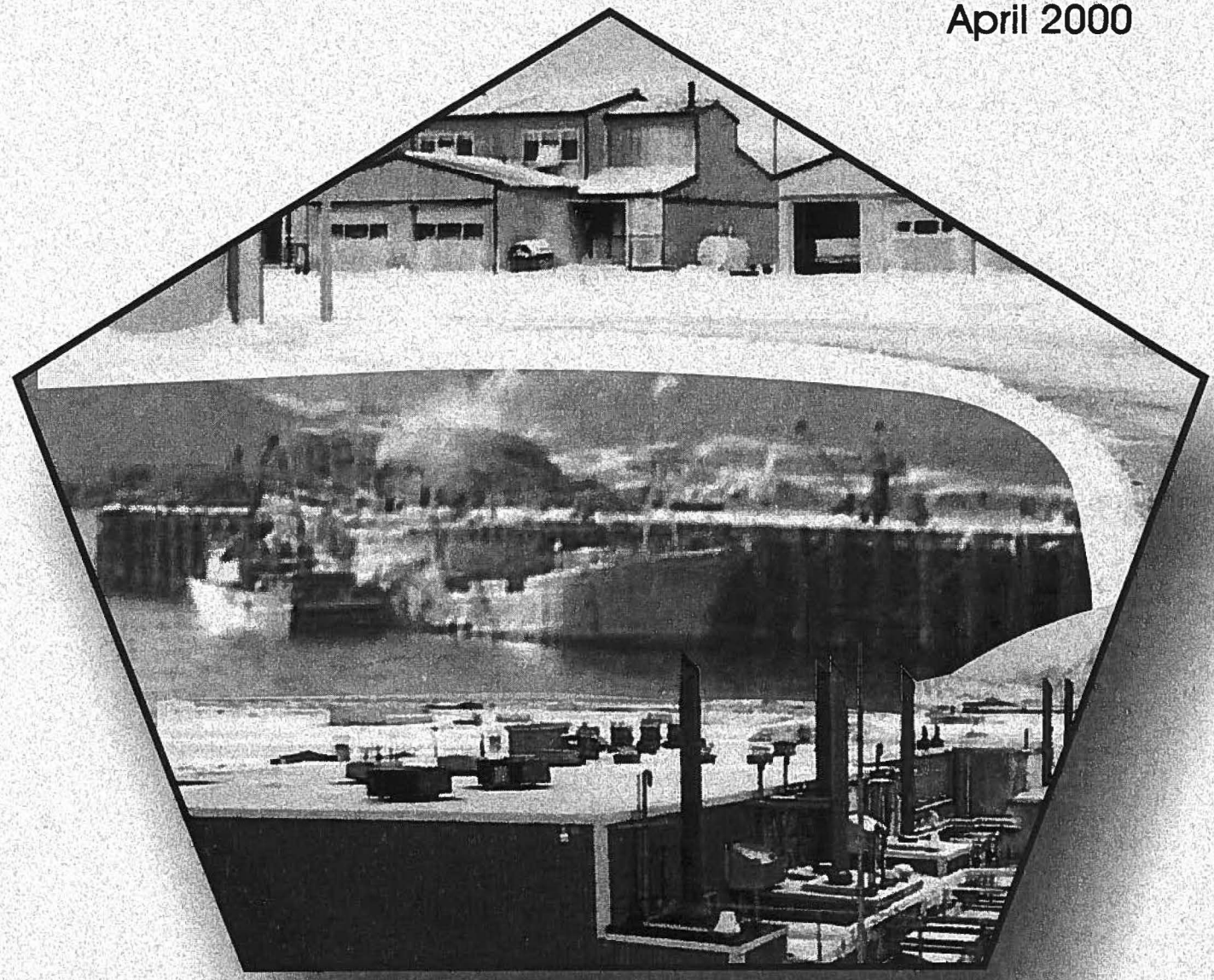
Final Report to the Local Boundary Commission Regarding the Petition to Incorporate the Second Class City of Adak

April 2000



Alaska
Department of Community and Economic Development

Deborah Sedwick
Commissioner

This is the Department of Community and Economic Development's (DCED) final report regarding the petition to incorporate the second class city of Adak. The report can also be found on the internet at the following address:

http://www.dced.state.ak.us/mra/Mrad_lbc.htm

Alaska

Department of
Community and Economic Development

DCED complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at (907) 269-4560.

Tony Knowles, Governor

Alaska Department of Community and Economic Development

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April 6, 2000

Attached is the Final Report of the Alaska Department of Community and Economic Development concerning the petition to incorporate a second class city of Adak.

The Final Report recommends that the Local Boundary Commission amend and approve the incorporation petition, subject to satisfaction of conditions as set forth in Part 4 (page 1) of this Final Report.

