

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9095 HOUSE COMMUNITY & REGIONAL AFFAIRS

HB

401

Objectives in Developing HB 401

- Promote self sufficiency for families on public assistance; particularly in rural Alaska.
- Promote flexibility in designing local approaches to achieving self sufficiency.
- Assure that both the State and Regional programs are managed efficiently and cost effectively.
- Discourage disparity in benefits and services for Alaskans living in the same community or region.
- Address the complex legal issues relating to the delegation of State authority.

Sectional Analysis HB 401 \ SB 293

Section 1. Findings and Intent

Section 2. This section exempts contracts with Native Regional organizations who are providing public assistance services and have an approved tribal assistance plan under AS 47.27.072 from the procurement code.

Section 3. Authorizes the department, if it is appropriate, to establish regional public assistance plans for the administration of the Alaska temporary assistance program.

Section 4. Allows the Department, in its administration of the Alaska Temporary Assistance Program, to adopt program standards that may vary by region so long as the standards still meet the requirements in AS 47.27.072 and the program requirements of AS 47.27.071.

Section 5. This section allows the Department to award tribal family assistance grants to Alaska Native Regional Organizations that have a Federally approved tribal assistance plan that meets the requirements of AS 47.27.070. This section also establishes a process for Departmental review of the tribal assistance plan before it is submitted by the Alaska Native Regional Organization.

Additionally, this section provides that in the first year of a tribal assistance plan the State grant will represent a fair and equitable portion of the State appropriation for the State public assistance program administered by the department. For the second and subsequent years, the grant represents a fair and equitable portion of the State appropriations made for public assistance programs that is allocated for tribal family assistance grants.

This section also lists the specific requirements that must be included in the tribal plan if it is to be eligible for a state grant. Additionally, this section allows the Commissioner of the Department of Health and Social Services to require that non-tribal members be served through the tribal plan if doing so would be an efficient and cost-effective way to administer the State's public assistance program.

If the Commissioner designates the tribal plan to be the public assistance plan for all State residents within the service area, the Department will contract with the Native organization administering the tribal plan to provide a fair and equitable share of dollars appropriated to provide services to these recipients.

Section 6. This section defines "federally approved tribal family assistance plan" as a plan that meet requirements of Federal law and has been approved for funding by the United States Department of Health and Human Services.

Section 7. Establishes an immediate effective date.

Native Organization sends Letter of Intent to the Department with a proposed plan 8 months before proposed effective date of plan¹

Department reviews plan to identify service boundaries and other important elements*.

- STATE REQUIREMENTS:**
 Plan Must:
- Facilitate self-sufficiency within the region
 - Provide for a reasonable pattern of service delivery
 - Serve a specified region which is geographically coherent and shares common resources, traditions and interests
 - Include the following standards:
 - Must have dependent child in household
 - Payment amounts cannot exceed State amount
 - Minor parent must live in an approved adult-supervised setting
 - Able-bodied participants must work
 - Participants must comply with child support

If Native Organization does not adhere to requirements, Department notifies Native Organization of any significant deficiencies.

Native Organization may make a supplemental submission to the Department to resolve any deficiencies

If plan meets requirement, Native Organization is eligible for State Match for Tribal members

Plan submitted to Federal Government

Federal Approval

Native Organization receives grant for Tribal members

At discretion of Commissioner, Adopt Tribal Plan for all recipients within geographic boundary. Native Organization receives funds to serve non-Tribal members

¹ The Commissioner may waive the time deadline specified if the Commissioner:
 (1) Enters into a joint planning agreement between the department and the Native organization, or
 (2) finds good cause and the waiver is in the state's best interest.

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 18, 1998

Honorable Ivan Ivan, Chairman
House Community & Regional
Affairs Committee
State Capitol; Room 418
Juneau, AK 99801-1182

Dear Representative Ivan,

The Department of Health and Social Services respectfully requests a hearing in the House Community and Regional Affairs Committee on House Bill 401 "An Act relating to contracts for the provision of public assistance to certain recipients of the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."

A zero fiscal note has previously been submitted for this bill.

House Bill 401 represents the next step in the ongoing federal and state welfare reform initiative and is specifically designed to facilitate welfare reform in rural Alaska.

Your favorable consideration of this request will be most appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

cc: Jim Nordlund, Director, Division of Public Assistance
Pat Pourchot, Legislative Director, Office of the Governor

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 401
(H) Publish Date: 2/12/98

Revision Date: _____
Title: Contracts for Providing Public Assistance
Sponsor: Rules Committee
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Public Assistance
Component: ATAP
COMPONENT SERIAL NO. 220
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

	FY99	FY00	FY01	FY02	FY03	FY04
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: 0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation will provide grant funds to Alaska Native organizations that have federal approval to operate tribal family assistance programs (TFAP). It also allows the department to establish regional public assistance plans to serve all families living in the geographic area covered by the federally approved TFAP. The legislation also authorizes the department to contract with the Alaska Native organization operating a TFAP to serve these families. This legislation provides that grants to eligible Alaska Native organizations will represent a fair and equitable portion of the state appropriations intended to serve state residents served by an approved regional plan.

Federal welfare reform law provides that the 12 Alaska Native regional non-profits and the Indian community of Metlakatla may submit TFAP plans for federal approval. At this time, no Native organizations have submitted a TFAP plan. Fiscal impacts are dependent on which Native organizations have approved plans and the population to be served. In the future, department budget requests will reflect the financial impact which will result from Native organizations administering approved plans.

Prepared by: Jim Nordlund
Division: Public Assistance
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-2650
Date: 02/10/98
Date: 2/10/98

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 1998

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker ^{Gail}Phillips:

In accepting the challenge of reforming Alaska's welfare system, the state must make every effort to build a successful public assistance program. This bill I transmit today continues Alaska's efforts to implement effective and responsible welfare reform, particularly in rural areas. This legislation takes advantage of a provision in federal welfare reform allowing regional non-profit Native corporations to develop and implement welfare programs. Not only would this promote local responsibility for program success, it will better tie program assistance to local economic and social conditions. Under the bill, the Department of Health and Social Services may contract with regional Native organizations for operating family assistance plans.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, established that specifically named Alaska Native organizations could propose to operate tribal family assistance plans, independent of the state plan, to serve the native population within a specific geographical region. A state- and federally-approved tribal family assistance plan will receive, directly from the federal government, a portion of Alaska's allocation of the Temporary Assistance for Needy Families block grant funds to provide public assistance to the families the plan serves. The federal funds, however, will only be about half of the funds that have historically been appropriated to serve this purpose. This bill establishes standards by which the state will provide grants to these organizations to match the federal funds.

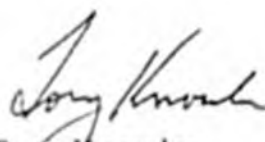
The regional plans are expected to be custom designed to meet the economic conditions and needs of the area. Regional plans may depart from some requirements of the state assistance program, as long as the plans contain specifically identified program elements

The Honorable Gail Phillips
February 10, 1998
Page 2

Additional provisions in the bill address record sharing and confidentiality, data reporting and financial records, program termination, and procedures for appeal.

This bill will contribute to making our public assistance programs more effective by considering regional conditions in plan developments. I urge your support of this bill.

Sincerely,



Tony Knowles
Governor

HB

471



Official Business

Alaska State Legislature

State Capitol

Juneau, Alaska 99801-1182

SPONSOR STATEMENT HOUSE BILL 471

The intent of House Bill 471 is to increase the number of board of commissioners on a regional native housing authority to more than five members, if so desired by the authority.

Congress, in 1996, passed a new Indian housing act, the Native American Housing Assistance and Self Determination Act of 1996, which converts Indian housing funding to block grants which are available to federally recognized Alaska Native villages and their truly designated housing entities. However, many village councils wish to continue using the umbrella housing authority model created by state law which authorizes a regional housing authority to operate the program for its members. In order to provide fairer representation, especially for those housing authorities that cover large parts of the state, the regional housing authorities have requested a change in statute. This will provide for the more fair regional representation they desire.

The limit of five board members was adopted under HUD rules that are no longer applicable to Indian housing.

Alaska House of Representatives



Majority Whip

STATEMENT OF SUPPORT

AMENDMENT NO. _____

TO

HB 471

BY REPRESENTATIVE RICHARD FOSTER

HISTORICAL BACKGROUND

Newtok Corporation, a Native Village Corporation established under the land claims settlement act is in the process of discussing a possible land exchange with the U.S. Fish and Wildlife Service. This land exchange would allow the village to relocate to a more suitable and stable area. The land where the village currently sits is threatened by erosion from the Ninglick River.

Problem

In the course of working on the land exchange for the corporation their attorney, Glenn Price, discovered that the Newtok Corporation had been involuntarily dissolved, on October 4, 1991, for failure to file its biannual report and, that the Corporation has not been reinstated since that date.

Secondary Issue

In the Meantime, a third party has incorporated using the name "Newtok, Corporation." The problem was discussed with Michael Monagle at the Division of Banking, Securities and Corporations, and he is amenable to the corporation reinstating under the name "Newtok Native Corporation." The name change would have to be implemented by way of an amendment to the corporation's Articles of Incorporation. The proposed language allows such an amendment, by Board action, in conjunction with the reinstatement.

Analysis of the Amendment

Lines 7 through 12

This section of the amendment extends the window for reinstatement, under AS 10.06.633(e), for a Native village corporation that has been involuntarily dissolved by the commissioner to December 31, 1998.

Lines 12 through 15

This section assures that the reinstated corporation retains the corporation's assets and that all actions taken by the board, during the period of dissolution, are valid and legally binding.

Lines 16 through 21

This section allows the corporation's board of directors to accomplish the necessary name change without the approval of two thirds of the membership. This is done for two reasons. First, it is nearly impossible to get two thirds of the membership to a board meeting since many members no longer live in the community and, second, time is critical in that the corporation needs to move ahead with the land exchange process.

ASSOCIATION OF ALASKA HOUSING AUTHORITIES

300 Boniface Parkway • Anchorage, AK 99504
Phone (907) 338-3970 • Fax (907) 338-4904
e-mail: aaha@alaska.net Home Page: <http://www.alaska.net/~aaha>

April 7, 1998

Representative Ivan Ivan, Chairman
Community and Regional Affairs Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

*Alaska Housing
Finance Corporation*

*Aleutian
Housing Authority*

*Association of Village
Council Presidents Regional
Housing Authority*

*Bristol Bay
Housing Authority*

*Bering Straits Regional
Housing Authority*

*Bristol Bay
Housing Authority*

*Cook Inlet
Housing Authority*

*Copper River Basin
Regional Housing Authority*

*Interior Regional
Housing Authority*

*Kodiak Island
Housing Authority*

*Matlakalla
Housing Authority*

*North Pacific Rim
Housing Authority*

*Northwest Inupiat
Housing Authority*

*Tapiagmulla
Nunavut (FNHA)*

*Tongva Haida Regional
Housing Authority*

Re: HB 471 - Regional Housing Authorities

Dear Representative Ivan,

Alaska's Regional Housing Authorities have taken the opportunity afforded by the committee to review the proposed legislation and to consult with many of their governing boards and the Regional Non-Profits and Associations which appoint their Boards. We have polled the Housing Authorities to be able to advise your committee of the outcome of these consultations - some of which are ongoing. The results of the poll:

Of the fourteen housing authorities

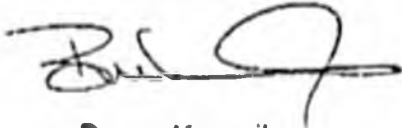
In favor or in favor of with a limited number of Board members. (Cap at 7, 9, or 11)	7
No Position Yet	4
Opposed	1
No Response to Poll	2

Five of the Housing Authorities in favor of the bill recommend adding language which puts a cap on the number of commissioners which could be appointed. The recommended cap ranged from 7 to 9 to 11 persons. The amended language in AS 18.55.996 (d) could read

appoint not fewer than five and not more than nine persons to serve as the board of commissioners of the authority

We appreciate the opportunity to provide this information and the efforts of your committee on behalf of Alaska's Regional Housing Authorities. If I can be of any assistance or if you require additional information, please contact me.

Sincerely,



Bruce Kovarik
Executive Director

pc: Reps. Dyson, Ogan, Ryan, Sanders, Joule & Kookesh
Executive Directors, Regional Housing Authorities
Chron

Bristol Bay Housing Authority

P.O. Box 50 Dillingham, Alaska 99576 Phone (907) 842-5956 FAX (907) 842-2784

March 31, 1998

Rep. Ivan Ivan
Room 418
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Ivan:

REF: HB471/SB 343 Relating to Boards of Commissioners of RHA's

I am aware that you have requested feedback from the Regional Housing Authorities as soon as possible on the above issue. BBHA has a regular Board of Commissioners meeting scheduled on April 10th, at which time this issue will be discussed. I will relay the wishes of the Board to you at that time.

I can, however, tell you that based upon a regional NAHASDA meeting that was held in Dillingham last November, representatives from the Village Councils of Bristol Bay indicated their interest in having a "Full Board" comprised of one representative from each village that would meet no less than annually to discuss housing issues. The existing Board of Commissioners would act as an Executive Committee. This would function much like the other regional non-profits in Bristol Bay - the Bristol Bay Area Health Corporation and the Bristol Bay Native Association.

I don't believe anyone anticipates a fully functional 32 member Board of Commissioners meeting on a monthly basis. Aside from the costs involved, a monthly Board meeting of that size would be cumbersome and impractical. The language of each bill should allow for a Full Board with limited meetings and an Executive Committee which would function much as does the existing Board of Commissioners.

Please call me for any additional information you may require.

Sincerely,


Dave McClure
Executive Director

CC: Senator Jerry Mackie, Chairman, Community & Regional Affairs Committee
Representative Carl Moses
Senator Lyman Hoffman
BBHA Board of Commissioners - William Tennyson, Luki Akelkok, Joe Clark
Boris Kosbruk, Mark Angasan
Donald Nielsen, President, Bristol Bay Native Association Board of Directors
Terry Hoeflerle, Chief Operating Officer, BBNA
Bruce Kovarik, Exec. Dir., Association of Alaska Housing Authorities



The Association of
Village Council Presidents
Regional Housing Authority

Box 767
Bethel, Alaska 99559

March 25, 1998

VIA FACSIMILE & U.S. MAIL

Representative Ivan M. Ivan, Chairman
Community and Regional Affairs Committee
State Capital
Juneau, Alaska 99801-1182

Re: HB 471/ SB 343, Regional Native Housing Authority Board of Commissioners

Dear Representative Ivan:

Thank you for your support of HB471. I have discussed this issue with our Board of Commissioners and they fully support the concept of providing our Regional Non-profit organizations the latitude to determine the most appropriate form of representation they deem necessary for their particular region(s). This is in particular respect to the number of board members and their areas of representation.

As you know, the AVCP RHA as established by State statute, is the largest Native Housing Authority in Alaska and representing 56 villages is 5 Commissioners. As you also know, at the AVCP, Inc. Convention last fall the delegation passed a resolution to encourage the Alaska State Legislature to amend AS 18.55.996(d) whereby the 13 Regional Non-Profit Organizations that appoint their Housing Authority Commissioners could determine what the most appropriate number of board members and their areas of representation should be.

We believe if more of our villages feel their voices are being heard in a way that addresses their local housing needs then they will all be better served. This would also help address the intent of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), passed by Congress. As its title asserts, local village governments want more meaningful input in how their housing programs are developed, operated, and managed.

Adoption of HB471 and SB343 would be a step in the right direction where the State and our villages can cooperate in a meaningful way that not only benefits everyone, but also fosters a better working relationship between the two. We also understand and support the proposed language in these bills which is permissive and does not require any policy or administrative changes but leaves such decisions up to the discretion of each respective body.

Representative Ivan M. Ivan
March 25, 1998
Page 2

If we can offer further support for this issue please don't hesitate to contact us.

Very truly yours,
AVCP RHA



Don Fancher
Executive Director

cc: AVCP RHA Board of Commissioners
Association of Alaska Housing Authorities
Myron Naneng, President/AVCP, Inc.

