in Alaska. The article accommodates tiny, second-class cities with only rudimentary powers of local government and the vast North Slope Borough, the largest (in area) and richest (in per capita tax revenue) local government unit in the United States. No substantial changes in this once-controversial article are now being seriously discussed inside or outside of government. However, there are issues which may need future attention by the legislature, such as the extension of boroughs to the remaining rural, unorganized areas of the state.

Section 1. Purpose and Construction

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

This section expresses the constitutional policy of encouraging the spread of local government in Alaska within the institutional framework of cities and boroughs as provided in subsequent sections. It establishes a strong presumption in favor of local government. When oil companies sued on numerous grounds to block formation of the North Slope Borough, the Alaska Supreme Court was bound by the constitution to uphold the formation of new boroughs whenever the requirements for incorporation have been minimally met (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 1974). In that decision, the court said: "Aside from the standards for incorporation [in statute], there are no limitations in Alaska law on the organization of borough governments. Our constitution encourages their creation."

(Thus, for example, school districts in Alaska do not have independent taxing power, unlike the situation in many other parts of the United States.) Subsequent sections of this article provide for the creation of boroughs and cities.

The Alaska Supreme Court declared unconstitutional a state law that authorized private aquaculture associations to collect mandatory assessments on the sale of salmon by commercial fishermen, saying the scheme amounted to a delegation of taxing powers to an entity other than a city or borough (*State v. Alex* 646 P.2d 203, 1982). The legislature amended the law accordingly (see AS 43.76).

Section 3. Boroughs

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

This section mandates the creation of boroughs -- the larger of the two units of local government authorized by the constitution. The legislature is given wide latitude to shape this new creature: the constitution provides only that standards for creating boroughs must include population, geography, economy, and transportation, with the area and population of boroughs sharing common interests. More specific guidelines were avoided by the delegates (some constitutions establish the boundaries of every county) because they recognized that the borough concept would have to be adapted to a wide variety of local circumstances. The directive to "classify" boroughs reflects the expectation that the basic concept would need some customizing to suit diverse socioeconomic and geographic conditions across the vast state. The local government committee envisioned three classes of boroughs. Reference to these classes was dropped from the final document, but the thinking of the committee is revealing. In the commentary accompanying the draft, the committee said:

An amendment in 1972 to this section deleted a requirement that cities within a borough have formal representation on the borough assembly. The original provision was intended to promote cooperation between cities and boroughs and the integration of their activities. However, it violated principles of legislative apportionment enunciated in a series of federal reapportionment cases of the early 1960s (see commentary under Article VI) and was amended to allow for apportionment of the assembly on the basis of population.

Section 5. Service Areas

Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

This provision authorizes service areas, but keeps them within the jurisdiction of boroughs and minimizes their number. A service area may be created within a borough, but only if the service cannot be provided by an existing service area or by a city. Property receiving such services as road improvement, water supply, and fire protection from a special district may be taxed differentially to pay for them. Sections 2 and 15 prevent the existence of autonomous service areas outside the overall jurisdiction of a borough.

The local government committee saw a special need for service areas in sparsely settled areas. Commentary by the committee said:

One of the local government problems in Alaska today is the inability of small communities to organize for provision of just one or a few local services. By authorizing the establishment of service areas within boroughs, the proposed article makes it possible for a small unincorporated community or a relatively isolated area to meet a specific local need.

Section 7. Cities

Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

This section provides constitutional elaboration on cities, the second of the two local government units authorized in Section 2. It requires that cities be part of a surrounding borough if one exists (but they retain their independence of borough government with regard to their internal affairs). The section gives broad power to the legislature to build a statutory framework for the creation and operation of cities. The constitution suggests by reference to "classification" of cities and boroughs in this and other sections that flexibility should be provided by authorizing the creation of cities with different sets of duties and responsibilities. Two classes of cities are recognized by statute -- first- and second-class cities (see AS 29.04.030 and AS 29.35.250-350) -- in addition to home-rule cities (see Section 9 below and AS 29.04.010).

This section also gives the legislature broad power to specify how the separate existence of cities may be terminated (i.e., through merger, consolidation or unification, or dissolution). Statutory procedures for unification of a city and borough need not give voters of the dissolved city the right to ratify the change, even if the city is a home-rule city (*City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040, 1971; see also Section 12 on page 204).

Section 8. Council

The governing body of a city shall be the council.

This section provides that the governing body of a city be referred to as the "council" and Section 4 provides that the governing body of a borough be referred to as the "assembly."

Statutes provide that a general-law borough or first-class city may adopt a home-rule charter, as may a second-class city that exceeds 35 square miles in area if the Department of Community and Regional Affairs determines that the population of the city is at least 3,500 permanent residents (AS 29.10.010).

Section 11. Home Rule Powers

A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

This broad grant of home-rule power is unusual among state constitutions. Typically, other state constitutions enumerate the powers that may be exercised by home-rule municipalities, and courts have tended to interpret these enumerated powers narrowly. By extending "legislative powers" not otherwise prohibited to home-rule municipalities, the authors of Alaska's local government article sought to make home-rule powers as expansive as possible.