The Local Boundary Commission will conduct a public hearing on the incorporation petition in Adak at the following date, time, and location:

6:30 p.m. Hawaii-Aleutian Daylight Savings Time

April 28, 2000

Bob Reeve High School Recreation Room

Additional copies of our Final Report are available through the Anchorage office of the Municipal and Regional Assistance Division. The report is also available on the Internet at:

http://www.dced.state.ak.us/mra/Mrad_lbc.htm

Cordially,

Patrick K. Poland
Director

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ACKNOWLEDGEMENTS

Policy direction concerning the final recommendation of the Department of Community and Economic Development (DCED) to the Local Boundary Commission was provided by the following DCED and other State policy makers:

- Deborah B. Sedwick, Commissioner
- Jeff Bush, Deputy Commissioner
- Bernice Joseph, Deputy Commissioner
- Lamar Cotten, Deputy Director, Alaska Industrial Development Authority
- Patrick K. Poland, Director, Municipal and Regional Assistance Division

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- Tess Carr, Alaska Department of Environmental Conservation
- Paul Dick, Alaska Department of Revenue
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- Keith Jost, DCED
- Karol Kolehmainen, Aleutians West Coastal Resource Service Area
- Agafon Krukoff, Petitioners' Representative
- Jennifer Malatesta, Arthur Andersen & Associates
- George Plumley, DCED
- Jennifer Roberts, Alaska Department of Environmental Conservation
- Robert Urich, U.S. Navy Engineering Field Activity, Northwest
- Marjorie Vandor, Assistant Attorney General, Department of Law
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Part 1 - Introduction

On February 19, 2000, the Department of Community and Economic Development (DCED) issued its Preliminary Report regarding the petition to incorporate a second class city of Adak. The DCED Preliminary Report is amended by this document, which serves as DCED's final report on the Adak incorporation proposal as required by 3 AAC 110.530.

The DCED Preliminary Report recommended that the petition be denied. After DCED policy makers carefully considered the comments on DCED's Preliminary Report and further analyzed issues relating to the incorporation proposal, DCED has revised its preliminary recommendation. The final recommendation of DCED is that the petition be amended and approved, subject to satisfaction of specific conditions set forth in Part 4 of this document.

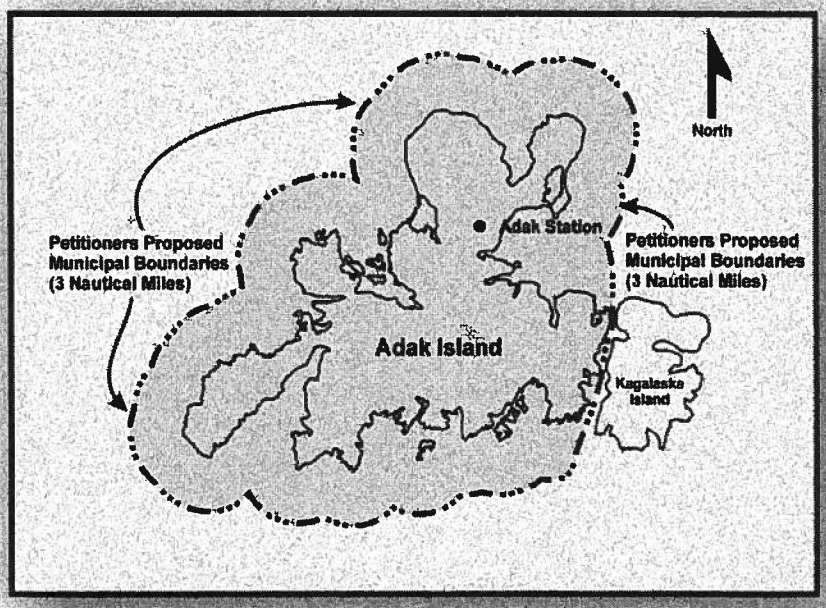
With the issuance of this final report, responsibility for judging the merits of the Adak incorporation proposal now shifts to the Local Boundary Commission (LBC). As stated in DCED's Preliminary Report, the LBC is an autonomous board created under Alaska's constitution to objectively consider municipal incorporation and boundary issues from a statewide perspective.

DCED's recommendation in this matter is not binding on the Local Boundary Commission. The LBC may approve, amend, or deny the petition in a manner other than that recommended in Part 4 of this report. This report is but one component of the evidence that the LBC will weigh in making its decision. Other key elements in the record of the Adak city incorporation proceedings that will be considered by the LBC include:

- the April 28, 1999 petition for incorporation of the City of Adak;
- four letters expressing views concerning the incorporation petition;
- a responsive brief from the U.S. Fish and Wildlife Service;
- the Petitioners' August 25, 1999 responsive brief;
- six letters offering comments on DCED's Preliminary Report;
- testimony to be provided at the April 28, 2000 hearing.

The LBC is scheduled to hold a public hearing on the incorporation proposal at the Bob Reeve High School at Adak on Friday, April 28, 2000, beginning at 6:30 p.m. (7:30 p.m. Alaska Daylight Time).

If the LBC approves the Adak incorporation proposal, Adak voters will decide the question at an incorporation election conducted by the Office of the Lieutenant Governor, Division of Elections.



Petitioners Proposed boundaries of the City of Adak.