AVCP

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS
P.O. BOX 219 • BETHEL, ALASKA 99559 • PHONE 543-3521

THIRTY-THIRD ANNUAL CONVENTION
ST. MARY'S, ALASKA ***OCTOBER 7-9, 1997

RESOLUTION 97-10-31

TITLE: INCREASE IN SIZE OF AVCP HOUSING'S BOARD OF COMMISSIONERS

WHEREAS, the Association of Village Council Presidents, Inc. (AVCP) is the recognized tribal organization and non-profit Alaska Native regional corporation for its fifty-six member indigenous Native villages within Western Alaska and supports the endeavors of its member villages; and

WHEREAS, for over twenty (20) years the villages of the Yukon Kuskokwim Delta have been represented by the public housing corporation known as AVCP Regional Housing Authority, which in accordance with State law has as its governing board five Commissioners appointed by AVCP; and

WHEREAS, in 1996, Congress passed a new Indian Housing act, known as the *Native American Housing Assistance and Self-Determination Act of 1996* (NAHASDA), which converts Indian Housing funding to block grants, which are available only to federally recognized Alaska Native villages and their Tribally designated Housing Entities; and

WHEREAS, in NAHASDA, Congress for the first time has established a clear self-determination policy for Indian Housing and has granted recognized villages in Alaska direct power to administer and direct their local housing projects; and

WHEREAS, many village councils wish to continue using the "umbrella" housing authority model created by State law, which authorizes AVCP Regional Housing Authority to operate a regional housing program covering fifty-six villages; and

WHEREAS, each village must individually make the decision to appoint the regional housing authority as its designated housing entity, or to withdraw from the regional housing authority; and

WHEREAS, in order to provide fair representation for up to fifty-six villages, the housing authority's board must be larger than 5 Commissioners, because no Commissioner can effectively represent over 10 villages; and

WHEREAS, the State law limiting the Board of Commissioners of an Alaska regional housing authority to five members, arose from HUD rules that are no longer applicable to Indian Housing; and

WHEREAS, other regional organizations within the Yukon Kuskokwim Delta have board memberships on which each Board member represents as few as two villages, and this approach has been very effective in administering limited resources across the Delta; and

WHEREAS, several villages may withdraw from AVCP Regional Housing Authority due to the belief that the Housing Authority's Board of Commissioners cannot fairly represent them, due to its limited membership; and

WHEREAS, Members of AVCP seek to:

- 1) Follow the Self-Determination mandate of Congress, established and required by NAHASDA;
- 2) Provide strong direction and management in administration of local housing programs;
- 3) Retain the benefits of the state-created regional-wide housing authority;
- 4) Continue to receive economies of scale that are currently achieved through region-wide housing programs, as originally designed by the Alaska Legislature in 1971;
- 5) Minimize the disruption that could occur if villages withdraw from the AVCP Regional Housing Authority;

NOW THEREFORE BE IT RESOLVED THAT AVCP supports and encourages the amendment of Alaska Statutes restricting the size of Regional Housing Authorities Boards of Commissioners, and by such amendment authorize the Native Associations designated in Alaska Statute 18.55.996 to increase the size of their respective housing governing boards, in the discretion of such Native Associations, to a board size which will permit fair and equal representation of constituent villages, in a manner which is consistent with NAHASDA; and

BE IT FURTHER RESOLVED THAT the Board and Staff of AVCP Regional Housing Authority are authorized to support and encourage such an amendment; and

BE IT FURTHER RESOLVED THAT the AVCP Full Board of Directors retains the right to appoint all the AVCP Regional Housing Authority commissioners; and

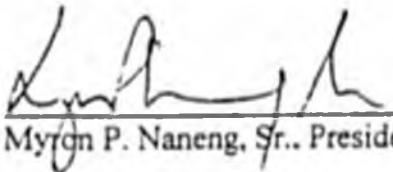
BE IT FURTHER RESOLVED THAT this Resolution may be presented to the Alaska Legislature any other interested persons to show AVCP's full support of the above-described amendment.

ADOPTED by the Association of Village Council Presidents, Inc. during the Thirty-Third Annual Convention at St. Mary's, Alaska, this 9th day of October 1997 with a duly constituted quorum of delegates.

CERTIFIED:



David O. David, Chairman



Myron P. Naneng, Sr., President

Sec. 18.55.996. Creation of authorities.

(a) The following associations are given the authority specified in (b) of this section:

- (1) Arctic Slope Native Association (Barrow and Point Hope);
- (2) Bering Straits Association (Seward Peninsula, Unalakleet, St. Lawrence Island);
- (3) Northwest Alaska Native Association (Kotzebue);
- (4) Association of Village Council Presidents (southwest coast of Alaska including all villages in the Bethel area and all villages on the Lower Yukon River and Lower Kuskokwim River);
- (5) Tanana Chiefs Conference (Koyukuk, the middle and upper Yukon River villages and the upper Kuskokwim and Tanana River villages);
- (6) Cook Inlet Tribal Council (Kenai, Tyonek, Eklutna and Seldovia);
- (7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);
- (8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula that is in the Aleut League);
- (9) North Pacific Rim Native Corp. (Cordova, Tatitlek, Port Graham, English Bay, Valdez, Seward, Eyak and Chenega);
- (10) Tlingit-Haida Central Council or Alaska Native Brotherhood (Southeastern Alaska);
- (11) Kodiak Area Native Association (all villages on and around Kodiak Island);
- (12) Copper River Native Association (Copper Center, Glennallen, Chitina and Mentasta);
- (13) Alaska Federation of Natives, Inc.;
- (14) Sitka Community Association (Baranof and Japonski Island);
- (15) Metlakatla Indian Community (Metlakatla).

(b) There is created with respect to each of the associations named in (a) of this section a public body corporate and politic to function in the operating area of the individual associations to be known as the regional housing authority of the associations possessing all powers, rights, and functions now or subsequently specified under AS 18.55.100 - 18.55.290, except those specified with respect to the construction and acquisition of public buildings for lease to the state or any authority that is inconsistent with AS 18.55.995. A regional housing authority may enter into agreements with local government, other political subdivisions of the state, the state or the federal government for the exercise of a function or power relating to construction, operation, and maintenance of public facilities or public utilities. Upon execution of an agreement and for the period of the agreement the regional housing authority shall have the same powers and functions relating to the subject matter of the agreement as those that may legally be exercised by the governmental unit with whom the agreement is made including the authority to separately or together with the other unit borrow money and issue notes, bonds, or other evidence of indebtedness to finance a project within the scope of the agreement subject to the express limitations, if any, contained in the agreement. All obligations or liabilities of the regional housing authority shall remain their own and are not obligations or liabilities of the state.

(c) A housing authority created by this section may not transact business or exercise powers granted to it until the governing body of the named association has, by proper resolution, declared that there is a need for the authority to function, gives it the authority to function and has named its commissioners as provided under (d) of this section.

(d) The governing body of the association in question shall, after determining that it

wishes to have a regional native housing authority, appoint five persons to serve as the board of commissioners of the authority. The term of office of each member is for three years except that, of the commissioners first appointed, one shall serve for a term of one year and two shall serve for a term of two years. Vacancies shall be filled by the governing body of the association in question.

(e) Questions arising as to jurisdiction and boundary disputes as a result of the jurisdictional lines set out by (a) of this section shall be resolved by the governing board of the Alaska Federation of Natives.

(f) The authority shall have the power to acquire, construct, operate, and maintain group homes, multipurpose community centers, child care centers, and other community facilities.

(g) If an activity associated with the planning, financing, construction, or operation of a project by a regional housing authority established in this section and authorized under AS 18.55.100 - 18.55.290 conflicts with an activity of the Alaska Housing Finance Corporation, the governing body of the municipality in which the project is located shall resolve the conflict.

(h) Before a contract for the construction, alteration, or repair of a housing unit constructed under a federal or state funded housing program is awarded, the regional housing authority shall require the contractors to comply with the bond provisions specified in AS 36.25.010 (a) and (b).

(i) A housing authority created under this section shall have its financial records audited annually by an independent certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the housing authority and shall have access to these records at any time.

History -

(Sec. 1 ch 123 SLA 1971; am Sec. 3, 6 ch 151 SLA 1975; am Sec. 1 ch 274 SLA 1976; am Sec. 1 ch 12 SLA 1977; Sec. 6 ch 86 SLA 1981; am Sec. 1 ch 107 SLA 1983; am Sec. 1 ch 128 SLA 1984; am Sec. 1 ch 100 SLA 1985; am Sec. 1 ch 51 SLA 1986; am Sec. 75, 76 ch 4 FSSLA 1992)
Amendment Notes -

The 1992 amendment, effective July 1, 1992, in subsection (b), rewrote the first sentence and, in the second and third sentences, inserted "regional housing"; and, in subsection (g), inserted "and authorized under AS 18.55.100 - 18.55.290" and substituted "Alaska Housing Finance Corporation" for "Alaska State Housing Authority."

AG Opinions -

Regional housing authorities created under this section are neither political subdivisions of the state nor state agencies. June 8, 1982 Op. Att'y Gen.

While various specified Native associations are given authority to establish regional housing authorities under this section, and may receive donations of land from municipalities, the programs administered by those associations must be racially neutral. May 6, 1981 Op. Att'y Gen.

It seems clear that the Department of Community and Regional Affairs is not charged with enforcing the audit requirement of subsection (i); and it is not clear who, if anyone, is so charged. August 2, 1982 Op. Att'y Gen.

The Department of Community and Regional Affairs can, under AS 18.55.998, condition its grants to the regional authorities on the authorities' compliance with subsection (i). August 2, 1982 Op. Att'y Gen.

It is quite clear that the annual audits of regional housing authorities mandated by subsection (i) cannot be funded by the Department of Community and Regional Affairs with the

housing supplemental development fund moneys; and it must be concluded that department fund should not be used for post-project cost certification. August 2, 1982 Op. Att'y Gen.

The Pacific Rim Housing Authority appropriately may be considered a political subdivision of the state or other "related public entity" for purposes of Subpart F (15 CFR Sec. 930.90) for the limited purpose of its receipt of federal grants for housing projects; and, thus, Pacific Rim is subject to the coastal management consistency review required by Subpart F for federal assistance programs to the extent that grants are used to fund housing and related programs which affect the coastal zone. April 30, 1981 Op. Att'y Gen.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: CSHB 471 (CRA), Draft 0-LS1686\F

1 Page 2, Line 9, following "five ":

2 Add "and not more than nine"

0-LS1686F

. Bannister

4/6/98

CS FOR HOUSE BILL NO. 471(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the boards of commissioners of regional Native housing
2 authorities; relating to the reinstatement of Native corporations; and providing for
3 an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 10.06.960(k) is amended to read:

6 (k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that
7 is organized as a Native village corporation under the act, that has been involuntarily
8 dissolved by the commissioner under AS 10.06.633, and that has failed to apply for
9 reinstatement during the period established under AS 10.06.633(e) may be reinstated
10 under AS 10.06.633(e) on or before December 31, 1998 [WITHIN ONE YEAR
11 AFTER AUGUST 7, 1996]. The reinstated corporation and its shareholders have all
12 of the rights, privileges, liabilities, and obligations that would have applied to them if
13 the corporation had not been dissolved, and all corporate and shareholder actions taken
14 during the period of dissolution are considered to be as valid as if dissolution had not

1 occurred. If a corporation elects to reinstate under this subsection and if the
2 corporation's previously used corporate name is no longer available for use by the
3 corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an amendment to the
4 articles of incorporation changing the previously used corporate name may be
5 adopted by action of the corporation's board of directors alone.

6 * Sec. 2. AS 18.55.996(d) is amended to read:

7 (d) The governing body of the association in question shall, after determining
8 that it wishes to have a regional native housing authority, appoint not fewer than five
9 persons to serve as the board of commissioners of the authority. The term of office
10 of each member is for three years except that, of the commissioners first appointed,
11 one shall serve for a term of one year and two shall serve for a term of two years.
12 Vacancies shall be filled by the governing body of the association in question. The
13 board of commissioners may designate from among its members a committee to
14 whom the board may delegate board duties.

15 * Sec. 3. Section 1 of this Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE IVAN

TO: HB 471

1 Page 1, line 1, following "authorities":

2 Insert "; relating to the reinstatement of Native corporations; and providing for
3 an effective date"

4 Page 1, following line 3:

5 Insert a new bill section to read:

6 **** Section 1.** AS 10.06.960(k) is amended to read:

7 (k) Notwithstanding (i) of this section and AS 10.06.633(e), a corporation that
8 is organized as a Native village corporation under the act, that has been involuntarily
9 dissolved by the commissioner under AS 10.06.633, and that has failed to apply for
10 reinstatement during the period established under AS 10.06.633(e) may be reinstated
11 under AS 10.06.633(e) on or before December 31, 1998 [WITHIN ONE YEAR
12 AFTER AUGUST 7, 1996]. The reinstated corporation and its shareholders have all
13 of the rights, privileges, liabilities, and obligations that would have applied to them
14 if the corporation had not been dissolved, and all corporate and shareholder actions
15 taken during the period of dissolution are considered to be as valid as if dissolution
16 had not occurred. If a corporation elects to reinstate under this subsection and
17 if the corporation's previously used corporate name is no longer available for use
18 by the corporation, then, notwithstanding AS 10.06.502 - 10.06.510, an
19 amendment to the articles of incorporation changing the previously used
20 corporate name may be adopted by action of the corporation's board of directors
21 alone."

22 Page 1, line 4:

23 Delete **** Section 1.**

1 Insert "* Sec. 2."

2 Page 1, following line 10:

3 Insert a new bill section to read:

4 "* Sec. 3. Section 1 of this Act takes effect immediately under AS 01.10.070(c)."

HCR

6



House District 36
 Alaina
 Akan
 Allakaket
 Aniak
 Anvik
 Arctic Village
 Beaver
 Bettles
 Birch Creek
 Canyon Village
 Central
 Chalkyitsik
 Chicken
 Chistochina
 Chitina
 Chuathbaluk
 Circle
 Circle Hot Springs
 Coldfoot
 Copper Center
 Copperville
 Crooked Creek
 Den Lake
 Dry Creek
 Eagle
 Eagle Village
 Evansville
 Fort Yukon
 Galena
 Galeton
 Grayling
 Gulkana
 Healy Lake
 Holy Cross
 Hughes
 Huslia
 Kaltag
 Kotukuk
 Lime Village
 Livengood
 Lake Minchumina
 Lower Kalskag
 Manley
 Marshall
 McCarthy
 McGrath
 Medfra
 Mentasta
 Minto
 Nabesna
 Nenana
 Nikolai
 Northway
 Nulato
 Pale Station
 Rampart
 Red Devil
 Ruby
 Russian Mission
 Shageluk
 Siana
 Sleetmute
 Stevens Village
 Stony River
 Talkeetna
 Tanadana
 Tanana
 Tetli
 Tetlin
 Tik
 Tikiyahuk
 Tuntut
 Upper Kalskag
 Venetie
 Wiseman

Representative Irene K. Nicholia

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*Resources
 Rules
 Military and Veterans Affairs
 World Trade and State/Federal Relations*

SPONSOR STATEMENT House Concurrent Resolution No. 6

HCR 6 recognizes both Mother's Day week of May 11-17, 1997 and Father's Day week of June 15-21, 1997 as Alcohol-Related Birth Defects Awareness Week.

Fetal Alcohol Syndrome (FAS) related birth defects include permanent growth retardation, physical malformations, and permanent central nervous system damage, including developmental delays, learning disabilities, behavioral problems and mental retardation.

- FAS is the number one known cause of mental retardation in the United States, and one of the three leading causes of birth defects.
- Each year over 40,000 American children are born with defects because their mothers drank alcohol during their pregnancies.
- The effects of FAS never go away. People with FAS live with their disabilities for their entire lives.
- There is no known safe amount of alcohol for a pregnant woman. When a woman drinks, the alcohol passes directly through the placenta to the baby.
- It is estimated that the lifetime cost per FAS birth in Alaska is \$1.4 million.
- Fathers have an equal responsibility to prevent FAS children from being born. HCR 6 encourages them to remain sober during the pregnancy, as well.

Today we have the opportunity to make an impact in the area of FAS by both improving quality of life and by promoting cost effective prevention. Fetal Alcohol Syndrome is 100% preventable. Let's work together to send a message to the public about the dangers of drinking alcohol during pregnancy.

I strongly urge you to support HCR 6.



House District 36

- Alaina
- Akan
- Allakaket
- Aniak
- Anvik
- Arctic Village
- Beaver
- Bettles
- Birch Creek
- Canyon Village
- Central
- Chalkyitsik
- Chicken
- Chitochina
- China
- Chuathbaluk
- Circle
- Circle Hot Springs
- Coldfoot
- Copper Center
- Copperville
- Crooked Creek
- Dot Lake
- Dry Creek
- Eagle
- Eagle Village
- Evansville
- Fort Yukon
- Gakona
- Galeton
- Graveling
- Gulkana
- Healy Lake
- Holy Cross
- Hughes
- Huslia
- Katag
- Koyukuk
- Lame Village
- Livengood
- Lake Minchumina
- Lower Kalslag
- Manley
- Marshall
- McCarthy
- McGrath
- Medfra
- Mentasta
- Minto
- Nabesna
- Nemana
- Nikolai
- Northway
- Nulato
- Old Station
- Rampart
- Red Devil
- Ruby
- Ruslan Mission
- Shageluk
- Sitka
- Sleetmute
- Stevens Village
- Stony River
- Talkeena
- Tanadgaa
- Tanana
- Tetlin
- Tetke
- Tok
- Toksook
- Tovuk
- Upper Kalslag
- Veneta
- Wainman

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Resources

Rules

Military and Veterans Affairs

World Trade and State/Federal Relations

**TO: Representative Ivan Ivan, Chair
House CRA Committee**

FROM: Representative Irene Nicholia

DATE: February 3, 1997

RE: Scheduling of HCR 6

I respectfully request a hearing for HCR 6, "Relating to Alcohol-Related Birth Defects Awareness Week," in the House Community and Regional Affairs Committee. Attached you will find the necessary support materials for this Resolution.