Unfortunately, it is often unclear whether state laws were intended to preempt local action, and the courts have been called on repeatedly to determine whether municipal ordinances are valid in the face of seemingly contrary state law. Thus, the judicial task has not been to wrestle with a definition of "legislative powers" but to ascertain, often through arcane statutory exegesis, whether state laws were meant to further a specific statewide policy and have uniform statewide application. If so, then the local enactment must yield. For example, an Anchorage building permit ordinance prohibited an electric utility from extending power lines to certain portions of the service area awarded to it by the Alaska Public Utility Commission. The court said that the authority of the commission derived from state law should prevail (*Chugach Electric Association v. City of Anchorage*, 476 P.2d 115, 1970). Similarly, the court found that a local ordinance which required a person with a tort claim against the home-rule city to give written notice to the city within 120 days after the incident giving rise to the claim thwarted state law which established a two-year period within which such claims could be filed (*Johnson v. City of Fairbanks*, 583 P.2d 181, 1978). In *McCauley v. Hildebrand* (491 P.2d 120, 1971), the court prevented a home-rule city from requiring the local school district to participate in a centralized accounting system without the school board's consent, as such consent was required by state law (see also *Simpson v. Municipality of Anchorage*, 635 P.2d 1197, 1981; and *City of Valdez v. State*, 793 P.2d 532, 1990).

Local Government

committee, this scheme allows boundary decisions to be made "at a level where area-wide or statewide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively."

The term "boundary change" encompasses a number of actions, including annexation, detachment, and alterations inherent in the creation of new units of local government. However, the Alaska Supreme Court has interpreted this section to apply to such changes as annexations and detachments, not to the creation of new cities and boroughs. Although the local boundary commission plays a key role in new incorporation, it does so through authority conferred on it by the legislature under Sections 3 and 7 of this article (which says that cities and boroughs may be incorporated, merged, consolidated, classified, or dissolved in the manner provided by law). Therefore, the local boundary commission does not have to submit its decisions in these matters to legislative review under the procedure specified in this section (*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92; 1974).

Boundary changes that result from annexation may well involve the dissolution of an existing unit of government. In such cases, approval of the annexation by the local boundary commission, if it survives legislative scrutiny as provided here, is decisive, even if statutory procedures regarding dissolution require ratification by the voters of the dissolved governmental unit (see *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 1962, involving the dissolution through annexation of a public utility district without ratification, and *Oesau v. City of Dillingham*, 430 P.2d 180, 1968, involving the dissolution through annexation of a fourth-class city).

The local boundary commission must consider proposals for local government boundary changes requested of it by the legislature, the commissioner of the Department of Community and Regional Affairs, or a political subdivision of the state (AS 44.47.567). Thus, for example, the local boundary commission considered and approved a request by the commissioner of the Department of Community and Regional Affairs for detachment from the North Slope Borough of the mineralized zone around the Red Dog mining property. This detachment was critical to the success of the proposed Northwest Arctic Borough, incorporation of which the commission also approved.

Procedures for merger, consolidation and dissolution through petition by local residents are specified in AS 29.06.

Section 14. Local Government Agency

An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

The agency established by this section is the Department of Community and Regional Affairs (formerly the Local Affairs Agency). It is the only executive agency mandated by the constitution (the local boundary commission created in Section 12 is one of five boards and commissions created by the constitution). Its presence here symbolizes both the importance placed on local government matters by the constitution's authors and the state interest they saw in fostering strong local self-government.

Section 15. Special Service Districts

Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

At the time of the convention, school districts were the primary special service districts in existence. In keeping with the general constitutional objectives of minimizing local jurisdictions and favoring general purpose over special purpose government, the delegates voted to require school districts to be absorbed by boroughs. Under this scheme, the borough levies taxes to support education and approves the budget of the school district, which otherwise continues under the management of a local school board and separate school administration. Within general tax and budget restraints, borough school districts have substantial autonomy. A number of the delegates wanted independent school districts to remain autonomous after statehood; they were defeated by the approach adopted by convention which is reflected in this section.

SB

294

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/11/94

FURTHER: Finance

Date of 5-Day Notice: 2/17/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

CRA Committee considered SB 294

"An Act relating to canned salmon classics; and providing for an effective date."

and recommends:

replace with _____ CS _____ ()

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

same title
 new title
 technical title change
(HB only)

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

| Department | Date | Zero | Fiscal |
|------------|---------|------|--------|
| DOR | 2/15/94 | 0 | |
| | | | |
| | | | |
| | | | |
| | | | |

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS.

Adrian Taylor

OTHER RECOMMENDATIONS:

Steven D. Hansen No rec

Carol E. Hill, No Rec

Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 294

| | |
|---|--|
| Revision Date: | Dept. Affected: <u>Revenue</u> |
| Title: <u>"An Act relating to canned salmon classic; and providing for an</u> | BRU: <u>Revenue Operations</u> |
| effective date." | Component: <u>Charitable Gaming Division</u> |
| Sponsor: <u>Senator Taylor</u> | |
| Requestor: <u>Senate Community and Regional Affairs</u> | COMPONENT SERIAL NO. <u>1883</u> |

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|---------|--|--|--|--|--|--|
| CAPITAL | | | | | | |
|---------|--|--|--|--|--|--|

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| REVENUE FUND SOURCE: | | | | | | |
|----------------------|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

None

| | | |
|---------------------------|----------------------------|-------------------------|
| Prepared by: | Don Stolorow, Director | Phone: 465-2279 |
| Division: | Charitable Gaming Division | Date: February 15, 1994 |
| Approved by Commissioner: | Darrel J. Rexwinkel | Date: February 15, 1994 |
| Agency: | Department of Revenue | |

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Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council



Senator Robin L. Taylor

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Sponsor Statement

Senate Bill 294

I have introduced this legislation on behalf of the Petersburg Chamber of Commerce. The Petersburg Chamber of Commerce last year initiated a "Canned Salmon Lottery" contest to promote the seafood industry.