Part 2 - Update of Proceedings

The 112-page Preliminary Report regarding the Adak incorporation proposal detailed the actions that occurred between the filing of the petition in April 1999 of last year and the publication of the Preliminary Report in February. The Preliminary Report also described incorporation proceedings that would occur after the Preliminary Report was issued.

This part of the report provides an update of the specific actions that have taken place since DCED's Preliminary Report was issued.

The Preliminary Report was mailed on February 19, 2000 to the Petitioners' Representative, the respondent, and 87 individuals and organizations interested in this proceeding.

The LBC Chairperson established March 22, 2000 as the deadline for comment on the report.

Written comments on DCED's Preliminary Report were submitted by:

- Jennifer Malatesta, Arthur Andersen & Associates (one-page letter dated March 3, 2000);
- State Senator Lyman Hoffman and State Representative Carl Moses (two-page letter dated February 28, 2000);
- Karol Kolehmainen, Aleutians West CRSA (one-page letter dated March 14, 2000);
- Michael A. Adams (four-page letter dated March 12, 2000 and two-page letter dated January 25, 2000);
- Robert Urich, Department of the Navy (two-page letter, dated March 22, 2000);
- Agafon Krukoff, Jr., Adak Community Council (twelve-page letter received March 21, 2000).

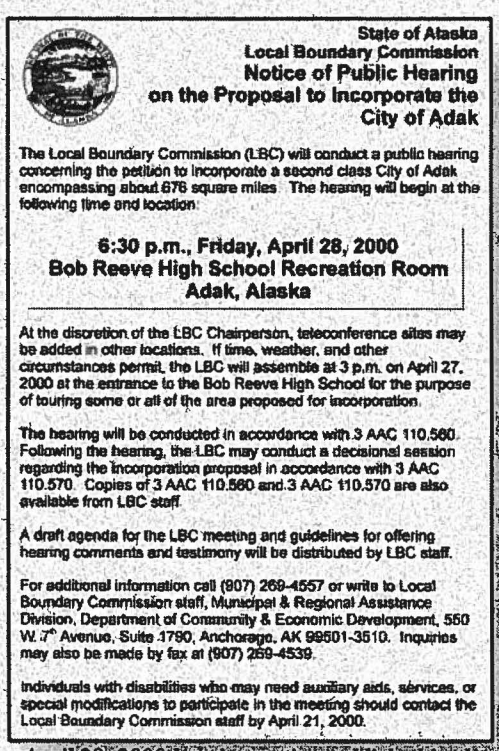
Copies of the comments were provided to each member of the LBC and are included in the appendix to this report.

Public notice concerning the April 28, 2000 hearing was published and posted as required by law. A copy of the notice of the hearing was mailed to 94 individuals and organizations on March 16, 2000. The notice was published in the *Anchorage Daily News* on March 20, 2000. Publication also occurred in the *Dutch Harbor Fisherman* on March 30 and April 6, 2000.

On March 17, 2000, notice of the hearing was sent to 300 postal box holders at Adak. Additionally, notice was published in the *Alaska Administrative Journal*.

A request to broadcast public service announcements of the April 28, 2000 hearing on the Adak cable television information channel was sent to the Petitioners' Representative on March 17, 2000.

On March 17, DCED provided the Petitioners' Representative with a copy of the notice of the April 28, 2000 hearing to post in public and prominent places within the area proposed for incorporation.



State of Alaska
Local Boundary Commission
Notice of Public Hearing on the Proposal to Incorporate the City of Adak

The Local Boundary Commission (LBC) will conduct a public hearing concerning the petition to incorporate a second class City of Adak encompassing about 676 square miles. The hearing will begin at the following time and location:

6:30 p.m., Friday, April 28, 2000
Bob Reeve High School Recreation Room
Adak, Alaska

At the discretion of the LBC Chairperson, teleconference sites may be added in other locations. If time, weather, and other circumstances permit, the LBC will assemble at 3 p.m. on April 27, 2000 at the entrance to the Bob Reeve High School for the purpose of touring some or all of the area proposed for incorporation.

The hearing will be conducted in accordance with 3 AAC 110.560. Following the hearing, the LBC may conduct a decisional session regarding the incorporation proposal in accordance with 3 AAC 110.570. Copies of 3 AAC 110.560 and 3 AAC 110.570 are also available from LBC staff.

A draft agenda for the LBC meeting and guidelines for offering hearing comments and testimony will be distributed by LBC staff.

For additional information call (907) 269-4557 or write to Local Boundary Commission staff, Municipal & Regional Assistance Division, Department of Community & Economic Development, 550 W. 7th Avenue, Suite 1790, Anchorage, AK 99501-3510. Inquiries may also be made by fax at (907) 269-4539.

Individuals with disabilities who may need auxiliary aids, services, or special modifications to participate in the meeting should contact the Local Boundary Commission staff by April 21, 2000.

April 28, 2000 hearing notice published in the Anchorage Daily News and Dutch Harbor Fisherman.