As you are aware, this program has been going on for the past several years, and it is time again this year to lend our support to the Department for their education and awareness program. Thank you for your support.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HCR 6

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: "Relating to Alcohol-Related Birth Defects" BRU: Executive Operations
 Awareness Week: _____ Component: Executive Office
 Sponsor: Representatives Nicholas Grussendorf
 Requester: House Community & Regional Affairs COMPONENT SERIAL NO. 6

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Michael A. Nizich, Administrative Director
 Division: Division of Administrative Services
 Approved by Commissioner: [Signature]
 Agency: Office of the Governor

Phone: 465-3876
 Date: 2/5/97
 Date: _____

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

LL NO. HCR 6

Revision Date: 02/03/97
 Title: Relating to Alcohol-Related Birth Defects Awareness Week
 Sponsor: Rep. Nicholas
 Requestor: (1) CRA

Dept. Affected: Health and Social Services
 BRU: Alcohol and Drug Abuse Services
 Component: ADA Administration
 COMPONENT SERIAL NO. 302
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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 EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: 0.0

ANALYSIS: (Attach a separate page if necessary)

Services provided by the Division are covered by the Division's current budget.

Prepared by: Loren Jones
 Division: Alcoholism and Drug Abuse

Phone: 465-2071
 Date: 02/03/97

Approved by Commissioner: Karen Perdue
 Agency: Department of Health & Social Services

Date: 2/3/97

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Position Paper
HCR 6
Alcohol Related Birth Defects Awareness Week

The intent of this House Concurrent Resolution is to encourage widespread involvement and participation in Alcohol Related Birth Defects Awareness Week. By proclaiming May 11 - 17, 1997 as the Mother's Day Campaign and the week following Father's Day June 15 - 21, 1997 as the designated awareness weeks, we acknowledge the role of both parents in preventing the nation's leading known cause of preventable birth defects.

The impact of this Resolution is to increase community understanding and awareness of the preventable nature of fetal alcohol syndrome and fetal alcohol effects. Pregnant women who drink alcohol risk having children with permanent developmental delays, learning disabilities, and behavioral problems. These children are often unable to live totally independent lives.

This Resolution also recognizes that the sobriety of fathers is important to the well-being of their children and the healthy functioning of their families. This recognition of the role of fathers is should be strongly endorsed in this years public awareness campaign.

The two designated weeks is an opportunity to bring an important message to the members of our statewide community. It can also serve as a spring board for families, churches, agencies, and communities to take positive action against the further incidence of the State's leading preventable birth defect.

The Department of Health and Social Services strongly supports House Concurrent Resolution 6 to designate these two weeks as Alcohol Related Birth Defects Weeks.

Recommended by *Loren A. Jones* Date 2/3/97
Loren A. Jones, Division of Alcoholism and Drug Abuse

Approved by *Karen Perdue* Date 2/3/97
Karen Perdue, Commissioner



FETAL ALCOHOL SYNDROME: FREQUENTLY ASKED QUESTIONS

What is Fetal Alcohol Syndrome (FAS)?

FAS is a cluster of physical and mental birth defects common in babies whose mothers have consumed alcoholic beverages during pregnancy. Babies born with FAS have growth deficiency, central nervous system damage (permanent brain damage), head and facial deformities, and severe behavioral problems. Other body organs may also be affected, for example, heart defects occur in about half the cases of FAS.¹ FAS is now the leading cause of mental retardation in the nation and the only one that is 100% preventable.² The diagnosis of FAS is a very difficult one to make and therefore must be done by a qualified and experienced physician, usually a dysmorphologist.

What is ARND?

Alcohol Related Neurological Defects (ARND) (a term now being recommended to replace Fetal Alcohol Effects (FAE)) is used to emphasize physical and behavioral defects attributed to prenatal alcohol exposure such as small head size, abnormalities in the structure of the brain, poor motor skills, hearing loss, and poor eye-hand coordination. A disruption in behavioral and/or cognitive patterns often seen in these individuals can manifest themselves as learning difficulties, poor school performance, impulsivity, poor social interactions/skills, difficulty in understanding, comprehending and expressing language, poor capacity for abstraction, poor math skills, and problems in memory, attention, and judgment. ARND is inclusive of FAS and provides a category for those whose birth defects do not fully meet the FAS case definition. Most individuals who have ARND do not have the facial deformities and therefore appear normal. The earlier the identification and intervention for these individuals the greater their potential.³

Why and how does alcohol affect the fetus?

Alcohol is a teratogen. A teratogen is the agent which causes deformities in the fetus during pregnancy. Alcohol consumed during pregnancy is the cause of FAS and ARND. Alcohol readily crosses the placenta barrier and is distributed throughout the fetus' body. It is absorbed by the water in the cells of the fetus' tissues and is found in the amniotic fluid which surrounds the fetus. Fetal tissue, with a high water content, is the brain, liver, pancreas, kidney, lung, thymus and heart. The fetus is too immature to metabolize the alcohol by itself. The fetus must therefore rely on its mother for the elimination of the

alcohol. During this process the fetus absorbs the alcohol which the mother consumes, voids alcohol into the amniotic fluid where it is ingested again by the fetus, and waits for the alcohol to be eliminated from its system by the mother. Therefore, the concentration of alcohol in the amniotic fluid is often two times higher than in the mother. This means that the alcohol remains in the cells of the fetus twice as long as in the mother's which insures longer exposure to the teratogen which in turn increases the risk of further damage to that fetus.⁴

How much is too much alcohol?

There is no known safe level of alcohol consumption during pregnancy. Women are advised to abstain from alcohol (and other drugs including over-the-counter medications) when planning a pregnancy, during pregnancy and while breast-feeding. What may be considered a casual drink by the mother may become a lifetime disability for her child.⁵

Does FAS ever go away or get better?

NO! FAS is not reversible. Individuals with FAS do not catch up mentally or physically to normal people. The sooner the identification of FAS/ARND is made, however, the more opportunities there are to assist the individual to realize his/her full potential.⁶

Can FAS be passed from one generation to the next?

FAS cannot be passed from one generation to the next because it is not a genetically linked birth defect. It is caused by the mother's consumption of alcoholic beverages during pregnancy. Women who have themselves been identified as FAS do not produce FAS children unless they also drink during their pregnancy.⁷

How many babies are born in Alaska with FAS?

At this time there are no reliable statistics which reflect the incidence of FAS in the state of Alaska. We do know that there are babies being born with FAS, but the exact figures are not available. Since FAS has recently been made a reportable condition in Alaska accurate and reliable surveillance data will be available in the future.⁸

What is the economic impact of FAS?

A former Alaskan senator estimated the cost for a lifetime of services to just one FAS child at 1.4 million dollars. The exact figures are almost impossible to determine at this time, however the more information researchers are able to gather about FAS in Alaska the clearer our understanding of the costs involved become. No matter what the costs are

these expenditures could be eliminated entirely if women did not consume alcohol during pregnancy.

What happens when an FAS infant reaches adolescence or adulthood?

As the FAS child grows up the facial deformities become less pronounced, but the individual usually remains short in stature and often has a small head size. The average FAS adolescent has an IQ in the mildly mentally retarded range. However, they also have a wide range of functioning from severe retardation to intelligence within normal limits. These individuals eventually reach a plateau academically and in daily functioning, but problems grow more serious as attention deficits, poor judgment, and impulsivity create obstacles to employment and stable living. These individuals are described as innocent, immature, and easily victimized. They are at risk for serious life adjustment problems, including depression, alcohol abuse, and pregnancy.⁹

What role do men play in FAS/ARND?

It is the mother's alcohol consumption during pregnancy which causes FAS/ARND. However, men do play an active role in the health of their offspring. Scientists are finding that when certain drugs (including alcohol, tobacco, marijuana, and cocaine) enter the testicles through the bloodstream,¹⁰ a man's sperm count is lowered and the sperm's motility or ability to swim is diminished.¹¹ Damaged sperm can cause a pregnancy to end in miscarriage. Drugs can interfere with reproduction by changing the process by which sperm are selected for fertilizing the egg. The drugs in a man's system may lead to lower birth weight, birth defects or serious illnesses for the child after birth.¹² Even smoking a half a pack of cigarettes a day can reduce the sperm count by as much as twenty percent (20%).¹³ A father's smoking before conception may result in lower birth weight and an increased risk of life threatening diseases such as leukemia, lymphoma, and brain cancer. There is also an increased risk of fathering a child with a cleft lip, cleft palate, water-on-the-brain, or heart defects.¹⁴ The use of cocaine by men may be linked to some mental problems in their offspring. A new study reported in the June, 1996 issue of the Journal of the American Academy of Child and Adolescent Psychiatry suggests that alcoholism in fathers increased their offspring's risk of both alcoholism and mood disorders--in particular major depression and bipolar depression. Sperm can also be adversely effected by environmental and hazardous materials often encountered in the workplace and home. If you are anticipating either starting or continuing a family see you doctor if you work around hazardous materials.¹⁵

Men are advised to stop using alcohol and other drugs at least three months before attempting fertilization. It is recommended that men remain alcohol/drug free throughout the pregnancy in support of the woman's efforts to stay alcohol/drug-free.¹⁶

Who can I call for more information and resources?

For more information and statewide resources call the FAS Coordinator, Division of Alcoholism and Drug Abuse at 1-800-478-7677.

Other resources:

- Access Alaska (907) 248-4777 TTY/TDD Machine Access (907) 248-0639
- Disability Law Center at 1-800-478-1234
- FAS Statewide Parents Support Group 1-800-770-5437
- Mental Health and Developmental Disabilities (or your local Community Mental Health Center) (907) 561-4247
- PARENTS, Inc. 1-800-478-7678
- Stone Soup Group at (907) 561-3701

References

- ¹Institute of Medicine. "Summary: Fetal Alcohol Syndrome Diagnosis, Epidemiology, Prevention and Treatment," pp. 17-20 and Table 2. National Academy Press, Washington, D.C. 1996.
- ²U S Department of Health and Human Services (DHHS), Public Health Service, "Alcohol, Tobacco & Other Drugs May Harm the Unborn," pp 17. DHHS Publication No.(ADM) 90-1711, printed 1990.
- ³R. J. Sokol, Clarren, S.K. Alcoholism: Clinical and Experimental Research, "Guidelines for Use of Terminology Describing the Impact of Prenatal Alcohol on the Offspring." 1989; 13:597-598.
- ⁴Thomas L. Pinckert, M.D. George Town University Hospital, Department of Obstetrics and Gynecology, Division of Maternal-Fetal Medicine/Genetics. "Fetal Alcohol Syndrome" lecture outline, pp. 18. (Fetal Alcohol Syndrome and Neonatal Network, 1992; 11:47-49.)
- ⁵op. cit. "Alcohol, Tobacco &...", pp. 15-19.
- ⁶B. G. Barbour. "Is Fetal Alcohol Syndrome Completely Irreversible?" MCN. 1989; 14:44-46
- ⁷op.cit. "Is Fetal Alcohol Syndrome completely...", 14:44-46.
- ⁸Center for Disease Control. "Linking Multiple Data Sources in Fetal Alcohol Syndrome Surveillance--Alaska. Morbidity & Mortality Weekly Report 1993b; 42:312-314.
- ⁹op.cit. "Fetal Alcohol Syndrome" lecture outline, pp. 18.
- ¹⁰U. S. News and World Report, December 14, 1992; pp. 94-96.
- ¹¹Alcohol Health and Research World, Winter 1987/1988, Gladys Freider, Ph.D., "Effects on Future Generations of Paternal Exposure to Alcohol and Other Drugs."
- ¹²Journal of the American Medical Association (JAMA), October 9, 1991. Vol. 266, No. 14, "Demonstration of Specific Binding of Cocaine to Human Spermatozoa."
- ¹³Greater New York March of Dimes; "A Guide for Fathers-to-be," 1992.
- ¹⁴Greater New York March of Dimes Press Release, "Male Environmental Exposures. An Important Cause of Birth Defects?" December, 1991.
- ¹⁵op.cit. "Effects on Future Generations..."
- ¹⁶Iowa Occupational Safety & Health (IOSH) Standards for General Industry, 1991.

HJR

17

Alaska State Legislature



Committees

Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
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on Fisheries

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

Representative Eugene Kubina
House Minority Leader

SPONSOR STATEMENT - HJR 17

HJR 17 disapproves the Local Boundary Commissions recommendation to annex an additional 2,878 square miles of territory to the existing 4,898 square miles that is already in the City and Borough of Yakutat. The LBC presented this recommendation to the Legislature on January 22, 1997. Under Article X, Section 12, of the Constitution of the State of Alaska, a recommendation of the LBC presented to the Legislature becomes effective 45 days after presentation, unless disapproved by a resolution concurred in by the majority of the members of each house. The 45th day is March 8, 1997.

Following are the reasons for disapproving this recommendation:

- 1) The Prince William Sound Communities are looking into the possibility of forming their own borough and to successfully do this, they need the proposed area of annexation for their own municipal land entitlement.
- 2) The area west of the 141st meridian is historically and economically tied to the Prince William Sound region.
- 3) The Shareholders of Chugach Alaska Corporation own land in the proposed area to be annexed. The Yakutat based Corporation, Yak-tat-Kwann owns no land within the proposed annexation.
- 4) Chugach Shareholders want the taxes they pay to a Borough to go to the benefit of their shareholders. Under the proposed annexation, taxes paid by the Chugach Corporation in the region would go for the benefit of non-shareholders in the Yakutat Borough.
- 5) Yakutat does not have the resources necessary to provide services to such a large area. Cordova has the manpower, supplies, trans-shipment and business support services.
- 6) The LBC's recommendation is significantly larger than what the Community & Regional Affairs staff recommended.

For these reasons, I ask that you disapprove the LBC recommendation.

Alaska State Legislature



Committees
Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
Special Committee
on Fisheries

Representative Eugene Kubina
House Minority Leader

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

MEMORANDUM

TO: Representative Ivan Ivan, Chair
House Community & Regional Affairs Committee

FROM: Representative Gene Kubina *Gene*

DATE: January 30, 1997

RE: Scheduling of HJR 17

I would respectfully request that you hold a hearing on HJR 17 "Disapproving Local Boundary Commission recommendation number two regarding the annexation of the territory to the City and Borough of Yakutat".

Since we only have a short time to act on this recommendation, I urge you to schedule it as soon as possible.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HIR 17

Revision Date: February 12, 1997 Dept. Affected: Legislature
 Title: Disapprove Yakutat Boundary Changes BRU: _____
 Component: _____
 Sponsor: Representative Kubina
 Requester: House C&RA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Thomas W. Wright, Staff
 Division: House Community & Regional Affairs Committee

Phone: 465-3882
 Date: February 12, 1997

Approved by Commissioner: [Signature]
 Agency: House Community and Regional Affairs Committee

Date: February 12, 1997

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Local Boundary Commission

Darren Hargraves, Chairperson
Kathleen Wasserman, Vice-Chairperson, First Judicial District
Nancy Cunningham, Member, Second Judicial District
Kevin Wang, Member, Third Judicial District
William Walters, Member, Fourth Judicial District

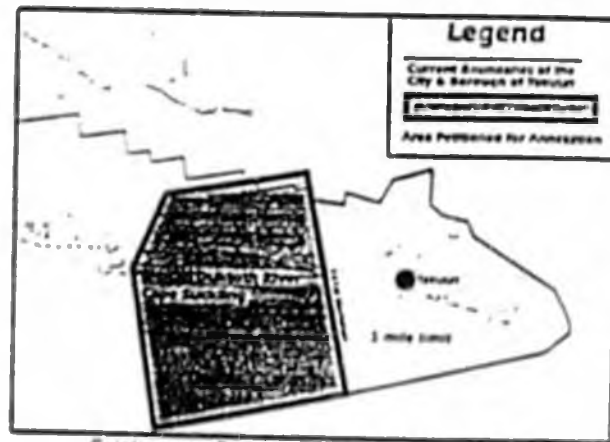
Statement of Decision

In the Matter of the February 7, 1996
 Petition of the City and Borough of
 Yakutat to Extend its Western
 Corporate Boundary from the 141st
 Meridian to Cape Suckling

Section I - Introduction and Background

The City and Borough of Yakutat (CBY) petitioned the Local Boundary Commission (LBC) in February of this year to annex an estimated 2,878 square miles of land and 8,492 square miles of submerged lands and tidelands.

The annexation petition has its origins in the unsuccessful attempt to include the territory in question within the original boundaries of the CBY in October 1990. Residents of Yakutat submitted a petition to incorporate the CBY with boundaries extending to Cape Suckling.



Existing and Proposed Boundaries of the CBY

The LBC held hearings on the CBY incorporation proposal on January 17, 1992, in Cordova, Valdez, Whittier, Juneau, Hoonah, Gustavus and Pelican. Members of the LBC and staff were in the various communities for the January 17 hearings. On January 19 and 20, 1992, the LBC held a hearing on the matter in Yakutat.

The annexation petition states that the estimate of the tidelands and submerged lands is based on a preliminary survey conducted by the City and Borough of Yakutat. The City and Borough of Yakutat is currently conducting a detailed survey of the area in question. The City and Borough of Yakutat is currently conducting a detailed survey of the area in question.

There was an interval of some 12 months between the submission of the petition and the conduct of hearings on the matter. This was due to several factors, including the rejection of the initial petition on technical grounds and

Following the hearings, the LBC held decisional sessions concerning the incorporation on February 5, and March 17, 1992. By a vote of 3 to 2, the LBC amended the incorporation petition on March 17 to exclude territory west of the 141st meridian. The LBC then approved the amended petition by a vote of 4-1.

On June 4, 1992, the Petitioners for incorporation of the CBY filed an appeal with the Superior Court over the amendment of their petition. On August 10, 1992, the Chugach Alaska Corporation (CAC) countered with an appeal objecting to the approval of the amended CBY incorporation proposal. The two appeals were consolidated on October 6, 1992.