Due to the statutory 50 cent per ticket price limitation the chamber was unable raise sufficient funds to make the program self sustaining. The chamber of commerce thought the small ticket fee hindered ticket sales and increased the overall operating cost of the program. They would like to raise the cost to 2 dollars per ticket. To do this legislation is needed to allow them to go forward.

With sufficient income the program will be used to fund a college scholarship for Petersburg High School graduates.

I would appreciate your favorable consideration of this bill.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

PETERSBURG Canning History:

Since the first cannery was built in 1900 and packed 32,750 cases of salmon, Petersburg has been a part of the Alaska fishing industry. For as long as there have been cannery workers and fishermen, wagers have been made on the number of cans that could be packed at each cannery in Alaska. Since the canned salmon pack was directly related to the numbers of fish harvested, fishermen, cannery workers and processor management had an equal chance at winning the prized pool of money at the end of the season.

The Petersburg Chamber of Commerce has opened the contest to everyone, with the introduction of the Petersburg Canned Salmon Classic.

S.E. Pink Salmon Harvest

(in millions of lbs.)

| | |
|-----------|-------------------|
| 1988..... | 11.2 |
| 1989..... | 59.0 |
| 1990..... | 31.2 |
| 1991..... | 61.5 |
| 1992..... | 38.0 |
| 1993..... | 50.0 to 60.0 Est. |

Petersburg Canned Salmon Pack

(in 1# can size equivalents)

| | |
|-----------|------------|
| 1988..... | 7,781,304 |
| 1989..... | 34,889,425 |
| 1990..... | 22,724,065 |
| 1991..... | 29,018,545 |
| 1992..... | 27,096,887 |

IT'S EASY TO ENTER:

(1) Buy Tickets from any of these outlets for 50¢ each:

| | |
|-------------------------|-----------------------------|
| The Trading Union, Inc. | Pellerito's Pizzeria |
| Hammer & Wikan, Inc. | Beachcomber Inn |
| Moose Lodge | Tides Inn |
| Harbor Bar | Scandia House |
| Chamber of Commerce | Kito's Kave |
| Petersburg Fisheries | The Quart House |
| The Bottle Shop | S.O.S. Value Mart (Kake) |

(2) Fill in your guess of what the canned salmon pack (in 1# can equivalents) will be at the conclusion of the canning season in 1993. Please print clearly. Also, fill in name, phone and address on lower part of ticket. Please read all rules on ticket.

(3) Tear off short stub and deposit the portion of the ticket with your guess into cans with the Petersburg Canned Salmon Classic Labels, at the Chamber office or at various locations in Petersburg, Kake and Wrangell. Record your guesses on the back of this flyer.

(4) Winning entry will be announced on November 1, 1993 after the close of the Petersburg canning season. The winning ticket holder has to claim the prize money by Dec. 31st, 1993 or the winnings return to the PCSC. Last day to purchase tickets: August 21, 1993.

1st Prize: \$2500 Cash!
Next Closest Guess: \$500 Cash!

HOW BIG IS THE CAN?

Although canneries may pack salmon in several sizes of cans, including custom packed product, all figures used to determine the total salmon pack for Petersburg are converted to one pound can equivalents. Canneries providing can pack information to the PCSC committee are: Petersburg Fisheries, Chatham Strait Seafoods and Nelbro Packing Company. Certified pack figures submitted to the PCSC committee are used to compute the final canning figures for Petersburg's Canned Salmon Classic.

THANK YOU

The PCSC committee thanks the staff and management of Icicle Seafoods Inc., Chatham Strait Seafoods and Nelbro Packing Co. for helping make the Petersburg Canned Salmon Classic possible.

Thanks to our sponsors:



Willamette Enterprises

Proceeds will be used in part to fund a \$1000
AML/Petersburg Chamber of Commerce
Scholarship

RULES

PCSC is not responsible for misdirected, lost, late or delayed entries.

PCSC will attempt to contact the winner at ticket address. If the winner fails to respond by 12/31/93, the winnings return to the PCSC.



Petersburg Chamber of Commerce

P.O. Box 649

Petersburg, Alaska 99833

(907) 772-3646

February 10, 1994

Sen. Robin L. Taylor
Room 601, court
State Capital
Juneau, AK 99801-1182

Dear Senator Taylor:

Last year the Petersburg Chamber of Commerce introduced the first annual "*Canned Salmon Classic*". This special event allows individuals a chance to win cash prizes by purchasing tickets to guess what the actual canned salmon pack of the two Petersburg canneries would be. The person with the closest guess wins the grand prize and the next closest taking the second prize. There are winners every time.

We were fortunate to have Alaska Marine Lines, as our major sponsor in 1993. We also received additional support from Willamett Industries, Inc. and Icicle Seafoods, Inc. The generous contributions made by each of these firms greatly enhanced our program.