Part 3 - Consideration of Comments on DCED's Preliminary Report

The previously-noted six letters offering com ments on DCED's Preliminary Report comprised a total of twenty pages. This section of DCED's Final Report gives due consideration to the comments submitted regarding DCED's Preliminary Report that relate to city incorporation standards.

The following standards must guide the determination of the Local Boundary Commission regarding the proposed city incorporation.

1. Do the boundaries of the proposed city include all land and water necessary to provide the full development of essential city services on an efficient and cost-effective basis?

2. Is the area proposed for incorporation limited to the present local community, plus reasonably predictable growth, development and public safety needs during the decade following the effective date of incorporation?

3. Do the proposed city boundaries include entire geographic regions or large uninhabited areas not justified by the application of other incorporation standards?

4. Does the economy of the proposed city include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level?

5. Is the population of the community large and stable enough to support city government?

6. Is there is a demonstrated need for city government?

7. Can essential city services be provided more efficiently or more effectively by annexation to an existing city or organized borough?

8. Does the petition include a practical plan demonstrating the proposed city's intent and capability to extend essential municipal services in the shortest practicable time after incorporation?

9. Will incorporation deny any civil or political right to any individual because of race, color, creed, sex, or national origin?

10. Will incorporation of the City of Adak be in the best interest of the State of Alaska?

11. Does Adak constitute a community, as demonstrated by people living close together in a neighborhood setting as demonstrated by relevant factors such as:

- unrestricted public access to reside there;
- the lack of any contiguous or adjacent community; and
- people living at Adak on a permanent basis for reasons other than conditions of employment?

1. Do the boundaries of the proposed city include all land and water necessary to provide the full development of essential city services on an efficient and cost-effective basis?

In his March 21, 2000 letter regarding the DCED preliminary report, Petitioners' Representative Agafon Krukoff, Jr., Adak stated:

"We propose a different view of the state standard that staff insists is 'expansive'. The community needs the fish tax revenue generated from the entire island area, including the south end of the island - even if we can't precisely determine the incremental annual amount

of revenue that will come to the city from those areas. City control over this area for revenue generation purposes is as important to the survival and success of the city as is physical room to grow. The fish tax revenue that is expected to accrue to the city from tramper/catcher transfers in bays and harbors along the south side of the island is vital to the successful operation of the city over the long term. Adopting the petition's boundary request also solves many 'out of jurisdiction' problems that Unalaska and other communities have, and are, facing. It provides a small amount of added ability to influence federal actions that will impact Adak. It recognizes the reality that 'first-response' search and rescue will most likely originate from the City than from state or federal assets located many, many hundreds of miles distant. Additionally, the city will be administering, managing, monitoring and improving a hazard warning system for the entire island as hikers, campers, hunters, tourists and boaters will all originate from the city. Adak's natural geographic features are perfectly suited for the requested boundary. We do not believe that State legislators mandated a physical growth consideration only, but instead wanted to assure that all the land needed for proper development of the city was included in the petition."

DCED Response. In terms of boundaries of the proposed City, DCED reaffirms the views stated in the February 19, 2000 Preliminary Report. The expansive boundaries proposed by the incorporation petition are nearly as large as those of the Bristol Bay Borough. (The City of Adak, as proposed by the petition, would encompass 676 square miles. The Bristol Bay Borough's boundaries encompass 850 square miles.) DCED's recommended boundaries, encompassing 71.72 square miles, are nearly three times larger than the boundaries of the average city in Alaska, (27.1 square miles). DCED does not consider the Mr. Krukoff's assertion that establishing city boundaries which are regional in scope in order to provide the city with *added ability to influence federal actions* as compelling. In offering its recommended amended boundaries, DCED's recommendation reflects a concern with the potential that a poor precedent would be advanced if city boundaries analogous to borough boundaries are established. If, over time, conditions develop which demonstrate that inclusion of the rest of Adak Island in the City of Adak is appropriate, annexation may be proposed.

If a City of Adak is incorporated with boundaries as proposed by the petition, the City of Adak would have the most expansive boundaries of any city in Alaska. Not only would it be the largest city in Alaska, but its boundaries would be almost 50% larger than those of the next largest city, the City of Skagway. Table 1 contains data regarding the ten cities in Alaska having the largest geographic jurisdictions. 1998 populations are given as well as population density figures. It should be noted that boundaries of all of the ten most expansive cities were established their boundaries prior to the adoption of the provisions of 3 AAC 110.040(b) and (c) for incorporation and similar provisions in 3 AAC 110.130(c) and (d) for annexation. Those regulations were adopted by the Local Boundary Commission in 1992, in recognition of a developing tendency for expansive City boundary proposals and the fact that such city boundaries were inconsistent with the constitutional intent that cities are community governments and that boroughs are regional governments with regional responsibilities.

The neighboring City of Atka has 105 residents and boundaries encompassing 37.6 square miles. The City of St. George has113 residents has boundaries encompassing 34.9 miles of land and 26.6 square miles of water.

2. Is the area proposed for incorporation limited to the present local community, plus reasonably predictable growth, development and public safety needs during the decade following the effective date of incorporation?