On September 8, 1992, the State Division of Elections conducted an election on the incorporation proposition. Two hundred and thirty-two votes were cast in favor of incorporation of the CBY and twenty-three votes were cast in opposition. The incorporation of the CBY was certified effective September 22, 1992.

On June 7, 1993, the Superior Court affirmed the action of the LBC. The CBY appealed the decision to the Alaska Supreme Court. On April 28, 1995, the Supreme Court affirmed the decision of the Superior Court. The CBY then petitioned the Supreme Court for a rehearing. The petition for the rehearing was denied on September 14, 1995.

Section II - Current Annexation Proceedings

Petition Submitted and Accepted for Filing. The CBY lodged its petition for annexation on February 7, 1996, with the Alaska Department of Community and Regional Affairs (DCRA). On February 9, 1996, DCRA completed its technical review of the CBY's petition in accordance with AS 29.05.070, and accepted the petition for filing.

Deadline for Filing of Briefs Established. Pursuant to 19 AAC 10.640, the LBC Chairperson established May 17, 1996, at 5:00 p.m., as the deadline for the filing of responsive briefs and comments regarding the petition. As noted below, public notice of the filing of the petition was first published in a newspaper of general circulation or posted in the territory proposed for annexation on February 26, 1996. The May 17 deadline was 81 days from the date of such publication or posting of the notice. Thus, the period allowed for filing of responsive briefs and comments was 32 days (65%) more than the 49-day minimum time required by 19 AAC 10.640(b)(1).

Notice of Filing Given. Public notice of the filing of the petition was given in accordance with the requirements of 19 AAC 10.450. Specifically, notice was given as follows:

- 02/13/96 - Notice was mailed by DCRA to 39 potentially interested agencies and individuals (8 5-inch by 11-inch format)
- 02/16/96 - Notice was mailed or hand delivered by the CBY to 56 potentially interested individuals and organizations designated by DCRA (8 5-inch by 11-inch format)
- 02/19/96 - Notice was published for the first time in the *Alaska Administrative Journal*
- 02/20/96 or before - Notice was prominently posted in 8 5-inch by 11-inch format at the following locations in the CBY: CBY offices, Waltons General Store, Yakutat Court House, Yakutat Post Office, Yakutat branch of Key Bank, Yakutat Hardware, Mont Bal Foods, Yakutat Arden, and Lighthouse Cafe. The notice remained posted at those locations for at least 14 consecutive days from the date of posting.
- 02/26/96 - Notice was published for the first time in the *Anchorage Daily News* as a display advertisement 2-columns wide and six-inches long. Notice was published for the second time in the *Alaska Administrative Journal*.

need to modify the LBC's regulations providing thorough incorporation standards, and other factors. DCRA's Provisional Report on the CBY annexation proposal provides a detailed account of the incorporation proceedings.

- 02/28/96 - Notice was published for the first time in the *Juneau Empire* as a display advertisement 2-columns wide and six-inches long.
- 03/01/96 - Notice was prominently posted at Yakataga, Wasser & Winters' office at West Icy Bay and the Ben Thomas, Inc., dockhouse at East Icy Bay. The notice remained posted at those locations for at least 14 consecutive days from the date of posting.
- 03/04/96 - Notice was published for the second time in the *Anchorage Daily News* as a display advertisement 2-columns wide and six-inches long. Notice was published for the third time in the *Alaska Administrative Journal*.
- 03/06/96 - Notice was published for the second time in the *Juneau Empire* as a display advertisement 2-columns wide and six-inches long.
- 03/11/96 - Notice was published for the third time in the *Anchorage Daily News* as a display advertisement 2-columns wide and six-inches long. Notice was published for the fourth time in the *Alaska Administrative Journal*.
- 03/13/96 - Notice was published for the third time in the *Juneau Empire* as a display advertisement 2-columns wide and six-inches long.
- 03/16/96 - Notice was published for the fifth time in the *Alaska Administrative Journal*.
- 03/25/96 - Notice was published for the sixth time in the *Alaska Administrative Journal*.
- 04/08/96 - Notice was published for the seventh time in the *Alaska Administrative Journal*.
- 04/15/96 - Notice was published for the eighth time in the *Alaska Administrative Journal*.
- 04/22/96 - Notice was published for the ninth time in the *Alaska Administrative Journal*.
- 04/29/96 - Notice was published for the tenth time in the *Alaska Administrative Journal*.
- 05/06/96 - Notice was published for the eleventh time in the *Alaska Administrative Journal*.

Petition Served on Interested Parties. In accordance with 19 AAC 10.640(a), on February 16, 1996, the CBY served a copy of the petition on entities designated by DCRA. The entities included the City of Cordova, City of Whittier, City of Valdez, Native Village of Tatitlek, Native Village of Chenega, Chugach REAA School District, CAC, Wasser & Winters Company, Ben Thomas, Inc., and the law firm of Birch Horton Bittner & Cherot.

Petition Made Available for Public Review. Pursuant to 19 AAC 10.640(b), a copy of the complete petition documents was made available for public review at the offices of the CBY beginning February 20, 1996.

Responsive Briefs and Comments Filed. Timely responsive briefs opposing the annexation were filed under the provisions of 19 AAC 10.480 by:

1. City of Cordova, a home-rule municipal corporation with boundaries extending within approximately 75 miles of the territory proposed for annexation (the submission consisted of a 17-page brief and 6 attachments comprising 37 pages); and
2. CAC, a regional corporation established under the Alaska Native Claims Settlement Act (ANCSA) with boundaries extending from the 141st meridian to the tip of the Kenai Peninsula (the submission consisted of a 27-page brief and 7 attachments comprising 42 pages).

Additionally, sixteen letters were submitted in a timely fashion opposing the annexation proposal. The letters were written by the following individuals and organizations:

1. City of Cordova (1-page resolution opposing annexation)
2. Chugach School District (1-page letter and 2-page resolution opposing annexation)
3. Preston Gates and Ellis on behalf of Alaska Gulf Coast Adventures, Inc. (2-page letter opposing annexation)
4. The Tatitlek Corporation (1-page letter opposing annexation)
5. Carl Granville (1-page letter opposing annexation)
6. The Eyak Corporation (1-page letter opposing annexation)
7. The Native Village of Eyak Tribal Council (1-page letter opposing annexation)
8. City of Valdez (1-page letter and 1-page resolution opposing annexation)
9. City of Whittier (2-page letter opposing annexation)
10. Stephen C. Henson III (1-page letter opposing annexation)
11. Jim H. Keeline, Inc. (2-page letter opposing annexation)
12. Scott Oman, Vice President of See Alaska (1-page letter opposing annexation)
13. Bruce Schreuer (1-page letter opposing annexation)
14. Helen J. Swannout (1-page letter opposing annexation)
15. John E. Mills, Supervisor, Ben Thomas Icy Bay logging camp (2-page letter opposing annexation)
16. Ed E. Bikerosack (1-page letter opposing annexation)

Timely letters supporting the annexation proposal were submitted by the following three organizations:

1. Yak-Tat-Kwaan, Inc. (2-page letter supporting annexation);
2. Gwinner & Associates on behalf of the University of Alaska (3-page letter and 10 pages of attachments supporting annexation); and
3. Yakutat Tlingit Tribe Historic Preservation Plan (1-page letter and 2 pages of attachments supporting annexation).

Five individuals and organizations submitted comments past the May 17, 1996, 5:00 p.m. deadline. Those written comments were not considered by the LBC.

CBY Reply Brief Filed. On July 1, 1996, the CBY filed a 61-page brief pursuant to 19 AAC 10.490 in reply to the responsive briefs and comments.

Request to Respond to CBY Reply Brief. On July 26, 1996, CAC filed a request to respond to the CBY's July 1 reply brief. The CBY opposed CAC's request in the context of the limitations on advocacy imposed by 19 AAC 10.500(a). On August 30, the Chairperson of the LBC rejected CAC's request to file the additional brief.

DCRA Provisional Report. Pursuant to 19 AAC 10.530(b), DCRA released its Provisional Report regarding the CBY annexation proposal on October 11, 1996. The Provisional Report, composed of 75 pages, was hand delivered on the date of its release to the Petitioner and both respondents. Pursuant to 19 AAC 10.640(b)(3), the LBC Chairperson established November 8, 1996 as the deadline for comment on the Provisional Report.

The Provisional Report was mailed to members of the LBC on Monday, October 14. The report was mailed to the Commissioner of the Department of Education on October 16.

On October 14, DCRA also released a 6-page executive summary of its Provisional Report. Copies of the executive summary were mailed or delivered on that date to 124 potentially interested individuals and organizations. A copy of the executive summary was provided to one other party on November 6.

The executive summary invited readers to request DCRA's complete Provisional Report. Fourteen organizations and individuals subsequently requested and received a copy of the Provisional Report.³

During the period from October 31 to November 8, 1996, eleven organizations and individuals requested that the LBC extend the deadline for comment on DCRA's Provisional Report.⁴ The requests sought various extensions of the comment deadline ranging from December 13, 1996 to the first week of February 1997.

³ These were Mark Widby (10/21/96), Steve Panchon (10/22/96), Bob Hennrich (11/5/96), Cooper River Prince William Sound Native Fishermen's Association (11/5/96), Native Village of Eyak (11/5/96), Chenega Bay RA Council (11/8/96), Prince William Sound Economic Development Council (11/8/96), Lisa Sharp of Preston Sales and Eits (11/8/96), John Hoyer of the Chenega Corporation (11/8/96), Gary P. Kuchler (11/22/96), John E. Wiles (11/22/96), James Egan (11/22/96), the Schomer of Browning Timber, which received a purchase of 1,000 acres of Bar logging land located near Hatcher's Point (11/23/96), and Dale Meyer of the City of Anchor (11/23/96).

⁴ Nine of the eleven requests were submitted prior to the meeting of the LBC on November 7, 1996. The nine requests submitted prior to the meeting were from the City of Cordova, Chenega Bay RA Council, CAC, Prince William Sound Economic Development Council, Chugach Regional Resources Commission, Chenega Colonization Native Village of Eyak, Cooper River Prince William Sound Native Fishermen's Association, and Robert J. Hennrich. The City of Anchor and the City of Valdez submitted requests after the November 7 meeting.

On November 7, the LBC met to consider the requests for extension of the comment period. Interested parties were allowed to address the LBC concerning their requests for extension. Following discussion among the members of the LBC, the Chairperson extended the deadline for comment to November 12, 1996. Notice of the extension was provided to 18 individuals and organizations, including radio stations serving the Prince William Sound and Yakutat areas.

Thirty written comments regarding DCRA's Provisional Report were received by the extended deadline.¹ In addition, LBC member Kevin Wang verbally requested that DCRA address certain issues in its final report.

Written comments on DCRA's Provisional Report were submitted by:

1. Carl Gianviti, resident of Anchor Point (one-page letter dated October 28).
2. Bob Hennrichs, resident of Cordova (two-page letter dated November 1).
3. Bob Hennrichs, President of the Copper River Prince William Sound Native Fishermen's Association (two-page letter dated November 1).
4. Donald P. Kompkoff, Sr., President, Chenega Bay IRA Council (one-page undated letter received on November 8).
5. Stephen C. Planchon, Executive Director, Mental Health Trust Land Office, Alaska Department of Natural Resources (one-page letter dated November 6, 1996).
6. Mark H. Wittow, Attorney for Alaska Gulf Coast Adventures, Inc. (two-page letter dated November 8).
7. James T. Brennan, Attorney for the CBY (eighteen-page letter dated November 8 with 3 attachments comprising 17 pages).
8. Eanna Mae Hughey, member of the Board of Directors of CAC, Corporate Secretary of CAC, Acting Office Manager of the Valdez Native Tribe and IHS Health Program Director for the Valdez Native Tribe (one-page letter dated November 12).
9. Rick Nelson, member of the Board of Directors of CAC (one-page letter dated November 12).
10. Guben Olesstad, member of the Board of Directors of CAC, CAC shareholder, retired commercial fisherman and longshoreman (one-page letter dated November 12).
11. John E. Walls, Camp Manager of the East Ivy Bay logging camp operated by Ben A. Thomas, Inc. (one-page letter dated November 8).
12. Shane Stephenson, charter pilot who resides in Yakutat (two-page letter dated November 4).
13. David Dengel, Assistant City Manager of the City of Valdez (one-page letter dated November 1 with attachments comprising two pages).
14. Carol Kompkoff, President, The Tasek Corporation (two-page letter dated November 12).
15. D. J. Burnham, resident of Cape Yakataga (three-page undated letter received November 12).
16. Gary P. Kompkoff, Chief, Native Village of Tasek (two-page letter dated November 9).
17. W. Scott Jarke, City Manager of the City of Cordova (two-page letter dated November 12 with attachments consisting of four pages).
18. Jeremy Tabbs, Executive Director, Chugachmut (four-page undated letter received November 12).
19. James Smet, Planning Director, Chugach Heritage Foundation (one-page undated letter received November 12).
20. Georganna Lindor, Alaska State Senator (one-page letter dated November 7).
21. Steven C. Planchon, Executive Director, Mental Health Trust Land Office, Alaska Department of Natural Resources (two-page letter dated November 12).
22. Mark Stahl, Manager, Lands and Resources Department for Chugach (two-page letter dated November 12).
23. Charles W. Totemoff, President & CEO of Chenega Corporation (two-page letter dated November 12).
24. Ralph J. Swannout, holder of mining leases in the Cape Yakataga area (two-page letter dated November 12).
25. David Morgan, Acting City Manager of the City of Whittier (two-page letter dated November 11 with 9 exhibits comprising 27 pages).
26. John Christensen, Chairman of the Board, CAC (two-page letter dated November 12).
27. John F. C. Johnson, member of the Board of Directors of CAC (one-page letter dated November 12).
28. Bob Hennrichs, President, Native Village of Eyak (one-page letter dated November 1).

¹ These comments were submitted to the LBC as requests to extend the original November 7, 1996 deadline for comment on DCRA's Provisional Report. These consisted of the letter from Bob Hennrichs (written as a resident of Cordova), the letter from Bob Hennrichs (written as President of the Copper River Prince William Sound Native Fishermen's Association), and the letter from the Chenega Bay IRA Council. These three letters were included in the context of comments on DCRA's Provisional Report (11/12/96). There were other letters regarding the Valdez boundary beyond the 14th meridian. The 14 subsequent comments were not received by November 12 from the Chenega Bay IRA Council or Mr. Hennrichs, either as an individual or as President of the Copper River Prince William Sound Native Fishermen's Association (although Mr. Hennrichs did submit subsequent comments on behalf of the Native Village of Eyak). (See also Council)

29. Patty Brown-Schwalenberg, Executive Director, Chugach Regional Resources Commission (three-page letter dated November 8, 1996).
30. Philip Blumstein, attorney for CAC (two-page letter dated November 12, transmitting 57 pages of comments accompanied by 19 exhibits comprising 131 pages; also incorporated by reference was the administrative record of the proceedings before the LBC on the CBY's petition to incorporate the CBY which consists of 4 685 pages and 6 video tapes).

LBC Hearings and Decisional Session Scheduled. The LBC scheduled three hearings on the CBY annexation proposal. The first was scheduled to begin at 10:00 a.m. on Saturday, December 14, 1996 in the Cordova Library Meeting Room. The second hearing was scheduled to begin at 10:30 a.m. on Sunday, December 15, 1996. It too was scheduled to be held at the Cordova Library Meeting Room with teleconference sites at the logging camps in East Icy Bay and West Icy Bay. The third hearing was scheduled to begin at 6:00 p.m. on Sunday, December 15, 1996 at the Alaska Native Brotherhood (ANB) Hall in Yakutat. The LBC scheduled its decisional session for Monday, December 16, 1996, beginning at 8:00 a.m. at the ANB Hall in Yakutat.

Notice of the hearings and decisional session was given in accordance with 19 AAC 10.550. Specifically, notice was provided as follows:

- 11/12/96 - Notice was mailed by DCRA to 139 individuals and organizations (8.5-inch by 14-inch format).
- 11/12/96 - Notice was published for the first time in the Anchorage Daily News (2-column by 6-inch format).
- 11/14/96 - Notice was posted (8.5-inch by 14-inch format) at the Browning Timber - West Icy Bay logging camp at the following locations: cookhouse bulletin board, office, Homeguard mail boxes and above the timecard box. Additionally, requests that public service announcements concerning the hearings be broadcast from November 22 - December 15, 1996, were mailed to the following radio stations serving the Prince William Sound and Yakutat areas: KCAW-FM, KCHU-AM, KJFP-FM and KLAM-AM.
- 11/15/96 - Notice was posted (8.5-inch by 14-inch format) at the following locations in Yakutat: Mallon's General Store, Mont Bay Foods, KJFP Radio Station, Yakutat Hardware, U.S. Forest Service offices, City/Borough Hall, ANB Hall, Yakutat Lodge, Glacier Bear Lodge, U.S. Post Office and Key Bank of Alaska. Additionally, a request to broadcast public service announcements concerning the hearings from November 22 - December 15, 1996 was mailed to KVAK-AM in Valdez.
- 11/18/96 - Notice was posted (8.5-inch by 14-inch format) at the following locations in Cordova: City Hall bulletin board, Post Office bulletin board, and Library bulletin board.
- 11/20/96 - Notice was posted (8.5-inch by 14-inch format) at the following locations at the Ben Thomas Inc. Icy Bay East logging camp: office, cookhouse, commissary, and bunkhouse.
- 11/21/96 - Notice was published for the second time in the Anchorage Daily News (2-column by 6-inch format).
- 11/25/96 - Notice was published for the first time in the Alaska Administrative Journal.
- 11/26/96 - Notice was published for the third time in the Anchorage Daily News (2-column by 6-inch format).
- 12/02/96 - Notice was published for the second time in the Alaska Administrative Journal.
- 12/09/96 - Notice was published for the third time in the Alaska Administrative Journal.