The main purpose of having the "*Canned Salmon Classic*" was to promote our community of Petersburg and to attract more attention to seafood since the seafood industry is a vital part of our local economy. At the same time the Chamber thought it would be great if we could also provide some scholarship money to graduating high school seniors as part of this event.

The "*Canned Salmon Classic*" was received with great enthusiasm and we are excited about the upcoming year.

One of the changes we would like to make for this year is to raise the ticket price from the current 50¢ to \$2.00. We felt the lower ticket price hindered sales and increased our overall operating cost.

Also, this year we plan to expand the "*Canned Salmon Classic*" to all the major communities in Southeast Alaska. All ten of the communities we

Page 2

Canned Salmon Classic

have applied to have overwhelmingly given us their approval to participate in this event.

Our plan this year is to recruit youth groups to sell the tickets and in return they would receive a commission. This will provide these groups with another source to raise funds for their community programs.

One of the best events of the "Canned Salmon Classic" is the "Seafood Fest" in October when we announce the winners. This grand finale was held at the Sons of Norway hall in Petersburg. We decorated the hall in a seafood theme and had many booths that local merchants and residents used to give the public a tasty sample of their seafood products at very reasonable prices. We also had live music, kids games, door prizes and seafood recipes donated by ASMI were handed out.

We had over 300 people come to the "Seafood Fest" and we expect 700 to attend this year.

All of us here at the Petersburg Chamber of Commerce are very excited about the "Canned Salmon Classic" this year, as we know it will be even bigger and better.

Thank you for your assistance on this event and I hope you and your friends get a chance to join in on the fun.

Sincerely yours,



Patrick S. Wilson
Chairman

Enclosures

HOW MANY CANS COULD A SALMON PACKER PACK?

PETERSBURG — The first-ever Canned Salmon Classic — at least in Petersburg — got under way with a whisper here last month.

Pay 50 cents, guess how many cans of salmon are produced this year by three Petersburg processors, and you could walk away with a top prize of \$2,500.

The local chamber of commerce

launched the classic June 4 with a sidewalk booth, passing out information and free cans of salmon.

"People couldn't believe it," said Patrick Wilson, chairman of the chamber's classic committee and the originator of the whole idea.

"They would say, 'A can of salmon for me?'"

Wilson said the chamber plans another can giveaway today and hopes to sell 20,000 classic tickets.

In addition, there is a Classic T-shirt for sale.

Managers of the three canneries in town — Chatham Strait Seafoods, Nelbro Packing Co., and Petersburg Fisheries — will tabulate their total "salmon pack" at the end of the season, about Sept. 15. The information will be taken in sealed envelopes to chamber president Steve Hill in a ceremony at National Bank of Alaska; bank manager Clark Mondich will be asked to lock the envelopes in a vault.

The envelopes will be removed and opened during a salmon festival Nov. 1, at a time and place yet to be determined.

"You don't have to be present to win," Wilson said.

Winners will be notified by registered mail.

The first prize of \$2,500 will go to the person whose guess is nearest the actual number of cans in the season's pack. The runner-up of the next closest guess will get \$500. The chamber also plans to use the proceeds to award a \$1,000 scholarship to a local student.

— Petersburg Pilot

Anchorage Daily News

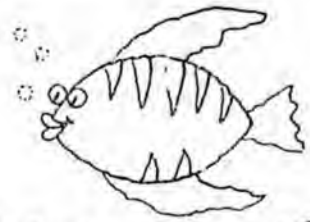
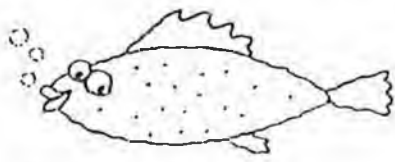
Sunday, July 4, 1993

B5

LASKA



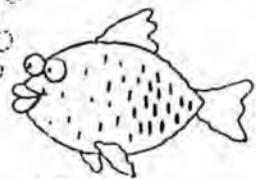
Anchorage Daily News



Get in the SWIM of things



fish



fish



fish

Recipe Contests

fish

Games for the Kids

Petersburg Seafood Fest

Salads

Soups

At the Sons Of Norway Hall

fish

2:30 to 6:00

Saturday October 30th

Live Entertainment!

Prize Drawing
Every Fifteen Minutes!

Come join the Fun!

Taste some Wonderful Seafood!

Italian Sodas

fish

fish

Announcement of the
First Annual
Canned Salmon Classic
Winner!

Cotton Candy

fish

fish



Alaska State Legislature

FEB 17 1993

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council




Senator Robin L. Taylor

State Capitol
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(907) 465-3823
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352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Memorandum

To: Senator Randy Phillips, Chairman
Senate Community and Regional Affairs Committee

From: Senator Robin Taylor 

Date: February 16, 1994

Subject: Senate Bill 294; relating to canned salmon classics

The Petersburg Chamber of Commerce last year introduced a "Canned Salmon Lottery" contest to help promote the seafood industry. They thought it appropriate because seafood catching and processing is such a vital part of the Petersburg economy. Due to the statutory 50 cent per ticket limitation for this game they were unable raise sufficient funds to make the program financially viable.

The chamber of commerce thought the small per ticket fee hindered sales and increased the overall operating costs. They would like to raise the cost of tickets to \$2.00. This legislation is needed to allow them to go forward.