Mr. Krukoff's March 22 letter states, *"We urge you to adopt the view that the state standard be applied, not in a limiting manner, i.e. only for the minimum land needed for physical growth for the next ten years, but in a manner that takes an economic perspective in mind; i.e. the minimum needed for community economic viability."*

DCED Response. DCED does not consider the potential that floating seafood processors may enter inland waters on the south side of Adak Island to be commensurate with reasonably predictable growth and development. Although the Petitioners' Representative contends that future City of Adak-based search and rescue activities require jurisdiction over hundreds of square miles of roadless, vacant wilderness and offshore areas may exist, DCED notes that municipal search and rescue functions may legally be provided on an extraterritorial basis.[1]

3. Do the proposed city boundaries include entire geographic regions or large uninhabited areas not justified by the application of other incorporation standards?

Mr. Krukoff's March 22, 2000 letter states, *"Natural geographic features assist in justifying the requested boundaries. There is no more distinct natural feature on the island than the water land interface of the island. It is illogical and wrong to say that Adak's natural geographic features don't appear to support the requested boundaries."*

DCED Response. DCED reaffirms the view stated on page 45 of the Preliminary Report that much of the justification for the proposed configuration of the City of Adak's boundaries would be more pertinent to establishing borough boundaries, but is not relevant to establishing proper city boundaries. This issue was addressed by DCED staff at the January 28, 2000 informational meeting at Adak.

[1] AS 29.35.020, AS 18.60.120

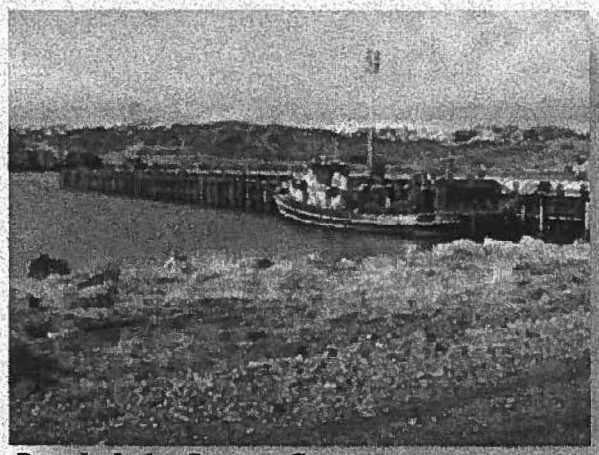
Table 1 - Cities in Alaska Having the Largest Geographic Jurisdictions

City	1998 Population	Class of City	Square Miles of Land	Square Miles of Water	Total Square Miles	1998 Population Per Square Mile
Skagway	814	1st Class City	454.7	11.1	465.8	1.7
Saint Paul	761	2nd Class City	40.4	255.2	295.6	2.6
Valdez	4,155	Home Rule City	218.8	54.6	273.4	15.2
Unalaska	4,285	1st Class City	115.8	98.6	214.4	20.0
Togiak	801	2nd Class City	44.8	126.8	171.6	4.7
Egegik	132	2nd Class City	135.0	2.5	137.5	1.0
Nightmute	222	2nd Class City	97.2	4.6	101.8	2.2
Wrangell	2,589	Home Rule City	58.9	33.7	92.6	28.0
Pilot Point	102	2nd Class City	66.7	16.5	83.2	1.2
Cold Bay	103	2nd Class City	58.0	21.9	79.9	1.3

4. Does the economy of the proposed city include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level?

In his letter of March 22, 2000, Mr. Krukoff rejects concerns expressed in the DCED preliminary report regarding the ability of a small (in terms of population), nascent second class city to assume responsibility for the elaborate, extensive, and expensive infrastructure of the former Naval facility. *"Essential services to the petitioners are those services enunciated in the petition. Utilities are not required to be a part of the city. It is incorrect for staff to suggest that because the city is not involved in operating utilities that it does not meet the criteria for a second class city. Staff goes on to say that it is 'troubling' for the city to take on the responsibility for operation of key infrastructure -when such facilities are not proposed as a part of the city's plan.*

Staff suggests that since the city cannot demonstrate a current ability to obtain pro-forma revenues, or operate some facilities at the proposed level, that the community should be considered 'questionable'. We believe that many communities obtain city status on proposed and reasonable ability to obtain revenue and operate normal general government functions. A new City of Adak should not be condemned, or considered 'questionable' because it has not yet started to operate. The city budget was put together using other community's experiences as a guide. Even if a line item or two on the proposed budget appears low, so too should revenues appear low. There is a small amount of excess revenue that is anticipated for the city at even current levels of fish and fuel tax activity levels to provide a contingency against expense overruns. Revenue may be available to purchase a port operating vessel capable of limited search and rescue activities sooner than our transition plan envisions. In any event, the community's proposed budget is in line with other community operating budgets that are functioning satisfactorily.


Boat docked at Sweeper Cove.