DCRA Final Report. Pursuant to 19 AAC 10.530(d), DCRA released its Final Report concerning the CBY annexation proposal on November 22, 1996. The report, consisting of 31 pages, was delivered to the Petitioner and both respondents on that date. The report was also mailed to 139 others November 22, 1996. Additionally, the report was mailed to three others on November 25, 1996.

LBC Hearings. The LBC conducted its first hearing in Cordova on Saturday, December 14, 1996. Participation at the hearing was allowed by teleconference from sites at the Yakutat, Cordova, and Anchorage offices of the Prince William Sound Economic Development Council; the Anchorage offices of Preston Gates and Ellis; the offices of the City and Borough of Yakutat; the residence of Nancy Barnes in Juneau; the residence of Paula Terrell in Juneau; and the residence of Joe Burnham in Anchorage. Additionally, arrangements were made to broadcast the hearing over radio station KJFP in Yakutat. The hearing lasted approximately 6 hours.

The LBC conducted its second hearing in Cordova on Sunday morning, December 15, 1996. Participation at the hearing was allowed by teleconference from sites at the FAA building at Cape Yakataga, the CBY offices in Yakutat, the Ben Thomas, Inc. logging camp at East Icy Bay, the Anchorage residence of Joe Burnnam and at Ben Thomas residence in Woodland, Washington.³ The hearing lasted approximately 2 hours.⁴

The LBC conducted its third hearing in Yakutat on Sunday, December 15, 1996. The hearing. The hearing was recessed at 12:45 a.m. on Monday and reconvened at approximately 8:10 a.m. that day. The third hearing lasted approximately 7.5 hours.

Immediately following the conclusion of the third hearing, the LBC convened a decisional session to act on the petition. The LBC deliberated for approximately two hours during which it reached the findings and conclusions set out in Section III.

Section III - Findings and Conclusions

Based on the evidence in the record of this proceeding, the LBC hereby makes the findings and conclusions set out in this section.

A. Regarding Maximum Local Self-Government with a Minimum of Local Governmental Units.

Article X, § 1 of Alaska's constitution promotes maximum local self-government with a minimum of local governmental units. More than two decades ago, the Alaska Supreme Court ruled that Article X, § 1 favors upholding borough formation whenever the requirements for such were minimally met. Further, the Court concluded that Article X, § 1 encourages borough incorporation. With respect to these points, the Court stated:

The appellants argue that neither the geography nor the transportation standard is satisfied by the record evidence. Our review of the record has been undertaken in light of the statement of purpose accompanying article X, the local government article, of the Alaska constitution. Section 1 declares in part:

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.

We read this to favor upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met.

Aside from the standards for incorporation in AS 07.10.030, there are no limitations in Alaska law on the organization of borough governments. Our constitution encourages their creation. Alaska const. Art. X, § 1. And boroughs are not restricted to the form and function of municipalities.

³Arrangements had been made to have had a session from the (Borough of) "Herring" 400 West 1st Ave. in Anchorage on December 15, 1996 to serve as the site coordinator, was unavailable. Arrangements had also been made to allow Mr. Kurland, a resident of Icy Bay who was in Minnesota on business, to participate. However, Mr. Kurland failed to initiate the teleconference link.

⁴Due to the failure of long-distance telephone service with Yakutat, the hearing ended when the Petitioner's Representative, participating by teleconference from the CBY offices, was approximately 1 minute and 00 seconds into his closing statement. The LBC recessed the meeting to be continued in its closing statements by the Petitioner and Respondents, and the entry by the Petitioner beginning at 6:00 p.m. that day in Yakutat.

They are meant to provide local government for regions as well as localities and encompass lands with no present municipal use.

Mobil Oil Corporation v. Local Boundary Commission 518 P.2d 92, 69-131 (Alaska 1974)

Earlier this year, the LBC addressed Article X, § 1 in the context of the proposal to detach Lake Louise from the Matanuska-Susitna Borough. The LBC stated in that regard as follows:

Article X, § 1 of the Constitution of the State of Alaska calls for maximum local self-government. That section of the constitution has been viewed by the Alaska Supreme Court as encouraging the creation of borough governments. Further, the Supreme Court reads the provision to favor upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met.

The Commission finds that, as a matter of public policy, great importance should be placed on the constitutional provision calling for maximum local self-government. The Commission further finds that detachment of territory from an organized borough to the unorganized borough results in a serious diminution of local self-government. Consequently, both the factors and the standard set out in the previously listed provisions of 19 AAC 10.270(a) will be prejudicially affected by any proposal to detach territory from an organized borough to the unorganized borough.

Based on the foregoing findings, the Commission concludes that any detachment from an organized borough to the unorganized borough is to some degree contrary to the provisions of Article X, § 1 of Alaska's constitution. Approval of the detachment petition as presented would, in fact, remove local self-government from Lake Louise. This would not, however, be the case if the territory were being detached to become part of another organized borough or part of a city government within the unorganized borough.

Statement of Decision in the Matter of the Petition for Detachment from the Matanuska-Susitna Borough of the Lake Louise Area Encompassing an Estimated 548 Square Miles, page 4 January 12, 1996

The conclusions concerning Article X, § 1 reached by the Alaska Supreme Court in Mobil Oil and by the LBC regarding the Lake Louise detachment are not limited to borough incorporation and detachment, but are applicable to borough annexation as well.

Article X, § 1 concerns the opportunities of Alaskans to provide for and participate in local self-government. It also implies that citizens have an obligation to contribute to local self-government.

In the present proceedings, the LBC regards its decision as a choice among three alternative structures for local governance of the unincorporated area proposed for annexation by the CBY: approval of annexation of all or part of the area included in the CBY's petition; rejection of the CBY's annexation petition in favor of the status quo; or

rejection of the CBY's annexation petition in anticipation of the area's incorporation into a future Prince William Sound borough, most likely based in or dominated by Valdez.

Approval of the annexation would enhance the ability of the CBY to exercise self-government over an area where its residents have demonstrated important personal interests affecting their lives. Additionally, the individuals who reside in the area proposed for annexation would realize greater ability to exercise local self-government. Residents of the area would be participants in the CBY's municipal government structure. They would also assume obligations as citizens to support local governmental services.

There is a history of significant land use and resource management conflicts in the area proposed for annexation. It appears fairly certain that additional land use conflicts will arise in the future. As such, there is a need for much greater planning in the area. The territory proposed for annexation is in need of other local government services as well.

The CBY annexation would extend essential *municipal* services and powers to an area that currently lacks such services or depends entirely on the State for them. These services and powers include: education, platting, planning, land use regulation, emergency medical services, police protection, tax assessment, and tax collection.

It is also appropriate to consider Article X, §1 in the context of a hypothetical Prince William Sound borough. This is particularly fitting since representatives of the Prince William Sound region testified before the LBC in this proceeding that a petition for incorporation of a Prince William Sound borough may be filed in as few as four to six months. Expressions of support for a Prince William Sound borough have been given by the City of Cordova, the Chugach Alaska Corporation, City of Whittier, Chenega Bay IFA Council, and others. The LBC views such expressions as credible interest in creating an organized borough to serve the region. However, it is noteworthy that the City of Valdez "does not support the formation of a Prince William Sound Borough at this time." (May 9, 1996 letter from David Dengel, Assistant City Manager, City of Valdez). Given the lack of municipal support for borough formation by the City of Valdez, the prospect of forming a Prince William Sound borough - with or without Valdez - is limited. If Valdez is included in a proposal to form a Prince William Sound borough, its voters may oppose the proposal in sufficient numbers to defeat it. If Valdez is excluded from a Prince William Sound borough, the proposal may fail to meet the applicable standards for borough formation.

If a Prince William Sound borough were formed that included the area currently proposed for annexation, the area would be relatively remote and isolated from the populated areas of the borough. This would be particularly the case if the borough in question included the community of Valdez. In that case, Valdez would likely be the administrative center of the borough.

Residents of the area from the 141st meridian to Cape Suckling would have far less ability to participate in and influence local government in a Prince William Sound borough than they would in the CBY. That view, however, should not be construed as a general policy of promoting boroughs with smaller populations in order to offer residents a greater voice. In the case at hand, the choice is simply between the CBY or a hypothetical Prince William Sound borough.

In addition to the numerical strength of representation, consideration should be given to commonality of interests. The interests of a Prince William Sound borough would be much more diverse than are the interests of the CBY. There is a strong correlation between common interests and responsive local government.

Further, the pending annexation proposal is a more immediate fulfillment of Article X, § 1 when compared to a hypothetical Prince William Sound borough. If approved by the LBC and legislature, annexation could take effect as early as March 1997*. In contrast, if a petition for incorporation of a Prince William Sound borough were filed, incorporation would probably not occur until at least June 1998.

Based on the foregoing, the LBC concludes that Article X, § 1 of Alaska's constitution favors the inclusion of the area in question within an organized borough. The principles embodied in Article X, § 1 would be best implemented by annexation of the area in question to the CBY. Such will have the more immediate effect of extending local self-government to the territory in question. Further, it will give the residents of the area in question a greater voice in the affairs of their local government. Additionally, the area in question has a greater commonality of interests with the CBY than it does with the more diverse Prince William Sound region.

B. Regarding Common Interests.

Article X, § 3 of Alaska's constitution provides as follows:

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.

Additionally, 19 AAC 10.160 provides that annexation to an organized borough may occur only if the social, cultural, and economic characteristics and activities of the people in an area proposed for annexation are interrelated and integrated with the characteristics and activities of the people in the existing borough. It further requires that the communications media and the land, water, and air transportation facilities throughout the proposed post-annexation boundaries of the borough will allow for the level of communications and exchange necessary to develop an integrated borough government.

The respondent CAC and others opposed to annexation placed great emphasis on the 141st meridian as a boundary representing the proper division between the Yakutat and Prince William Sound regions. In particular, CAC relied heavily on its border with the Sealaska Corporation as an appropriate measure of social, cultural, historical and economic differences between the two regions.

The LBC recognizes the significance of the area in question to the CAC. The CAC is by far the largest single private landowner in the area proposed for annexation. It owns the surface and subsurface estate of 58,223 acres between Cape Suckling and the 141st meridian. In addition, it has selected an additional 32,079 acres for conveyance in the territory proposed for annexation. However, the ties between Native regional corporate boundaries and borough government boundaries in Alaska's limited

* Such approval by the legislature under the provisions of Article X, § 12 of Alaska's constitution would be forthcoming no later than March 9, 1997. Assuming legislative approval is granted, annexation would take effect under the provisions of 19 AAC 10.630 after the CBY provided documentation to DORA that it has complied with 42 U.S.C. 1973c (Voting Rights Act of 1965). Upon adoption of this decisional statement, the annexation proposal would be ripe for submission of a federal Voting Rights Act preclearance request by the CBY to the U.S. Justice Department. The Justice Department typically takes about 60 days to act on such requests.

As noted in DCRA's Provisional Report (Appendix B, pages 1 - 9), few existing and model borough boundaries correlate directly with the boundaries of Native regional corporations. A number of existing and model boroughs include portions of more than one Native regional corporation. Some Native regional corporations include all or portions of more than one existing or model borough. For example, Sealaska has landholdings in five organized boroughs as well as the unorganized borough.

The LBC considered the significance of other formally established boundaries based on the 141st meridian in the context of proper borough jurisdictional boundaries in this proceeding. Those included State house election districts, State judicial districts, regional educational attendance areas, recording districts, census districts, local emergency planning districts and economic development organizations. The LBC found that, at least in this matter, such boundaries were not particularly suitable as the basis for a borough government.

The LBC found that historical use of the area proposed for annexation has overlapped between the Yakutat and the Prince William Sound regions. Evidence was provided to the LBC of strong historical links between the area proposed for annexation and the Prince William Sound region, particularly the Cordova and Eyak areas. However, Yakutat appears to have even stronger historical links to the area proposed for annexation.

In the context of setting borough boundaries, contemporary and future ties to the area proposed for annexation were found to be more relevant than historical ties. The LBC notes that the area in question is presently subject to subsistence use, commercial fishing, tourism, recreational activities, timber extraction, and mineral development. Those activities are expected to continue for the long-term future. This is particularly the case with commercial fishing, tourism and recreational activities. The future also offers the prospect of greater mineral development. Further, the area may be affected by exploration for and development of onshore and offshore oil and gas deposits.

As with the historical use, various aspects of current use of the area are oriented in different directions. For example, logging, commercial fishing and subsistence activities in the area proposed for annexation are clearly linked more with Yakutat than with Cordova or other portions of Prince William Sound. On the other hand, guided commercial sports fishing and hunting activities appear to be connected more with Cordova. It is unknown at this point whether exploration for and development of oil and gas deposits will occur in the area. If such does occur, it is uncertain whether the Prince William Sound region or Yakutat will serve as the center of such activities.

Yakutat clearly has far greater ties to the Icy Bay area than do the communities of Prince William Sound. Yakutat's ties to the far western reaches of the territory proposed for annexation appear to be somewhat attenuated. However, the LBC stresses that the territory stretching from the 141st meridian to Cape Suckling is a cohesive geographic area. As such, it would be poor public policy to place that cohesive area into more than one organized borough.

For purposes of determining the most appropriate *borough boundaries,* the LBC must consider the strength of the current and future ties to the area by comparing Yakutat to the entire Prince William Sound region (as opposed to comparing Yakutat to Cordova). In that context, the LBC concludes that the interests of the residents of the Prince William Sound region are more diverse than the interests of the residents of the CBY. The LBC further concludes that the people who live in and otherwise use the area proposed for annexation have a greater intensity of common interests with Yakutat than with the hypothetical Prince William Sound borough. Consequently annexation of the area in question to the CBY is supported by Article X, §3 of Alaska's constitution.

Further, the LBC concludes that the social, cultural, and economic characteristics and activities of the people in the territory proposed for annexation are sufficiently interrelated and integrated with the characteristics and activities of the people in the City and Borough of Yakutat. Additionally, the communications media and the land, water, and air transportation facilities throughout the proposed post-annexation boundaries of the City and Borough of Yakutat will allow for the level of communications and exchange necessary to develop an integrated borough government. Thus, the standards established by 19 AAC 10.160 are satisfied.

C. Regarding the Post-Annexation Size and Stability of the Population of the CBY.

19 AAC 10.170 requires that the population of the proposed borough after annexation must be sufficiently large and stable to support the resulting borough.

The number of people in the area proposed for annexation is minimal. It is obvious that if the area were annexed to the CBY, the population of the expanded borough will remain sufficiently large and stable to support borough government. It is also readily apparent that if this area were included in a hypothetical Prince William Sound borough, that it too would meet the applicable standard.

The LBC concludes that the standard set out in 19 AAC 10.170 is satisfied.

D. Regarding the Human and Financial Resources Necessary to Provide Essential Borough Services on an Efficient, Cost-Effective Level.

19 AAC 10.180 requires that the economy within the proposed post-annexation borough boundaries include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. "Essential borough services" are those *mandatory and discretionary activities and facilities that are determined by the commission to be reasonably necessary to the territory and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state* (19 AAC 10.990(7)).

It is abundantly clear that the CBY possesses the human and financial resources needed to provide essential borough services on an efficient, cost-effective level. Financial projections prepared by DCRA reasonably indicate that the CBY will spend on the order of \$130,000 annually to serve the area proposed for annexation. DCRA's projections also reasonably demonstrate that the CBY will take in some \$162,000 to \$200,000 in additional annual revenues as a result of annexation. Thus, the annexation is unlikely to be a financial drain on the CBY. Further, evidence provided to the LBC indicates that the CBY has a healthy financial position that has allowed it to accrue fund balances in excess of \$3 million.

The LBC also considered the standard at issue in the context of a hypothetical Prince William Sound borough. The LBC found that the proposed annexation to the CBY would have no meaningful impact on the financial viability of a future Prince William Sound borough. The LBC also found that the CBY would have less human and financial resources to serve the area proposed for proposed for annexation compared to a Prince William Sound borough.

Notwithstanding, the CBY clearly has the human and financial resources needed to serve the area in question on an efficient and cost-effective basis. Since its incorporation, the CBY has demonstrated that it has the financial ability to provide

services and the willingness to tax its residents. Thus the LBC concludes that the standard set out in 19 AAC 10.180 is satisfied.

E. Regarding Boundary Issues in the Context of Natural Geography, Areas Necessary for Full Development of Services, Model Boundaries, and Education.

State law requires that the post-annexation boundaries of a borough conform generally to natural geography. (19 AAC 10.190) The LBC finds that the Malaspina Glacier, the western edge of which lies near the 141st meridian, is a significant barrier and natural geographic feature. As such, the use of the 141st meridian as the current western corporate boundary of the CBY is not arbitrary in the context of this standard. However, the LBC finds further that the natural geography of the area proposed for annexation is similar to that within the current boundaries of the City and Borough of Yakutat (i.e., the area extending northward from Cape Fairweather).