Attached is a sponsor statement and back up from the Petersburg Chamber of Commerce. Please contact Terry Otness at extension 6550 for any further information on this bill. I would appreciate it if you would schedule this bill promptly. Thank you.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

S B

330

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/14/94

FURTHER: Finance

Date of 5-Day Notice: 2/17/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

CRA Committee considered SB 330

"An Act relating to water quality enhancement, water supply, wastewater, and solid waste grants; the Alaska clean water fund; the establishment of the Alaska clean water account, the Alaska drinking water fund, and the Alaska drinking water account; and providing for an effective date."

and recommends:

replace with _____ CS _____ ()

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

same title
 new title
 technical title change (HB only)

FISCAL NOTE INFORMATION

| Department | Date | Zero | Fiscal |
|------------|---------|------|--------|
| DEP | 2/15/94 | φ | |
| | | | |
| | | | |
| | | | |
| | | | |

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Robin L. Traylor
Erwin A. Johnson (needs vsw amendment)

Reed E. O'Connell, D. Pers
Chair: Signature and Recommendation

DEPT. OF ENVIRONMENTAL CONSERVATION

**Department Position Paper
SB 330**

" An Act relating to water quality enhancement, water supply, wastewater, and solid waste grants; the Alaska clean water fund; the establishment of the Alaska clean water account, the Alaska drinking water fund, and the Alaska drinking water account; and providing for an effective date."

Legislative Intent:


SB 330 would amend the statutes governing two funding programs administered by the Department of Environmental Conservation: Municipal Matching Grants and the Alaska Clean Water Fund. The intent of the bill is to: (1) improve existing funding alternatives available to incorporated communities; (2) provide a more equitable method for assisting mid-sized communities with populations ranging from 1,000 to 5,000; (3) expand loan eligibility similar to the Alaska Clean Water Fund to include drinking water projects; (4) enable Alaska to take advantage of federal capitalization grants to the drinking water loan program; and (5) clarify confusing and redundant language contained in the programs' existing statutes (AS 46.03.030 and AS 46.03.032).

Bill/Program Effects:

SB 330 would allow the Department of Environmental Conservation to better assist incorporated communities in financing the planning, design, and construction of water, sewerage, and solid waste systems. Financing programs are available to meet the needs of the State's larger urban communities and smaller unincorporated rural communities. However, incorporated "mid-sized" communities with population bases of 1,000 to 5,000 are not eligible to participate in the Village Safe Water program yet do not have the financial resources to pay one-half of a project's cost as currently required under the Municipal Matching Grants program. By increasing the percent of project costs eligible for grant funding to more closely parallel those allowed under AS 37.06, these communities will be better able to finance the sanitation needs of their residents. SB 330 would also position the State to take advantage of a proposed federal capitalization program by establishing a Drinking water revolving loan fund. Congress is expected to pass authorization language for the program this session. This program would provide communities with a predictable, perpetual and, eventually, self-sustaining financial resource for water supply projects.

The Alaska Department of Environmental Conservation strongly supports SB 330 in its entirety.

This legislation would have a zero fiscal impact on the State's Operating Budget.



Keith Kelton, Director
Division of Facility Construction
and Operation

2-17-94
Date

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 330

Revision Date: _____
Title: Water Quality Funds and Grants
Sponsor: Senator Halford
Requestor: Senator Phillips

Department Affected: Environmental Conservation
BRU: Facility, Construction, and Operation
Component: Facility, Construction, and Operation

CCOMPONENT SERIAL NO. 637

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 95 | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND&STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0 |
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0 |

FUND SOURCE

| | | | | | | |
|-------------------------|-----|-----|-----|-----|-----|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipt | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0 |

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|---|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0 |

ANALYSIS: (Attach a separate page if necessary.)

No overall fiscal impacts are anticipated. No new positions will be created. As a result of the Drinking Water Loan Fund portion of the bill, the funding sources for existing personnel will be shifted to the revolving loan fund from a federal grant program, which is being discontinued.

Prepared by: Bob Poe, Director
Division: Information and Administrative Services

Phone: 465-5010
Date: 2/15/94

Approved by Commissioner: Asa R. Tompkins
Agency: Department of Environmental Conservation

Date: 2/15/94

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ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

FEB 13 1993

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

MEMORANDUM

TO: Senator Randy Phillips, Chair
Community and Regional Affairs Committee

FROM: Senator Rick Halford *Rick Halford*

DATE: February 14, 1994

SUBJECT: Request for a Hearing

I respectfully request Senate Bill 330 relating to water quality funds and grants be scheduled for a hearing in Senate C&RA at your earliest convenience.

Thank you.



ALASKA STATE LEGISLATURE

Senator Rick Halford

President of the Senate

MEMORANDUM

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

TO: Senator Randy Phillips, Chair
Senator Robin Taylor
Senator Loren Lemar
Senator Al Adams
Senator Fred Zharoff

FROM: Senator Rick Halford
Sponsor

DATE: February 15, 1994

SUBJECT: Sponsor Statement for Senate Bill 330

Senate Bill 330 proposes modifications to two statutes administered by the Division of Facility Construction and Operation within the Department of Environmental Conservation; AS 46.03.030 (Municipal Matching Grants) and AS 46.03.032 (Alaska Clean Water Fund).