DCED Staff attempts to build an image of the City of Adak failing as a result of having to operate extremely expensive infrastructure. Staff builds an impression that all infrastructure currently paid for by the Navy must be operated by the new city. This is misleading and wrong. Staff knew that the expensive utilities (those that comprise the substantial majority of the referenced $15 million per year) are not included as city run or operated infrastructure. They also know that substantial changes are proposed to decrease the cost of operating the small systems that remain in use after Navy departure. They know that not all infrastructure will even be operated after final Navy departure. Staff should have instead looked at the cost that the Navy currently pays to operate the services that are planned for city take-over. The city is not proposing to operate the expensive infrastructure on the island. Utilities will be priced by ARC or private operators at levels that will not drive off industrial/commercial development."

DCED Response. DCED's Preliminary Report did not categorically state that the

standard was not met. Instead it described the existence of a degree of uncertainty regarding the proposed city's role, if any, in delivery of key community services after incorporation. If, as stated in Mr. Krukoff's March 22 letter, the City will not assume responsibility for key infrastructure, DCED concerns in this context are diminished. Even though the information provided in support of the petition reflects a decidedly hazy and ambiguous scenario regarding future operation of basic Adak community infrastructure, DCED policy makers do not consider such concerns as constituting grounds for denial of the petition.

5. Is the population of the community large and stable enough to support city government?

Mr. Krukoff's March 22 letter states *"The population of the proposed city is presently large enough to support city government. Forecasting population on Adak is difficult. Perhaps it is more difficult to forecast for Adak than for other proposed cities. But to single out one of many possibly scenarios, i.e. that Adak will fail - instead of continuing, or growing, and then using only that one scenario to forecast the future is not fair to the community, or true to the facts of reuse as we see them today. If a guess must be made as to the prospects for successful reuse, than use the lease up rate, and the success of private companies coming to Adak to-date as a more proper base from which to draw conclusions about the future. The two largest employers, Adak Seafoods and Aleut Enterprise Corporation lease hundreds of thousands of square feet of developed buildings in Adak. They are both making money and expect to make additional investments, employ additional people, sponsor additional families and grow.*

Staff characterizes Adak's population as 'short-term' and 'transient' yet many who signed the petition have been working at Adak for over two years. Some have sold homes and moved to Adak permanently. Some are just waiting for city status to ramp up additional private development. The community is growing an economy that will change present employment patterns as it goes.

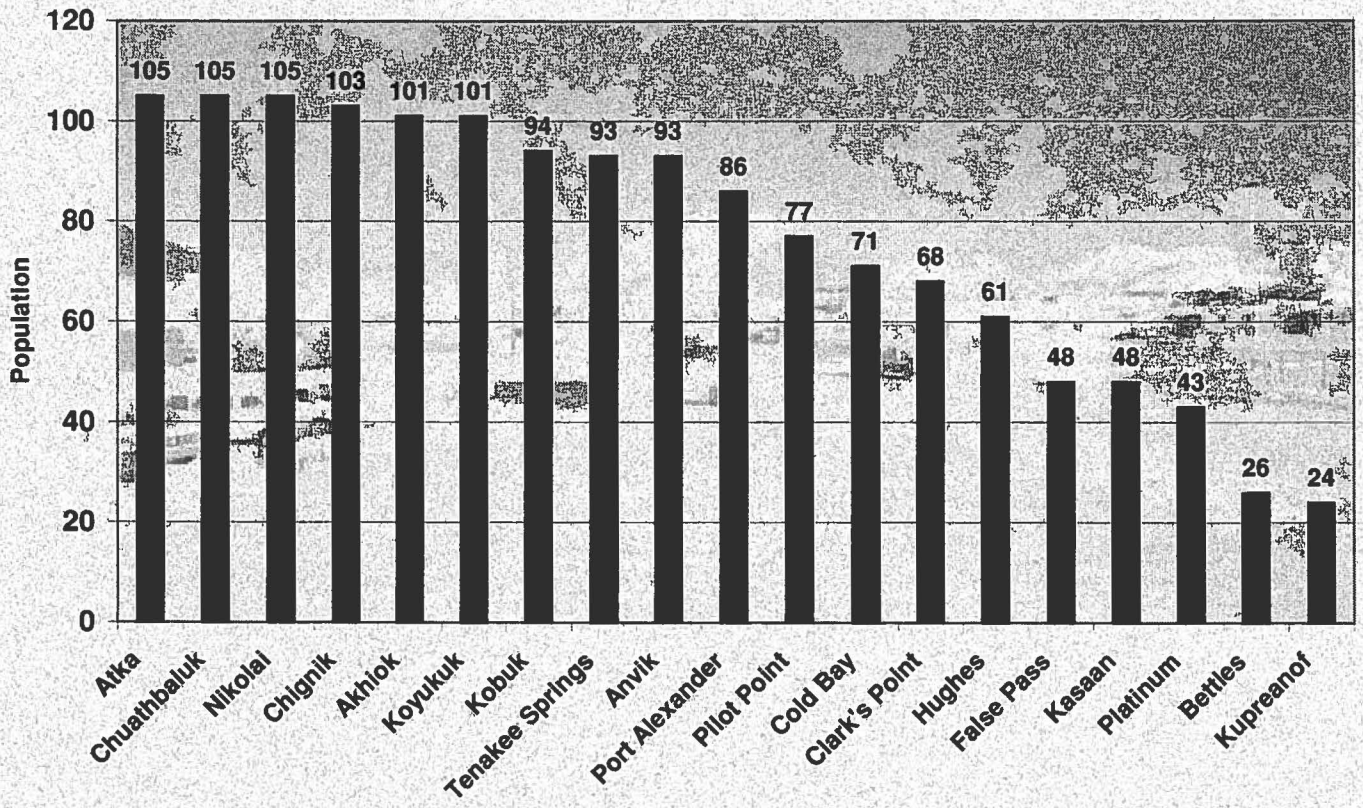
Staff defines the only reasons for Adak population fluctuations as ' a number of Navy contractors' and 'seasonal seafood processors'. Yet they do not tell about the 18 Aleut Enterprise Corporation full time, year-round employees, the Aleutian Region School District, the US Fish and Wildlife Service, the new store operator, Reeve Aleutian Airlines or other small, but growing private businesses.