19 AAC 10.190 also requires that the post-annexation boundaries of a borough must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. As noted previously, evidence in this proceeding was persuasive that the area proposed for annexation is cohesive. As such, the area from the Malaspina Glacier to Cape Suckling should not be placed within the jurisdiction of multiple organized boroughs. It is particularly important that land use planning decisions encompass the entire coast from Cape Suckling to the 141st meridian.

State law provides that absent a specific and persuasive showing to the contrary, the LBC may not approve a borough annexation beyond the model borough boundaries adopted by the LBC and identified in the 1992 Interim Report on Model Borough Boundaries. (19 AAC 10.190(c)) The western model borough boundary of the CBY was set at the 141st meridian following action taken by the LBC in 1992 concerning the petition for incorporation of the CBY.

The LBC has stated in previous decisions that the 1961 legislature, in providing for a single residual unorganized borough encompassing all of the state not within organized boroughs, failed to adhere closely to the requirement of Article X, § 3 that each borough – organized and unorganized – embrace an area and population with common interests to the maximum degree possible. That circumstance was the genesis for the establishment of model borough boundaries by the LBC.

Model borough boundaries were meant to be a means of preventing and solving borough boundary problems throughout the state. They were intended to save the LBC, DCRA and prospective petitioners needless effort by guiding interested parties as to what might reasonably be expected with respect to borough boundaries. Model borough boundaries were meant to promote the purpose of Article X, § 1, not frustrate it by perpetuating an absence of local government in the unorganized borough. They were not intended to thwart legitimate borough boundary proposals.

The LBC is unwilling to doom the area in question or any other area of the unorganized borough to an absence of local government for an indefinite period of time while it awaits some action on formation of a borough, if a pending annexation or incorporation petition satisfies constitutional, statutory and regulatory standards.

Model borough boundaries should not be overturned lightly. A great deal of time and effort went into the establishment of model borough boundaries. In this particular case, strong evidence of the area's social, cultural, economic, geographic, transportation and other ties to the Yakutat region has been provided. The LBC considers such evidence

to be sufficiently specific and persuasive to allow the extension of the CBY's corporate boundaries to Cape Suckling.

The LBC notes, however, that approximately 184 square miles of the territory proposed for annexation lie within the model borough boundaries of the Copper River region. Virtually no attention has been given to that area in this proceeding by the CBY. In fact, when asked, the CBY expressed no objection to the exclusion of the 184 square miles in question. Thus, the LBC finds that the requisite specific and persuasive showing to allow annexation by the CBY of the 184 square miles within the model borough boundaries of the Copper River region has not been achieved.

State law also provides that the LBC will consult with the Department of Education in the process of balancing all standards for annexation to a borough. (19 AAC 10.190(d)) The LBC, through its DCRA staff, has consulted extensively with the Department of Education concerning the current CBY annexation proposal. The Department of Education has taken no position with regard to the pending CBY annexation proposal.

However, the Department of Education did take a position concerning the inclusion of the area extending to Cape Suckling in the CBY in the context of the earlier incorporation proceedings. On October 14, 1991, Jerry Covey, then-Commissioner of the Department of Education, announced that he had made a determination pursuant to AS 14.17.139 that *"formation of the new school district, as described in the proposed City and Borough of Yakutat, would be in the best interest of the state and the proposed City and Borough of Yakutat School District."*

In summary, the LBC has determined that CBY boundaries extending to Cape Suckling would conform generally to natural geography. Such boundaries would also include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. Further, a specific and persuasive showing has been made to allow the CBY to extend its corporate boundaries to Cape Suckling on the west, exclusive of approximately 184 square miles lying within the model borough boundaries of the Copper River region. The LBC has consulted adequately with the Department of Education in the process of balancing all standards for annexation to a borough. Thus, the LBC concludes that the standards set out in 19 AAC 10.190 are satisfied with the exclusion of territory lying within the model borough boundaries of the Copper River region.

F. Regarding the Balanced Best Interests of the State, the Territory to be Annexed, and all Political Subdivisions Affected by the Annexation.

State law provides that territory that meets the annexation standards specified in 19 AAC 10.160 - 19 AAC 10.190 may be annexed to a borough by the legislative review process if the LBC also determines that annexation will serve the balanced best interests of the State, the territory to be annexed, and all political subdivisions affected by the annexation. (19 AAC 10.200)

Although the annexation of the area to the CBY is reasonably projected to reduce the State's education costs slightly more than \$180,000 annually, those fiscal implications are minimal when compared to the fulfillment of the principles of Article X, § 1 of Alaska's constitution. Maximum local self-government is a highly positive factor affecting the best interests of the State, the territory to be annexed and the political subdivisions affected by the proposal.

Again, the LBC considered this standard in the context of a hypothetical Prince William Sound borough. The LBC found in that regard that the administrative headquarters of a Prince William Sound borough would likely be far removed from the area proposed for annexation. As such, the area from Cape Suckling to the 141st meridian would likely receive scant attention from a Prince William Sound borough. Areas that are far removed from their administrative centers often suffer diminished communications and contact.

The LBC considered the effects of annexation on the interests of the CAC and others opposed to annexation. The LBC has found no prospect of substantial harm to those interests. If the CBY continues to function as it has, it will promote a balanced use of fisheries, timber, and other resources. It is unlikely that such would be any different if CAC were dealing with a Prince William Sound borough.

Section IV - Order

During its deliberations, the LBC considered the alternative of approving the annexation to the CBY *only* if the territory were not included within a Prince William Sound organized borough within two years. However, that option was rejected by the LBC.¹⁰

As a result of the conclusions reached in this case, on December 16, 1996, the LBC inherently amended the CBY's petition for annexation to exclude the estimated 184 square miles petitioned for annexation that lie within the model borough boundaries of the Copper River region. The LBC approved the petition for annexation with the amended boundaries by a unanimous vote among the five members present. Barring a reversal of this decision through reconsideration, the LBC will submit a formal recommendation to the First Session of the Twentieth Alaska Legislature pursuant to Article X, § 12 of Alaska's constitution for the annexation of the territory in question to the CBY.

The territory approved for annexation is described as follows:

Beginning at the southern tip of Cape Suckling at North 59° 59' 24" Latitude and West 143° 53' 36" Longitude, the true point of beginning;

Thence due north to the ridge line of the Suckling Hills at North 60° 01' 27" Latitude, West 143° 53' 36" Longitude;

Thence northeasterly, along a straight line, to the Northwest corner of protracted T. 16 S., R. 13 E., Copper River Meridian;

Thence due east along the protracted township line separating T. 16 S. and T. 15 S., Copper River Meridian, to the northwest corner of T. 16 S., R. 21 E.;

Thence due south along the protracted township line separating R. 20 E. and R. 21 E., Copper River Meridian, to the southwest corner of T. 16 S., R. 21 E.;

Thence due east along the protracted township line separating T. 16 S. and T. 17 S., Copper River Meridian, to the northwest corner of T. 17 S., R. 25 E.;

¹⁰ A motion to conditionally approve annexation as described was made by Commissioner William Walters. However, the motion failed to be seconded by another member of the LBC. Commissioner Walters argued that the economic development of the area proposed for annexation will be more closely tied to the Prince William Sound region than to the City and Borough of Yakutat. Nevertheless, in the absence of a specific time line for a Prince William Sound borough to provide this area the local government services required by Article X, § 12 of the Alaska constitution, Commissioner Walters joins in the decision of the other Commissioners.

Thence due south along the protracted township line separating R 24 E. and R 25 E., Copper River Meridian, to the southwest corner of T. 17 S., R. 24 E.,

Thence due east along the protracted township line separating T. 17 S. and T. 18 S., Copper River Meridian, to the International Boundary between the United States and Canada on the 141st Meridian;

Thence due south along the 141st Meridian to its point of intersection with North 58° 48' 30" Latitude in the Gulf of Alaska;

Thence due west along a straight line to North 58° 48' 30" Latitude, West 143° 53' 36" Longitude in the Gulf of Alaska;

Thence due north, to the Southern tip of Cape Suckling, the true point of beginning.

With respect to the portion of the territory proposed for annexation that extends into the Gulf of Alaska, notwithstanding the foregoing description, the corporate jurisdictional limits of the City and Borough of Yakutat will extend only to the limits of the State of Alaska's jurisdiction under AS 44.03.010.

Annexation will result in the following corporate boundaries for the City and Borough of Yakutat.

Beginning at the southern tip of Cape Suckling at North 59° 59' 24" Latitude and West 143° 53' 36" Longitude, the true point of beginning;

Thence due north to the ridge line of the Suckling Hills at North 60° 01' 27" Latitude, West 143° 53' 36" Longitude;

Thence northeasterly, along a straight line, to the Northwest corner of protracted T. 16 S., R. 13 E., Copper River Meridian;

Thence due east along the protracted township line separating T. 16 S. and T. 15 S., Copper River Meridian, to the northwest corner of T. 16 S., R. 21 E.,

Thence due south along the protracted township line separating R. 20 E. And R. 21 E., Copper River Meridian, to the southwest corner of T. 16 S., R. 21 E.,

Thence due east along the protracted township line separating T. 16 S. and T. 17 S., Copper River Meridian, to the northwest corner of T. 17 S., R. 25 E.,

Thence due south along the protracted township line separating R. 24 E. and R. 25 E., Copper River Meridian, to the southwest corner of T. 17 S., R. 24 E.,

Thence due east along the protracted township line separating T. 17 S. and T. 18 S., Copper River Meridian, to the International Boundary between the United States and Canada on the 141st Meridian;

Thence following, in a generally southeasterly direction, the International Boundary of the United States and Canada, to the Peak of Mt. Fairweather at the International Boundary of the United States and Canada, in T. 35 S., R. 47 E., Copper River Meridian;

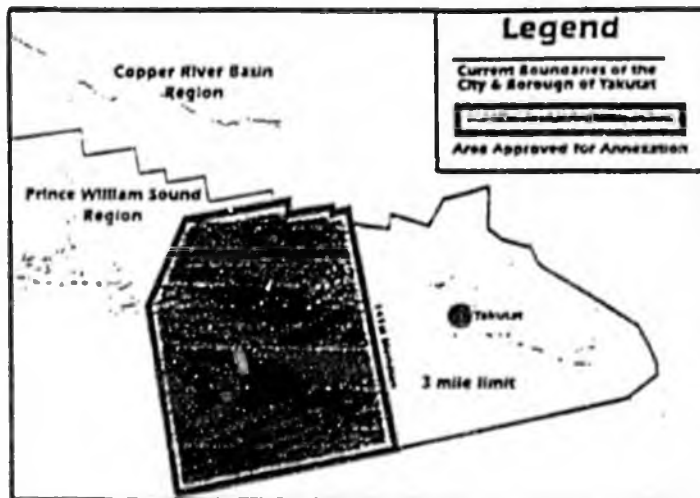
Thence southwesterly in a straight line to Cape Fairweather, at North 58° 48' 30" Latitude West: 137° 56' 45" Longitude in T. 33 S., R. 47 E., Copper River Meridian;

Thence due west along a straight line to a point in the Gulf of Alaska at North 58° 48' 30" Latitude, West: 143° 53' 36" Longitude;

Thence due north, to the Southern tip of Cape Suckling, the true point of beginning

With respect to the portion of the City and Borough of Yakutat that extends into the Gulf of Alaska, notwithstanding the foregoing description, the corporate jurisdictional limits of the City and Borough of Yakutat extend only to the limits of the State of Alaska's jurisdiction under AS 44.03.010.

A map showing the existing boundaries of the City and Borough of Yakutat and the territory approved for annexation appears below.



APPROVED IN WRITING THIS 19th DAY OF DECEMBER, 1996

LOCAL BOUNDARY COMMISSION

BY: Darroll Hargraves
Darroll Hargraves, Chairperson

ATTEST: Dan Bockhorst
Dan Bockhorst, Staff

RECONSIDERATION BY THE COMMISSION

Within 20 days after this decision becomes final under provisions of 19 AAC 10.570(g), a person may file a request for reconsideration of the decision. The request must describe in detail the facts and analysis that support the request for reconsideration. If the Commission has taken no action on a request for reconsideration within 30 days after the decision becomes final under provisions of 19 AAC 10.570(g), the request is automatically denied. If the Commission grants a request for reconsideration, the Petitioners or any respondents opposing the reconsideration will be allotted 10 days from the date the request for reconsideration is granted to file a responsive brief describing in detail the facts and analyses that support or oppose the request for reconsideration.

JUDICIAL APPEAL

Judicial Appeal. A decision of the Commission may be appealed to Superior Court. The appeal must be made in accordance with Alaska Rules of Appellate Procedure, Rule 601(a)(1)(A). An appeal to the Superior Court must be made within thirty days after the 30th day on which reconsideration can be ordered.

While the residents of Prince William Sound may take no initiative to form a borough in the foreseeable future, the legislature may. During the thirty-three years that have passed since the 1963 Mandatory Borough Act, the legislature has taken a *laissez faire* attitude with respect to the formation of boroughs.^{A-3} Nearly all incentives to form boroughs have disappeared.

Beginning in the early 1980's bills have been introduced to mandate formation of additional boroughs in nearly every session of the legislature. The bills went nowhere — except in the 1996 legislative session. In the most recently concluded regular session of the legislature, Senator John Torgerson, Chairman of the Senate Community & Regional Affairs Committee, introduced legislation that required regions of the unorganized borough to vote on borough formation. If the voters of a region rejected borough government, the legislation provided that the State would levy a 6-mill tax on property in that region. The bill passed the Senate by a vote of 13 - 7, but failed to gain approval in the House. Senator Torgerson has indicated that he intends to pursue some form of borough legislation in the upcoming session of the legislature.

With regard to the issue of municipal entitlement lands for a prospective Prince William Sound borough, the Department of Natural Resources made a "very rough calculation" in July of this year that a Prince William Sound borough would be entitled to 40,000 - 60,000 acres of land as a grant from the State under AS 29.65.030. In its estimate, DNR noted that:

Most of the VUU land within the PWS Borough is found in the mountains and glaciers that [are] around Valdez, in the Lake George Area (which is not in the Mat-Su Borough) and in the Cape Yakataga area. Although these remote lands are the basis for determining

most of the entitlement, there are potential settlement lands in Prince William Sound that a borough could select. Because the titles of Cordova, Valdez and Whittier all received municipal land entitlements, most of the land suitable for community expansion is already conveyed to or selected by these titles. Most land around Talitelle and Chenega is owned by the Native Corporations. (memorandum from Dick Mylius, DNR, July 8, 1996)

The "settlement lands" referred to by DNR are included in the VUU classification. They are considered by DNR to be high value lands. Lands classified for "public recreation" are also considered to be relatively high value lands. DNR estimates roughly that there are about 20,000 - 24,000 acres of such lands in the Prince William Sound region west of Cape Suckling. (personal communication, Dick Mylius, September 10, 1996)

As noted in DCRA's report on the Yakutat annexation, the boundaries of the territory proposed for annexation encompass over 87,000 acres of VUU land. Thus, if the Yakutat annexation is granted with the boundaries proposed by the Petitioner, a future Prince William Sound borough's municipal land entitlement under the statutory formula would be reduced by some 8,700 acres to an estimated range of 31,300 - 51,300 acres. As much as 40% to 75% of those prospective municipal entitlement lands are considered by DNR to be of relatively high value.

DNR roughly calculated that about two thirds of the VUU land in the area proposed for annexation lie east of the Duktoth River. Thus, if Yakutat's boundaries were extended only to the Duktoth River as recommended by DCRA, a future Prince William Sound borough's municipal land entitlement would be reduced by about 5,800 acres to a range of 34,200 - 54,200 acres.

A-3 Chapter 52, SLA 1963 mandated the formation of boroughs in eight regions by January 1, 1964. If voters in those regions failed to "voluntarily" form boroughs prior to that time, the regions were incorporated by legislative fiat. The eight regions were Sitka Election District #3; Juneau Election District #4; Palmer-Wasilla-Talkeetna Election District #7; Anchorage Election District #8, combined Seward Election District #9 and Kenai-Cook Inlet Election District #10; Kodiak Election District #11; Ketchikan Election District #2 as designated in Sec. 3, Art. XIV, of the State Constitution, except the Annette Island Indian Reservation created by Act of Congress dated March 31, 1961, 26 Stat. 1101; and Fairbanks Election District #19 as designated in Sec. 3, Art. XIV, of the State Constitution. Boroughs were formed "voluntarily" in Ketchikan, Sitka, Juneau and Kodiak prior to the January 1, 1964 deadline.

It is evident that the Prince William Sound region enjoys adequate financial resources to support a borough. For example, the 1994 full and true value of taxable property in the Prince William Sound region was estimated to be \$1,272,675,200. The population of the region was reported to be 7,613. Thus, the 1994 *per capita* value of taxable property in the region was \$167,171. (Senate Bill 280 Fact Sheet, Senator John Torgerson, undated but received by DCRA on April 2, 1996).