By way of background, in 1987 I sponsored Senate Bill 167 which created the Alaska Clean Water Fund (ACWF) to provide low interest loans for the construction of municipal wastewater projects. This program, capitalized 83 percent by the federal government, was designed to replace the EPA construction grants program. Since the ACWF can only finance wastewater projects, the Legislature also created a separate account for excess State appropriations to provide loans for water supply and solid waste projects. This account has never been capitalized. The ACWF as presently capitalized can provide loans only for wastewater projects.

SB 330 provides funding assistance through grants and loans to Alaska's incorporated municipalities for the construction of water, wastewater and solid waste improvements. By amending AS 46.03.030, the flexibility of funding alternatives available to incorporated governments will be increased. Changes to AS 46.03.032 will position the State to take advantage of a new federal loan program for construction of water supply systems. This legislation is now pending in Congress and by passing this bill this session, it will enable the State to participate at the earliest possible opportunity.

Congress is also presently considering several bills for the re-authorization of the Safe Water Drinking Act. These bills all contemplate a loan program for the construction of water supply projects. It is proposed that federal appropriations and the corresponding State match will be used to capitalize an Alaska Drinking Water Fund.

The proposed changes to AS 46.03.032 clarify the relationship of the ACWF to the account and establishes a parallel Alaska Drinking Water Fund and account. Again, early action by the Legislation allows the State to receive federal funding as soon as it is available.

I request the committees' favorable consideration of Senate Bill 330.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 18, 1994

SUBJECT: Sectional Summary of SB 330; An Act relating to water quality enhancement, water supply, wastewater, and solid waste grants; the Alaska clean water fund; the establishment of the Alaska clean water account, the Alaska drinking water fund, and the Alaska drinking water account; and providing for an effective date. (Work Order No. 8-LS1739\E)

TO: Senator Rick Halford

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 330; An Act relating to water quality enhancement, water supply, wastewater, and solid waste grants; the Alaska clean water fund; the establishment of the Alaska clean water account, the Alaska drinking water fund, and the Alaska drinking water account; and providing for an effective date.

A sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill repeals and reenacts AS 46.03.030(b) to set out the purposes for which grants may be made to municipalities: a water quality enhancement project; a public water supply, treatment, or distribution system; a wastewater collection, treatment, or discharge system; or a solid waste processing, disposal, or resource recovery system.

Section 2 of the bill makes technical amendments to AS 46.03.030(c).

Section 3 of the bill amends AS 46.03.030(d) to change the definition of eligible costs of projects that can be funded by grants under AS 46.03.030.

Section 4 of the bill repeals and reenacts AS 46.03.030(e) to set out that portion of the eligible costs of a project that may be funded by grants under AS 46.03.030.

Section 5 of the bill adds new subsections to AS 46.03.030 specifying what types of funds may be used to match grants under AS 46.03.030 and requiring that the Department of Environmental Conservation must approve project plans and specifications before construction of the project may begin.

Section 6 of the bill amends AS 46.03.032(d) to change the purposes for which the Alaska clean water fund may be used.

Sections 7, 8, and 9 of the bill make minor technical changes to AS 46.03.032(f), (g), and (l), respectively.

Section 10 of the bill amends AS 46.03.032(m) to require that annual repayments of principal on loans from the Alaska clean water fund must commence within one year after completion of the project for which the loan is made.

Section 11 of the bill adds a new section to AS 46.03 to create the Alaska clean water account as a separate account in the state treasury. The account may be used for the same purposes as the Alaska clean water fund. Repayments of principal on loans from the account shall be deposited in the Alaska clean water fund. Interest payments on loans made from the account are dedicated back to the account.

Section 12 of the bill adds a new section to AS 46.03 to create the Alaska drinking water fund as a separate fund in the state treasury. The Department of Environmental Conservation may adopt regulations to ensure that it administers the fund in a manner consistent with federal law.

Section 13 of the bill adds a new section to AS 46.03 to create the Alaska drinking water account as a separate account in the state treasury. The account may be used for the same purposes as the Alaska drinking water fund. Repayments of principal on loans from the account shall be deposited in the Alaska drinking water fund. Interest payments on loans made from the account are dedicated back to the account.

Section 14 of the bill repeals AS 46.03.030(f) and 46.03.032(n).

Section 15 of the bill allows the Department of Environmental Conservation to retain certain regulations relating to water quality enhancement, water supply, wastewater, and solid waste system grants, the Alaska clean water fund, or the Alaska clean water account until the effective date of regulations adopted by the department to implement changes made by this Act.

Section 16 of the bill provides that, except for secs. 12 and 13, the bill takes effect July 1, 1994.

Senator Rick Halford
February 18, 1994
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Section 17 of the bill provides that secs. 12 and 13, relating to the Alaska drinking water fund and the Alaska drinking water account, take effect on the effective date of a federal law allowing the state to participate in federal capitalization grants to finance projects related to drinking water.

GU:pl
94-129.plm

CITY of HOONAH

P.O. Box 360
Hoonah, Alaska 99820
(907) 945-3663
FAX (907) 945-3445

February 23, 1994

Randy
TO: Senator Randy Phillips, Chairman
Senate Community & Regional Affairs Committee

Albert
FROM: Albert W. Dick
Mayor

SUBJECT: SB 330 - An act relating to water quality enhancement, water supply, wastewater, and solid waste grants; the Alaska clean water fund; the establishment of the Alaska clean water account, the Alaska drinking water fund, and the Alaska drinking water; and providing for an effective date.