Staff states the fact that 'Adak appears to be large enough to support a small government' yet in the next sentence they lay out a failure scenario that contradicts the current success of privatization and lease up of Adak facilities over the last two years. Using loaded, subjective terms like 'questionable whether the population will be large enough or stable enough to support a municipal government' when we appear to be making more money today (fish and fuel tax revenue for the city) than envisioned in the pro-forma revenue projection, is not fair to the facts at hand or to the new community. It is large and stable enough. It appears stable for the future. And yes, there is always the possibility that circumstances will turn.

Staff uses no adjectives when describing Adak's year-round families who regard the community as their permanent home. They make the sterile statement that these families '. . .-suggest an element of population stability consistent with satisfaction of the standard.' Yet in the next sentence they manufacture a word-image against the community by saying 'However the record suggests that many, if not most, people are (only) short term visitors working for Navy contractors and transient employees of the local fish processor or Aleut Enterprise Corporation subsidiaries.

Table 2

Cities with Less Population than the Proposed City of Adak



What 'record' do they have that has anything to do with life on Adak after Navy departure. Our petition describes a small, tight community living within its means and selectively using Navy-built infrastructure to produce a quality, sustainable, growing economy. Staff inappropriately uses past Navy-dominated personnel events to trash a logical view of the future of Adak."

DCED Response. DCED reaffirms the statement at page 65 of the February 19, 2000 Preliminary Report, that the present population of Adak appears to be large enough to support a second class city government exercising minimal functions. In spite of the obstacles that may confront the community in the future, DCED believes it appropriate to adopt a liberal view of the standard. Further, DCED recognizes that there are currently 19 active second class cities with less population than the 106 residents of Adak recorded by the Alaska Department of Labor and Workforce Development in 1999 (see Table 2).

6. Is there is a demonstrated need for city government?

Mr. Krukoff's March 22, 2000 letter regarding the DCED Preliminary Report states, *"The territory does demonstrate a need for City government. However, we can't tell from the staff report if we demonstrate enough of a need to meet staff's*

standard for city incorporation. Is there a magic amount of 'need' that must be demonstrated, or can staff just condemn the petition by saying that in their opinion we don't qualify. Of course people can better govern themselves on Adak with a local city government especially given the alternative of a company-owned-town or (possibly), a federal designation as a tribal village. This is true by definition. What standard of 'need' is staff saying that the community does not meet? We are, and will be attracting hundreds of foreign and domestic vessels to a previously unused (in normal 'use' terms) territory of Alaska. Public safety may, probably will be added as a city service when revenue is available. Proper public process on the island is needed even without public safety. A feeling of community and sacrifice has already been shown to exist and more of this 'sense of community' is needed. Minorities can have their voice heard in a far better way than by not having a city. What more needs to happen to counter the decree of staff that Adak 'may not demonstrate a need for city government'? Certainly the desire of federal and state regulators who (until the preliminary staff report was issued) looked to city ordinances as their best vehicle for enforcing what are essentially public land use controls' gives one example of 'need'. The community would evaluate Navy, EPA and ADEC intentions, see if they came with permanent funding for implementation and debate whether to adopt such institutional controls by ordinance or not. What better example of 'need' is there than placing into public consideration public land use and safety controls?"

DCED Response. In the February 19, 2000 Preliminary Report, DCED expressed concern that if the airport at Adak were to cease operation, Adak's viability for community living would be diminished. If Adak ceases to function as a community and the City of Adak becomes inactive, the State of Alaska would become successor to assets and liabilities of the dissolved city, absent careful precautions.

It is implicit that a diminution of the need for city government would occur if Adak does not evolve into a residential community. Nevertheless, DCED recognizes that it is possible that the community will successfully evolve in such a manner. During the period since the issuance of the Preliminary Report, DCED took the initiative to explore possible measures to relieve concerns about the State of Alaska becoming successor to an inactive and dissolved City of Adak, should efforts prove unsuccessful to sustain a residential community and city government at Adak. A March 22, 2000 memorandum on the subject from MRAD Director Patrick Poland to the Department of Law is included in the appendix to this report. Such measures are set forth in Part 4 of this document. Provided that the State of Alaska is reasonably insulated from future liability, DCED concerns on this point would be relieved and the standard considered reasonably satisfied.