Comparison of Per Capita Taxable Property Values in Existing Boroughs and PWS Region

North Slope Borough	\$1,387,738
Prince William Sound region	\$167,171
Bristol Bay Borough	\$112,178
Kenai Peninsula Borough	\$79,727
Ketchikan Gateway Borough	\$63,042
City and Borough of Juneau	\$60,733
City and Borough of Sitka	\$58,360
Kodiak Island Borough	\$55,143
Haines Borough	\$52,517
Anchorage	\$50,078
Northwest Arctic Borough	\$44,066
City and Borough of Yakutat	\$40,233
Matanuska-Susitna Borough	\$42,964
Fairbanks North Star Borough	\$41,890
Lake & Peninsula Borough	\$36,831
Denali Borough	\$36,339
Aleutians East Borough	\$31,722

As is shown in the box above, if the Prince William Sound region were a borough, its estimated per capita full and true value of taxable property would rank second only to the North Slope Borough. Its per capita value would be nearly 50% greater than the Bristol Bay Borough, currently the borough with the second highest per capita taxable property value. A Prince William Sound borough's per capita taxable property value would be more than 3.3 times greater than that of the Municipality of Anchorage. (data extrapolated from Alaska Taxable 1994, DCRA, January 1995)

It is also abundantly evident that the Prince William Sound region has the human resources

needed to operate a borough. Its population would rank 10th among the 17 boroughs that would exist if it incorporated. Further evidence of the local government capabilities of the region are illustrated by the fact that Cordova and Valdez each operate "mini-boroughs" (home rule cities in the unorganized borough). In other words, each city government functions in the manner required for boroughs. For example, each operates its own school district. Both cities administer separate coastal management districts. The City of Valdez and the City of Cordova perform totally separate planning, platting and land use functions. Each performs its own property assessment and taxing functions. Valdez and Cordova also deliver a host of other municipal services independently.

The remainder of the Prince William Sound region encompasses a separate school district (Chugach REAA). The City of Whittier also exists as a separate coastal management district. The City of Whittier also independently assesses and levies taxes. Whittier also provides platting, planning, land use functions and other municipal services independently of the other communities in the region.

While the Prince William Sound region has the resources to form a borough, it — like many other regions in Alaska, both past and present — lacks the will to do so. The fact is, no region in Alaska has ever volunteered to form an organized borough unless it was able to gain some significant self-interest (e.g., taxation of abundant natural resources, preemption of alternative borough boundaries, etc.). It appears that Valdez and other communities in Prince William Sound do not currently find it in their self interest to form an organized borough encompassing other communities.

However, if Cordova or Valdez were each given the same opportunity as Yakutat to form a borough encompassing only one community, those communities might quickly find the will to organize.

MEMORANDUM

STATE OF ALASKA
Community and Regional Affairs

TO: Pat Poland
Director
Municipal & Regional Assistance
Division

DATE: February 10, 1997

FILE: S \ LBC \ Travel \ DB Trip

PHONE: 269-4559

FROM: Dan Bockhorst, Supervisor, LBC Staff

SUBJECT: Trip report - Valdez
January 17, 1997

Travel: I left home at 5:20 a.m., caught the 7:30 a.m. flight to Valdez where I arrived at 8:10 a.m. The meeting began shortly after 10 a.m. The meeting ended around 3:00 p.m. I caught the 6:10 p.m. return flight to Anchorage arriving just before 7:00 p.m. I returned home at 9:25 p.m.

The following issues were addressed at the meeting.

Yakutat Annexation - All the communities in the Sound are opposed to the Yakutat annexation proposal. Representatives from the City of Cordova and Chugach Alaska Corporation indicated that they were planning to travel to Juneau on January 29 to lobby the legislature for the rejection of the LBC's recommendation for annexation.

Position of communities on the Borough formation - The Council of the City of Whittier has passed a resolution in support of borough formation. Cordova supports borough formation and agreed to provide funding to support preparation of a borough study. Valdez is still undecided but appeared willing to support completion of the study. Valdez is also interested in exploring other formation options such as a Valdez/Tatitlek borough. Chugach Corp. is still considering the issue. The Chenega IRA Council has a meeting scheduled for Feb. 8 to discuss borough formation. Tatitlek's initial reaction to a borough is negative, but the council is willing to listen and participate in the process.

Mandatory borough formation - Senate Bill 30 was discussed. Topics included the tax implications associated with the legislation, the influence legislation may have on the REAA, and how a vote based on mandatory formation may impact the region.

Factors influencing the communities interest in borough formation - The following were identified as factors that are motivating the communities to consider borough formation. Opposition to the Yakutat annexation, the Whittier road and harbor projects; the threat of annexation of Whittier to Anchorage, a DOT/PF, PWS transportation study

that is scheduled to begin this coming summer; Chugach Corp. opening lands in the Copper River area; the prospect of relocation of the Anchorage port to Whittier; increased activity in the Sound, McCarthy, and the Wrangell St. Elias area, consideration of a bike trail from Cordova to Thompson Pass; and, oil, gas, and mineral development in the region.

Possible borough boundaries - The representatives of the PWS communities identified the following alternative boundary scenarios to be examined in context of the planned borough study:

1. PWS model borough boundaries adopted by LBC (141st meridian on the east to Kenai Peninsula Borough and the Municipality of Anchorage on the west);
2. PWS model borough boundaries with the addition of territory extending to approximately mile 80 of the Richardson Highway (to include TAPS Pump Station # 12);
3. PWS model borough boundaries, excluding territory approved for annexation to the City and Borough of Yakutat;
4. PWS model borough boundaries, excluding Valdez;
5. PWS model borough boundaries, excluding Valdez and Tatitlek.

The group discussed the merit of considering a borough with boundaries that excluded Cordova, however, that alternative was readily dismissed

During this discussion I pointed out that DCRA's preliminary policy position, as expressed by Lamar Cotten and you, was that all the PWS communities should be included in one borough. It was also pointed out that if Valdez and Talitlok are not included in the borough boundaries and that if they do not form a separate borough they may be subject to future annexation.

Borough classifications that will be considered - The group decided that a home rule borough with limited powers and a third class borough will be considered. These two classifications appeal to the group because they both will function with limited powers. Valdez is also considering exploring the option of a unified municipality.

Borough powers - The area wide powers discussed included taxation, education, and planning and platting.

Expenditures - Anticipated expenditures discussed included education, tax assessment and collection, regional planning, administration, offices, travel and debt service. Initial staff included a manager or mayor, a clerk, and a treasurer. Contractual expenditures included legal and tax assessing.

Patrick K. Poland
February 10, 1997
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Revenue - Possible sources of revenue included real, personal, sales, and severance taxes, user fees, and the sale and leasing of land. State sources included the organizational grant, revenue sharing and municipal assistance, coastal management grants, contributions to education, and Dept. of Revenue funds. Municipal entitlement lands were also discussed under this topic. Federal sources include education funds, PII.T, and Nat. Forest receipts.

Borough study - \$40,000 to \$50,000 is the estimated amount of a study. It was estimated that the study would take four months to complete. Jon Isaacs will be developing the scope of work for the study. The group agreed that they needed to let the legislature know that they will be proceeding with the study. Each community was going to determine how much they can contribute to the study. They also all agreed that the communities will be reimbursed for contributions to the study from the State Organizational grant if a borough is formed.

This was an interesting and informative meeting. At the close of the meeting it appeared that the communities will be proceeding with a study and that they will be paying for it. A more complete summary of the meeting will be provided once I receive a copy.



February 14, 1997

RE: HOUSE JOINT RESOLUTION NO. 17 - Disapproving Local Boundary Commission recommendation number two regarding the annexation of the territory to the City and Borough of Yakutat.

Testimony by Phil Hubbard, City Manager of Valdez, Alaska before the House Community and Regional Affairs Committee:

THE VALDEZ CITY COUNCIL HAS TWICE GONE ON RECORD OPPOSING THE PETITION OF THE CITY AND BOROUGH OF YAKUTAT, TO EXTEND ITS BOUNDARIES BEYOND THE 141ST MERIDIAN.

THE 141ST MERIDIAN HAS SERVED AS A BOUNDARY FOR MANY THINGS. IT IS THE BOUNDARY BETWEEN LEGISLATIVE DISTRICTS, THE BOUNDARY BETWEEN RURAL EDUCATION ATTENDANCE AREAS AND THE BOUNDARY BETWEEN REGIONAL NATIVE CORPORATIONS.

IN JUNE 1992, THE LOCAL BOUNDARY COMMISSION ADOPTED THE MODEL BOROUGH BOUNDARIES, DRAWING THE EASTERN BOUNDARY FOR THE PRINCE WILLIAM SOUND BOROUGH AT THE 141ST MERIDIAN.

THE REPORT OF THE LOCAL BOUNDARY COMMISSION TO THE LEGISLATURE MAKES REFERENCE THAT THE CITY OF VALDEZ DOES NOT PRESENTLY SUPPORT THE FORMATION OF A PRINCE WILLIAM SOUND BOROUGH. THE POSITION OF THE CITY COUNCIL IS NOW ONE OF NEEDING MORE INFORMATION BEFORE AN INFORMED DECISION CAN BE MADE.

THE VALDEZ CITY COUNCIL HAS RECENTLY MET WITH OTHER ELECTED AND CORPORATE LEADERS IN PRINCE WILLIAM SOUND TO DISCUSS REGIONAL GOVERNMENT ISSUES. THE CITY OF VALDEZ IS PARTNERING WITH THESE

OTHER COMMUNITIES AND CORPORATIONS TO INVESTIGATE THE FEASIBILITY AND ECONOMIC VIABILITY OF FORMING A PRINCE WILLIAM SOUND BOROUGH.

ONCE THIS STUDY IS COMPLETED, THE VALDEZ CITY COUNCIL WILL BE ABLE TO MAKE A DECISION AS TO WHETHER THE FORMATION OF A BOROUGH IS IN THE BEST INTERESTS OF THE CITIZENS OF VALDEZ.

THERE ARE APPROXIMATELY 8,000 PEOPLE LIVING IN 3 COMMUNITIES AND 2 VILLAGES AND NUMEROUS ISLANDS IN PRINCE WILLIAM SOUND. WE ARE DIVERSE IN OUR CULTURE AND LOCAL ECONOMIES. IT TAKES TIME TO GATHER RELEVANT INFORMATION AND TO INFORM ALL STAKEHOLDERS ON THE ADVANTAGES AND DISADVANTAGES OF REGIONAL GOVERNMENT. YAKUTAT WAS ABLE TO MOVE MUCH QUICKER BECAUSE THEY ARE A SMALLER, COHESIVE COMMUNITY -- BUT THAT SHOULD NOT INURE TO THEIR BENEFIT AND TO THE DETRIMENT OF PRINCE WILLIAM SOUND RESIDENTS.

THERE ARE OVER 87,000 ACRES OF STATE OWNED, VACANT, UNRESERVED AND UNCLASSIFIED LAND IN THE AREA BETWEEN THE 141ST MERIDIAN AND CAPE SUCKLING. IF THIS LAND WERE DELETED FROM A POTENTIAL PRINCE WILLIAM SOUND BOROUGH, THE FUTURE ECONOMIC VIABILITY OF A REGIONAL GOVERNMENT MAY BE JEOPARDIZED.

WE ASK THAT THE STATE LEGISLATURE PROVIDE THE COMMUNITIES AND ORGANIZATIONS OF PRINCE WILLIAM SOUND, THE TIME AND OPPORTUNITY TO FULLY ANALYZE THE VARIOUS ASPECTS OF A BOROUGH AND TO PRESENT THOSE FINDINGS TO THE REGION'S CITIZENRY.

WE RESPECTFULLY REQUEST THE LEGISLATURE'S DISAPPROVAL OF THE LOCAL BOUNDARY COMMISSION'S RECOMMENDATION.



ALASKA TERRITORY

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WE RESPECTFULLY REQUEST THE LEGISLATURE'S DISAPPROVAL OF THE LOCAL BOUNDARY COMMISSION'S RECOMMENDATION.

While the residents of Prince William Sound may take no initiative to form a borough in the foreseeable future, the legislature may. During the thirty-three years that have passed since the 1963 Mandatory Borough Act, the legislature has taken a *laissez faire* attitude with respect to the formation of boroughs.^{A-3} Nearly all incentives to form boroughs have disappeared.

Beginning in the early 1980's bills have been introduced to mandate formation of additional boroughs in nearly every session of the legislature. The bills went nowhere — except in the 1996 legislative session. In the most recently concluded regular session of the legislature, Senator John Torgerson, Chairman of the Senate Community & Regional Affairs Committee, introduced legislation that required regions of the unorganized borough to vote on borough formation. If the voters of a region rejected borough government, the legislation provided that the State would levy a 6-mill tax on property in that region. The bill passed the Senate by a vote of 13 - 7, but failed to gain approval in the House. Senator Torgerson has indicated that he intends to pursue some form of borough legislation in the upcoming session of the legislature.

With regard to the issue of municipal entitlement lands for a prospective Prince William Sound borough, the Department of Natural Resources made a "very rough calculation" in July of this year that a Prince William Sound borough would be entitled to 40,000 - 60,000 acres of land as a grant from the State under AS 29.65.030. In its estimate, DNR noted that:

Most of the VUU land within the PWS Borough is found in the mountains and glaciers that [are] around Valdez, in the Lake George Area (which is not in the Mat-Su Borough) and in the Cape Yakataga area. Although the remote lands are the basis for determining

most of the entitlement, there are potential settlement lands in Prince William Sound that a borough could select. Because the cities of Cordova, Valdez and Whittier all received municipal land entitlements, most of the land suitable for community expansion is already conveyed to or selected by these cities. Most land around Tatitlek and Chenega is owned by the Native Corporations. (memorandum from Dick Mylius, DNR, July 8, 1996)

The "settlement lands" referred to by DNR are included in the VUU classification. They are considered by DNR to be high value lands. Lands classified for "public recreation" are also considered to be relatively high value lands. DNR estimates roughly that there are about 20,000 - 24,000 acres of such lands in the Prince William Sound region west of Cape Suckling. (personal communication, Dick Mylius, September 10, 1996)

As noted in DCRA's report on the Yakutat annexation, the boundaries of the territory proposed for annexation encompass over 87,000 acres of VUU land. Thus, if the Yakutat annexation is granted with the boundaries proposed by the Petitioner, a future Prince William Sound borough's municipal land entitlement under the statutory formula would be reduced by some 8,700 acres to an estimated range of 31,300 - 51,300 acres. As much as 40% to 75% of those prospective municipal entitlement lands are considered by DNR to be of relatively high value.

DNR roughly calculated that about two thirds of the VUU land in the area proposed for annexation lie east of the Duktoth River. Thus, if Yakutat's boundaries were extended only to the Duktoth River as recommended by DCRA, a future Prince William Sound borough's municipal land entitlement would be reduced by about 5,800 acres to a range of 34,200 - 54,200 acres.

A-3 Chapter 52, SLA 1963 mandated the formation of boroughs in eight regions by January 1, 1964. If voters in those regions failed to "voluntarily" form boroughs prior to that time, the regions were incorporated by legislative fiat. The eight regions were Sitka Election District #3; Juneau Election District #4; Palmer-Wasilla-Talkeetna Election District #7; Anchorage Election District #8; combined Seward Election District #9 and Kenai-Cook Inlet Election District #10; Kodiak Election District #11; Ketchikan Election District #2 as designated in Sec. 3, Art. XIV, of the State Constitution, except the Annette Island Indian Reservation created by Act of Congress dated March 31, 1961, 26 Stat. 1101; and Fairbanks Election District #19 as designated in Sec. 3, Art. XIV, of the State Constitution. Boroughs were formed "voluntarily" in Ketchikan, Sitka, Juneau and Kodiak prior to the January 1, 1964 deadline.

It is evident that the Prince William Sound region enjoys adequate financial resources to support a borough. For example, the 1994 full and true value of taxable property in the Prince William Sound region was estimated to be \$1,272,675,200. The population of the region was reported to be 7,613. Thus, the 1994 *per capita* value of taxable property in the region was \$167,171. (Senate Bill 280 Fact Sheet, Senator John Torgerson, undated but received by DCRA on April 2, 1996).

North Slope Borough	\$1,387,738
Prince William Sound region	\$167,171
Bristol Bay Borough	\$112,178
Kenai Peninsula Borough	\$79,727
Ketchikan Gateway Borough	\$66,042
City and Borough of Juneau	\$60,733
City and Borough of Sitka	\$58,360
Kodiak Island Borough	\$55,143
Haines Borough	\$52,517
Anchorage	\$50,078
Northwest Arctic Borough	\$44,066
City and Borough of Yakutat	\$40,233
Matanuska-Susitna Borough	\$42,964
Fairbanks North Star Borough	\$41,890
Lake & Peninsula Borough	\$36,831
Denali Borough	\$36,339
Aleutians East Borough	\$31,722

As is shown in the box above, if the Prince William Sound region were a borough, its estimated per capita full and true value of taxable property would rank second only to the North Slope Borough. Its per capita value would be nearly 50% greater than the Bristol Bay Borough, currently the borough with the second highest per capita taxable property value. A Prince William Sound borough's per capita taxable property value would be more than 3.3 times greater than that of the Municipality of Anchorage. (data extrapolated from Alaska Taxable 1994, DCRA, January 1995)

It is also abundantly evident that the Prince William Sound region has the human resources

needed to operate a borough. Its population would rank 10th among the 17 boroughs that would exist if it incorporated. Further evidence of the local government capabilities of the region are illustrated by the fact that Cordova and Valdez each operate "mini-boroughs" (home rule cities in the unorganized borough). In other words, each city government functions in the manner required for boroughs. For example, each operates its own school district. Both cities administer separate coastal management districts. The City of Valdez and the City of Cordova perform totally separate planning, platting and land use functions. Each performs its own property assessment and taxing functions. Valdez and Cordova also deliver a host of other municipal services independently.