The City of Hoonah strongly supports SB 330 in it's entirety.

The City of Hoonah has been operating at 97% water treatment capacity for some time and is desperately in need of a new water treatment system which will allow it to treat a larger capacity of water, meet DEC/EPA regulations pertaining to the treatment of water and provide for future expansion of the City. This is more important as the U. S. Forest Service expands it's office and housing base in the community. It is getting more difficult for us to stay in compliance during peak periods when the Hoonah Cold storage is running.

This system was originally installed by Indian Health Service some time ago. They have indicated that they would help us out anyway they can to get a new system on line. The City like most small communities does not have the funds to install this system, would be able to handle 15% of the cost. That is why we are requesting support of this bill especially as it pertains to Sec. 4. AS46.03.030(e)(2)(A) 85 percent of the eligible costs for a municipality with a population of 1,000 persons or less; and Sec. 5 AS46.03.030(g) the match required under this section may include (1) federal funds; or (2) state funds, other than those funds received under this section.

AWD:rgp

cc: Mackie, Zharoff, Halford

Qinarmiut Corporation

GENERAL DELIVERY
TUNTUTULIAK, ALASKA 99680

(907) 256-2315 FAX (907) 256-2441

February 18, 1994

Representative Lyman Hoffman
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Honorable Representative Hoffman:

We are writing to you to ask for your help in solving a technical land problem that we have encountered in our efforts to seek improvements to our overall water and sewer conditions in Tuntutuliak. We are awaiting the results of an Attorney General's opinion on whether A.S. 44.47.150 allows the State Municipal Lands Trustee to accept subsurface estate conveyances from ANCSA Regional Corporations, and if not, we would like you to introduce legislation to add such a provision.

The Village of Tuntutuliak received a combination State/Federal EPA grant to prepare a water and sewer feasibility study. The study, which was completed in December, 1993, recommended the development of a phased implementation of sanitation facilities according to need and economic capacity. The course of action advised the abandonment of the existing honey bucket system, the development of a flush tank and haul system which would eventually be converted to a pressurized or vacuum sewer system, the construction of a new sewage lagoon and solid waste disposal site, and improvements to the existing washeteria and summer water distribution system. Another recommendation was to seek diversified funding to upgrade existing boardwalks and construct additional boardwalks and new gravel roads. These upgrades are needed to implement an effective haul system and access.

As background, Tuntutuliak is a community of approximately 325 people. Households do not have running water or flush toilets and must rely on rain barrels or the washeteria for their summer water supply. Ice is obtained from ponds, lakes and the Kinak River during the winter. Individuals must travel by snowmachines 1/2 to 20 miles to get ice. Boardwalks are 3 to 4 feet wide and in disrepair, and the existing dumpsite is unsuitable. The community has experienced health problems and hardship due to the lack of these basic amenities.

As part of the study, the Qinarmiut Corporation and the Tuntutuliak Traditional Council identified appropriate sites for the needed improvements. Since the land considered for development is owned by Qinarmiut Corporation, the Corporation decided in March, 1993 to convey the land (including the dumpsite and sewage lagoon) needed for the project to the State Municipal Land Trustee under ANCSA Section 14(c)(3). This action was necessary to fulfill site control requirements for the funding of the project. In our efforts to comply with State and Federal requirements for public project development, we have encountered a technical problem in the conveyance of at least two parcels of land needed for the project.

When the sewage lagoon and dumpsite are built, they will encroach into the subsurface estate belonging to Calista Corporation. The sewage lagoon and dumpsite will cover approximately 7.60 acres.

Calista requires that the subsurface estate of such sites be acquired from them through exchange or sale before construction can occur. Calista has established formal procedures with other agencies such as the U.S. Public Health Service and State Department of Transportation and Public Facilities for the acquisition of the subsurface estate of projects funded by their agencies. PHS negotiated an agreement with Calista for subsurface acquisitions and amended their manuals and procedures accordingly. Calista states that they have not negotiated agreements with Village Safe Water in the past but will need to in order to address State projects under construction in their region. Similar agreements have been worked out with Alaska Energy Authority for bulk fuel storage.

In incorporated communities, the City or Borough purchases the subsurface estate from the appropriate Regional Corporation, so the land is owned in fee simple. In the Calista Region, there is no Borough, and Traditional and IRA Councils are the recognized forms of Government in unincorporated communities. The Tuntutuliak Traditional Council (TTC) is formally recognized by the State of Alaska as the Appropriate Village Entity, who is responsible for overseeing 14(c)(3) decisions. Traditional Councils or IRA Councils cannot own 14(c)(3) land because State Law only recognizes cities and boroughs as instrumentalities of the State for the purposes of 14(c)(3).

The State maintains that A.S. 44.47.150(a)(2) provides that the Commissioner "may...accept, administer and dispose of land conveyed in trust by a state or federal agency and by the dissolution of a municipality...". As we understand, the law as it is written appears to say that the MLT would only be able to acquire land from a State or Federal agency like DOT or PHS, not Calista. In a meeting held on April 26, 1993 between Calista, DCRA's Deputy Director and staff of the MLT Program, DCRA recognized that they would probably need to introduce legislation to allow the State MLT to accept title from a Regional Corporation. They also believed that they would have to obtain a legal opinion from the State Attorney General's office. This opinion was formally requested on May 26, 1993 (copy enclosed). It is now nearing the end of February, and the State AG's office has still not responded despite numerous phone calls from the State MLT.


If legislation is needed, it must be passed before the legislature adjourns in May. If the State legislature appropriates funds for the construction of the needed sewer and water projects in Tuntutuliak, we hope to begin construction in the summer. However, in the absence of the proper site control for the subsurface estate, even if funding for the sewer and water improvements are appropriated during the 1994 legislative session, construction of the project may not occur.

We are in dire need of improving the health situation of our community. We do not want to see this critical project held up because of a technical problem with State law. We ask for

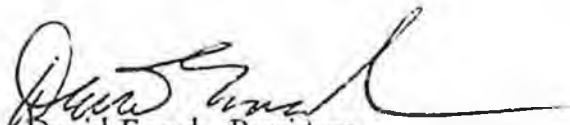
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your help in asking the AG's office to respond to DCRA's request for an opinion on the issue and/or by introducing language to amend A.S. 44.47.150 to add a provision to allow the acceptance of subsurface estate conveyance from ANCSA Regional Corporations. Thank you for your assistance.

Sincerely,



Robert Enoch, President
Qinarmiut Corporation

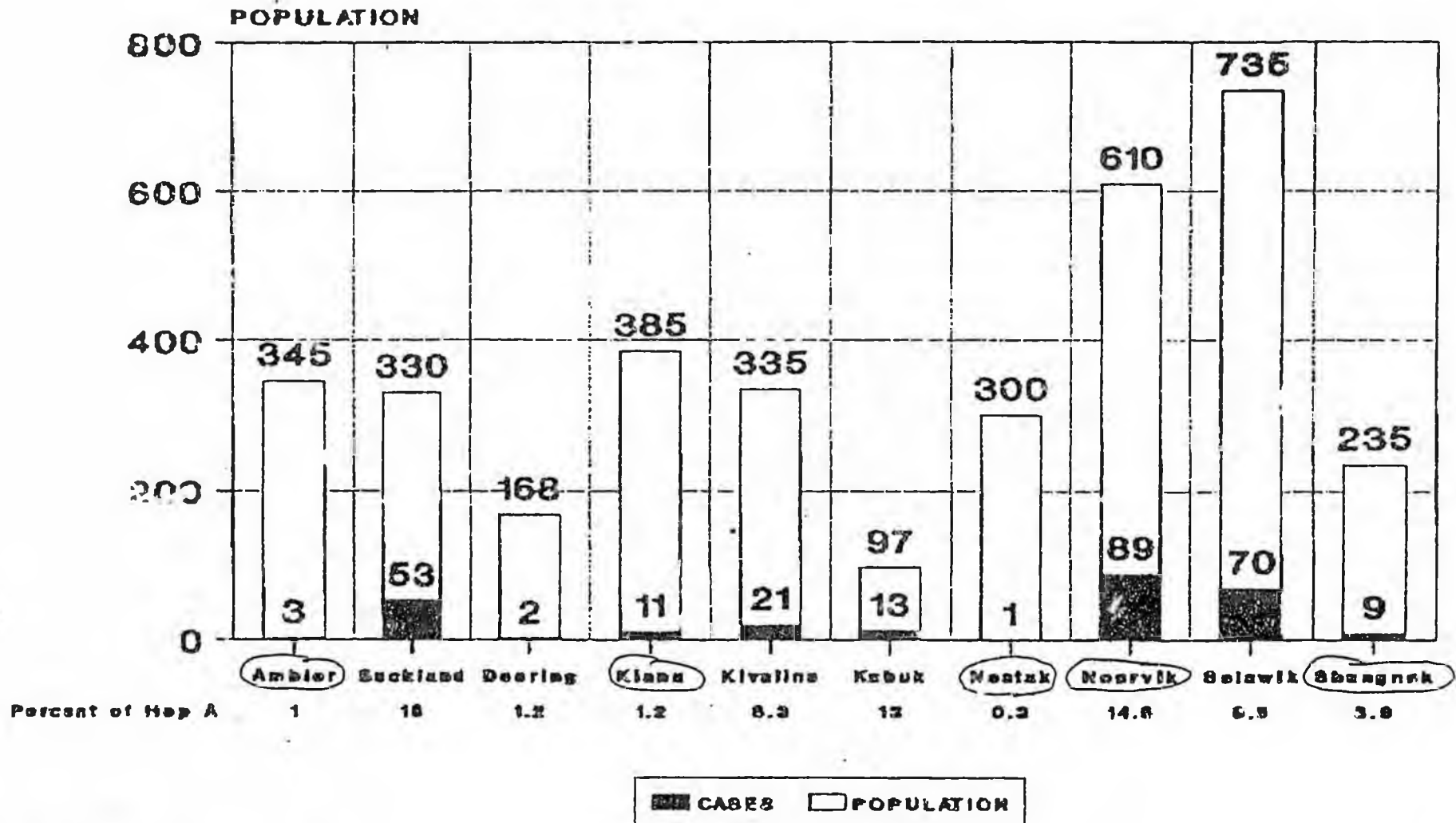


David Enoch, President
Tuntutuliak Traditional Council

Enclosures

cc: Governor Hickel, Bush Caucus, DCRA Standing Committee, Calista, AFN, DCRA

Hepatitis A



Ambler, Klana, Neetak, Noorvik and Shaugssuk all have community water and sewer facilities