The remainder of the Prince William Sound region encompasses a separate school district (Chugach REAA). The City of Whittier also exists as a separate coastal management district. The City of Whittier also independently assesses and levies taxes. Whittier also provides platting, planning, land use functions and other municipal services independently of the other communities in the region.

While the Prince William Sound region has the resources to form a borough, it — like many other regions in Alaska, both past and present — lacks the will to do so. The fact is, no region in Alaska has ever volunteered to form an organized borough unless it was able to gain some significant self-interest (e.g., taxation of abundant natural resources, preemption of alternative borough boundaries, etc.). It appears that Valdez and other communities in Prince William Sound do not currently find it in their self interest to form an organized borough encompassing other communities.

However, if Cordova or Valdez were each given the same opportunity as Yakutat to form a borough encompassing only one community, those communities might quickly find the will to organize.

MEMORANDUM

STATE OF ALASKA
Community and Regional Affairs

TO: Pat Poland
Director
Municipal & Regional Assistance
Division

DATE: February 10, 1997

FILE: S \ LBC \ Travel \ DB Trip

PHONE: 269-4559

FROM: Dan Bockhorst, Supervisor, LBC Staff
SUBJECT: Trip report - Valdez
January 17, 1997

Travel: I left home at 5:20 a.m., caught the 7:30 a.m. flight to Valdez where I arrived at 8:10 a.m. The meeting began shortly after 10 a.m. The meeting ended around 3:00 p.m. I caught the 6:10 p.m. return flight to Anchorage arriving just before 7:00 p.m. I returned home at 9:25 p.m.

The following issues were addressed at the meeting.

Yakutat Annexation - All the communities in the Sound are opposed to the Yakutat annexation proposal. Representatives from the City of Cordova and Chugach Alaska Corporation indicated that they were planning to travel to Juneau on January 29 to lobby the legislature for the rejection of the LBC's recommendation for annexation.

Position of communities on the Borough formation - The Council of the City of Whittier has passed a resolution in support of borough formation. Cordova supports borough formation and agreed to provide funding to support preparation of a borough study. Valdez is still undecided but appeared willing to support completion of the study. Valdez is also interested in exploring other formation options such as a Valdez/Tatitlek borough. Chugach Corp. is still considering the issue. The Chenega IRA Council has a meeting scheduled for Feb. 8 to discuss borough formation. Tatitlek's initial reaction to a borough is negative, but the council is willing to listen and participate in the process.

Mandatory borough formation - Senate Bill 30 was discussed. Topics included the tax implications associated with the legislation, the influence legislation may have on the REAA, and how a vote based on mandatory formation may impact the region.

Factors influencing the communities interest in borough formation - The following were identified as factors that are motivating the communities to consider borough formation. Opposition to the Yakutat annexation, the Whittier road and harbor projects; the threat of annexation of Whittier to Anchorage, a DOT/PF, PWS transportation study

that is scheduled to begin this coming summer; Chugach Corp. opening lands in the Copper River area; the prospect of relocation of the Anchorage port to Whittier; increased activity in the Sound, McCarthy, and the Wrangell St. Elias area, consideration of a bike trail from Cordova to Thompson Pass; and, oil, gas, and mineral development in the region.

Possible borough boundaries - The representatives of the PWS communities identified the following alternative boundary scenarios to be examined in context of the planned borough study:

1. PWS model borough boundaries adopted by LBC (141st meridian on the east to Kenai Peninsula Borough and the Municipality of Anchorage on the west);
2. PWS model borough boundaries with the addition of territory extending to approximately mile 80 of the Richardson Highway (to include TAPS Pump Station # 12);
3. PWS model borough boundaries, excluding territory approved for annexation to the City and Borough of Yakutat;
4. PWS model borough boundaries, excluding Valdez;
5. PWS model borough boundaries, excluding Valdez and Tatitlek.

The group discussed the merit of considering a borough with boundaries that excluded Cordova, however, that alternative was readily dismissed.

During this discussion I pointed out that DCRA's preliminary policy position, as expressed by Lamar Cotten and you, was that all the PWS communities should be included in one borough. It was also pointed out that if Valdez and Tatitlek are not included in the borough boundaries and that if they do not form a separate borough they may be subject to future annexation.

Borough classifications that will be considered - The group decided that a home rule borough with limited powers and a third class borough will be considered. These two classifications appeal to the group because they both will function with limited powers. Valdez is also considering exploring the option of a unified municipality.

Borough powers - The area wide powers discussed included taxation, education, and planning and platting.

Expenditures - Anticipated expenditures discussed included education, tax assessment and collection, regional planning, administration, offices, travel and debt service. Initial staff included a manager or mayor, a clerk, and a treasurer. Contractual expenditures included legal and tax assessing.

Patrick K. Poland
February 10, 1997
Page 3

Revenue - Possible sources of revenue included real, personal, sales, and severance taxes, user fees, and the sale and leasing of land. State sources included the organizational grant, revenue sharing and municipal assistance, coastal management grants, contributions to education, and Dept. of Revenue funds. Municipal entitlement lands were also discussed under this topic. Federal sources include education funds, PILT, and Nat. Forest receipts.

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STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

STATEMENT OF DECISION

IN THE MATTER OF THE PETITION)
TO DISSOLVE THE CITY OF)
YAKUTAT AND INCORPORATE THE)
CITY AND BOROUGH OF YAKUTAT -)

SUMMARY OF ACTION

The Petition

On October 2, 1990, the Department of Community and Regional Affairs (DCRA) received a petition seeking the incorporation of the City and Borough of Yakutat (and the dissolution of the present first class city). After review, DCRA rejected the petition because of a number of deficiencies, including a flawed boundary description, errors with property valuations and projected revenues, and the improper form of the petition itself. On December 7, 1990, the petitioners gave their draft revised petition to DCRA for review. The actual petition to dissolve the existing first-class City of Yakutat and incorporate the City & Borough of Yakutat was formally presented to DCRA on December 26, 1990, with supplementary signatures submitted on January 11, 1991. DCRA found the form and content of this petition to be in substantial compliance with the applicable laws.

Notice of the Yakutat petition was published in Anchorage and Juneau newspapers in January and February of 1991. Notice was also mailed directly to 150 individuals and organizations which might have an interest in the matter. In addition, the notice was posted in several places in the area proposed for incorporation.

At the time the Yakutat petitioners presented their incorporation petition, the Local Boundary Commission's regulations, which went into effect in 1982, provided that two or more communities and at least 1000 people were required for an area to qualify for borough incorporation.¹ The petitioners challenged the LBC regulations on several grounds, including arguments that they had been improperly adopted and that the Commission has no authority to adopt regulations on borough incorporation standards. In a February 15, 1991 opinion, the Department of Law confirmed the validity of the LBC's regulations.

During the first half of 1991, the LBC worked on a substantial revision of all their regulations. The revised regulations, adopted on June 29, 1991, changed the absolute requirement for at least two communities and 1000 people in a proposed borough to presumptions in favor of those

¹ Although the petition had not yet been formally investigated, DCRA staff believed, on the basis of generally available information, that Yakutat probably could not meet the two community or 1000 people standards. At the decisional meeting held on March 17, 1992, the LBC specifically found that the area proposed for incorporation as the City and Borough of Yakutat did not have two communities or 1000 permanent residents.

STATEMENT OF DECISION RE: YAKUTAT
BOROUGH INCORPORATION PETITION
PAGE 2

factors. Each presumption could be overcome with a specific and persuasive showing that the statutory standards were met despite the absence of two communities and/or 1000 permanent residents. Petitioners requested that the Yakutat proposal be considered under the new regulations, which became effective on November 12, 1991.

Following its investigation and analysis of the petition, DCRA distributed its draft report on the petition on August 30, 1991. DCRA sent the full report to 70+ groups and individuals, and mailed the sixteen-page summary to an additional 120+ parties. DCRA recommended that the Yakutat petition be rejected. At the request of petitioners and other interested parties, DCRA extended the public comment period on the report to October 11, 1991.

On October 4, 1991, the Department held the required informational meeting in Yakutat. At the request of Mayor Powell, DCRA staff members were available to meet informally with officials and the general public from 1:00 to 5:00 in the afternoon, with the formal meeting starting at 7:00 p.m. DCRA staff met with the Mayor, City Manager, City Planner, two City Council members and school officials. Approximately 10 area residents, in addition to the Mayor and City Planner, attended the evening meeting.

DCRA's final report was delayed while the LBC and Department waited for a legal opinion from the Attorney General's Office on petitioners' renewed attack on the LBC regulations. It was further delayed so that Bob Walsh, the new Director of the Municipal and Regional Assistance Division of DCRA, could visit Yakutat and the petitioners as promised by Deputy Commissioner Marty Rutherford, who had since left the Department.

On December 24, 1992, DCRA distributed more than 80 copies of its final report, as well as an additional 55 copies of the summary. The Department's report recommended that the LBC reject the petition. In a section dealing with model borough boundaries for the territory stretching from Prince William Sound to the Cross Sound/Icy Straits area, the Department recommended that Yakutat be included with Hoonah and the Cross Sound/Icy Straits communities.² This recommendation changed DCRA's earlier recommendation that Yakutat be included within the same model borough boundaries as the Prince William Sound area.

Throughout the investigation period, petitioners and the City of Yakutat continued to provide additional information on the petition, as well as formally responding to DCRA's draft and final reports.

²In 1989, as a long-term planning tool, the LBC and its DCRA staff began studying the unorganized borough in order to propose model boundaries. Model boundaries adopted by the Commission serve as guidelines for evaluating petitions for borough incorporation or annexation, but they are not intended to force or promote the incorporation of any area. The model boundaries are adopted only after public hearings and extensive opportunities for public comment. The entire area from Prince William Sound through Yakutat to Cross Sound/Icy Straits was part of the unorganized borough during the time of the investigation and consideration of the Yakutat petition. The LBC generally prefers to adopt model boundaries for an area before considering borough incorporation or annexation petitions.

STATEMENT OF DECISION RE: YAKUTAT
BOROUGH INCORPORATION PETITION
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Public Comment

Prior to the hearings on the petition, the Department and the Commission received substantial public comment on the Yakutat borough proposal and the related proposals on model boundaries for the area. The public comment included:

- Written comments on DCRA's 1990 draft reports on model boundaries
- Public hearings in November, 1990 on the proposed model boundaries
- Written and oral comments provided to the Commission during the process of revising the regulations
- Written comments on the Notice of Petition
- Written comments on DCRA's draft report on the petition
- Written comments on DCRA's final report on the petition

The written comments were included with DCRA's reports. Because of the number and length of the comments, most were included in a separate volume labeled Appendix A to the DCRA Report to the Alaska Local Boundary Commission. DCRA's report also summarized the testimony from the 1990 hearings.

The LBC held hearings on the Yakutat petition and the proposed model boundaries in Prince William Sound and in Cross Sound/Icy Straits communities on January 17, 1992. Vice-Chair Shelley Dugan in Cordova, Commissioner Lamar Cotten in Valdez and Commissioner Myrtle Johnson in Whittier participated via teleconference for one set of hearings.³ Chairman Charles Bettisworth in Juneau and Commissioner Darroll Hargraves in Hoonah were linked by teleconference with staff members in Gustavus and Pelican for the second set of hearings. The Yakutat petitioners participated in the teleconference for both sets of hearings.

On January 18 and 19, 1992, the entire Commission was present in Yakutat and conducted 11 hours of public hearings on the petition and model boundaries. Petitioners submitted numerous documents, exhibits and maps to the Commission during the hearing. The community of Tatitlek also made a brief comment by teleconference at the Yakutat hearing.

The Commission kept the record open for two weeks following the hearings, until February 3, 1992, and received approximately 30 more letters and briefs. Because petitioners and others continued to provide materials directly to Commission members following the close of the record, the Commission decided on February 26 to briefly reopen the record to give everyone one last opportunity to comment. Written comments were accepted until 4:00 p.m. on March 13, 1992. Notice of the reopening of the record was published in Anchorage and Juneau newspapers, as well as mailed directly to more than 160 groups and individuals. Approximately 30 more documents were added to the record by the March 13 deadline.

³The community of Chenega also participated in the teleconference.

Decisional Meetings

The Commission met on February 5, 1992 in Anchorage to begin its decisional process on the Yakutat petition and model boundaries. At the request of the Department, the LBC was assisted in its deliberations by contract counsel Jerry Wertzbaugher of Condon, Partnow & Sharrock. During more than 5 hours of discussion and reviewing the record, the Commission began its consideration of the standards and factors for borough incorporation, and discussed the factors relevant to the Yakutat petition in terms of the record. The Commission scheduled the continuation of the meeting for February 26 in Anchorage.

The LBC met but did not deliberate at the February 26 meeting. Because of potential problems resulting from the petitioners and the University of Alaska having submitted materials directly to the LBC Commissioners following the close of the record, the Commission decided to postpone all deliberations until March 17, 1992, several days after the new close of record.⁴

Also at the February 26 meeting, Chairman Bettisworth and Commissioner Johnson both raised the possibility of conflicts of interest which might bar them from participating in the decision.⁵ The potential conflicts were referred to legal counsel.

The Commission met again on March 17, 1992 in Anchorage. The Attorney General had advised both Chairman Bettisworth and Commissioner Johnson that they did not have a conflict of interest under the state's Ethics Act. Because the ethics provisions of the LBC's Bylaws are somewhat different from the state act, the Commission voted on whether to exempt the two Commissioners, as allowed in Article IX of the bylaws, so that they could participate. The vote was 3 to 1 (Chairman Bettisworth not voting) to allow the Chairman to participate and 4 to 0 (Commissioner Johnson not voting) to allow Commissioner Johnson to participate.

During several hours of deliberations, the LBC separately considered each statutory standard on borough incorporation and the factors set out in the LBC's regulations. The Commission eventually voted 4-1 (Commissioner Dugan opposing) to approve the petition to dissolve the City of Yakutat and incorporate the City and Borough of Yakutat, with

⁴At the end of the meeting, the LBC also discussed allegations made by petitioners of unethical or biased actions on the part of the DCRA Commissioner and staff. The Commissioners found no basis for these allegations and unanimously expressed confidence in staff. Because petitioners and others had not remained for this part of the meeting, the LBC again expressed their support for the staff at the March 17 meeting.

⁵Chairman Bettisworth cited the fact that his company has substantial contracts with the University of Alaska. The University was on the record as opposing the proposed boundaries, and during the period between February 5 and February 26, the University strongly voiced its opposition. Mrs. Johnson feared her daughter's job with the North Pacific Rim might give Mrs. Johnson a conflict.

STATEMENT OF DECISION RE: YAKUTAT
BOROUGH INCORPORATION PETITION
PAGE 5

boundaries extending from the 141st meridian in the west to Cape Fairweather in the east.⁶

Before the LBC voted on the motion to approve the petition, the Commissioners amended the motion to include specific findings that Yakutat had neither two communities nor 1000 people, but that because of its geographically unique circumstances, Yakutat had successfully made a persuasive showing that its population was interrelated and integrated, and large and stable enough to support borough government. The basis of the decision to approve the petition and the manner of voting is set out below in the section on Findings and Conclusions.

DESCRIPTION OF YAKUTAT

The first class City of Yakutat is situated by Monti Bay, in the southeastern part of Yakutat Bay. Monti Bay is the only sheltered deep water port in the Gulf of Alaska. The City occupies approximately 8 square miles of land and water. There are roads in the immediate environs of the City, but none leading to the rest of the proposed borough. The 1990 federal census indicated the city proper has a total population of 534, approximately 54% Native, 42% white and 4% other races. Yakutat's Native Alaskan residents are generally considered to be the northernmost group of the Tlingit Indians, but other Native settlers included Eyak Indians and Chugach Eskimo, as well as Ahtna from Chitina.⁷ There was substantial intermarriage and mixing of all of these groups.

From the information provided by petitioners and Yakutat officials, it appears that, except for the logging camp at Icy Bay and perhaps another 10 to 15 people scattered in small groups, all of the permanent residents of the proposed borough live within five miles of the current Yakutat city limits, and are connected to the city by road. State and federal figures indicate the total area served by the City's school district includes slightly over 700 people. This area includes people who live outside the city limits and are therefore in the Chatham REAA. The State pays the Yakutat school district a subsidy to teach non-city students in the Yakutat schools.

The number of students attending the Yakutat schools in the 91/92 school year is approximately 131, including 8 from outside the city limits. Although for the past few years there had been a small Chugach REAA school⁸ operated at Icy Bay, petitioners advised at the February 5

⁶The first vote on the motion was 3 to 2 against the petition, with Commissioners Dugan, Hargraves and Johnson in the majority. Commissioners Hargraves and Johnson's "no" votes were based upon their opposition to the amendment to establish the western boundary at the 141st meridian, and they asked to change their vote on the main motion, creating a 4 to 1 majority in favor of approval.

⁷Information from Chugach Alaska Corporation, in response to the model boundaries studies, advised that there were also Aleut in the area, and that the Chugach Eskimos and the Aleuts were often mistakenly considered to be part of the same group.

⁸For the last year and a half of its operation, the school generally had 3 students.