Adak airport runway.

7. Can essential city services be provided more efficiently or more effectively by annexation to an existing city or organized borough?

As stated at page 71 of the February 19, 2000 DCED Preliminary Report, it is obvious that this standard is not a barrier to incorporation of a City of Adak.

8. Does the petition include a practical plan demonstrating the proposed city's intent and capability to extend essential municipal services in the shortest practicable time after incorporation?

Mr. Krukoff's March 22, 2000 letter states, *"The petition includes a community transition plan. The included plan met the requirements of DCED staff when it was reviewed and approved for submission in early 1999. However staff now may feel that the plan is lacking in the number of details to extend essential municipal services in the shortest possible time. The community will develop a more precise plan for extending essential City services - as a clarification of our prior submitted petition to be presented to the Commission during its public hearing on Adak."*

DCED Response. It was never suggested by DCED that acceptance of the incorporation petition for filing on May 10, 1999 reflected DCED's views that the standards for city incorporation were satisfied by the petition. DCED's analysis of the merits of petitions occurs after briefs are filed and public comment is received and considered.

The Local Boundary Commission cannot accept submissions of additional written information concerning the petition plan unless such submission is approved by the Chairman of the Local Boundary Commission.[2] Since DCED does not have the benefit of such written information at this time, it cannot comment on the extent to which the prospective "more precise plan" will address the issues raised in DCED's Preliminary Report.

On March 22, 2000, Commissioner Waring inquired to DCED staff as follows. *"What is the staff recommendation to the Commission about which of the sites and facilities listed in the Land Transfer Agreement should at minimum be committed to the proposed municipality by transfer or long-term lease at the time of incorporation in order to secure its operation as an independent municipal government."*

Any real property transferred to the City would normally only be transferred in the context of specific services. The anticipated the petition suggests that the services provided by the City would initially be limited to road maintenance and recreation, cemetery, library and volunteer fire department. With the exception of the cemetery, delivery of such services would require little, if any, real property. DCED's concerns have related to a need for prudent safeguards against the City being saddled with real property assets that it did not need or could not afford to operate and maintain.

9. Will incorporation deny any civil or political right to any individual because of race, color, creed, sex, or national origin?

Incorporation of a City of Adak would enhance the civil and voting rights of minority Adak residents since it would extend to such residents the right to

2 3 AAC 110.500 (a) provides that "Unless otherwise ordered by the chairperson of the commission, for good cause shown, no document, letter or brief will be accepted for filing and consideration by the department or the commission except in accordance with the procedures, timeframes, hearings and meetings specified in 3 AAC 110.400 - 3 AAC 110.660."

vote in municipal elections and hold elective office at the City level. DCED considers the standard to be satisfied.

10. Would incorporation of the City of Adak be in the best interests of the State of Alaska as required by AS 29.05.100?

Since Adak is in the unorganized borough, incorporation of a City of Adak would promote local self-government as the favored by the Alaska constitution. In that sense, city incorporation would be in the best interests of the State.

DCED considers the potential that the City dissolution could result in the State of Alaska becoming successor to unwanted real property assets at Adak to be counter to the best interests of the State of Alaska. However, if appropriate steps are taken to shield the State from such an eventuality, such concerns can be relieved. DCED's recommendation in Part 4 of this Final Report describes such steps.

DCED concludes, therefore, that incorporation of the City of Adak does serve the best interests of the state.

11. Does Adak constitute a community, as demonstrated by people living close together in a neighborhood setting as demonstrated by relevant factors such as:

- **unrestricted public access to reside there;**
- **the lack of any contiguous or adjacent community; and**
- **people living at Adak on a permanent basis for reasons other than conditions of employment?** (3 AAC 110.920)

On March 28, 2000, Petitioners' Representative Agafon Krukoff, Jr. advised DCED staff that although Island Clearance must be granted prior to travel to Adak, such clearance will be discontinued after October 1, 2000.

He indicated that, in terms of employment, there are no restrictions upon employment at Adak, except that persons who have been convicted of a felony within the past five years are not allowed to travel to Adak. He indicated that basic health care is available to everyone at Adak without restriction.

Mr. Krukoff also indicated that there are no restrictions on residence at Adak, other than the prohibition against persons with felony convictions within five years.

OTHER ISSUES.

1. Chairperson Waring inquired to LBC staff whether the following issue referenced at page 6 of the incorporation petition has been addressed to the satisfaction of the Alaska Department of Environmental Conservation:

"The Navy has received permission from the Alaska Department of Environmental Conservation and the U.S. EPA, to transfer land that is suspected of containing a small amount of unexploded ordinance – only on the condition that disciplined execution of specific institutional controls, including ordinances requiring the City of Adak approval for dig permits, fencing and signage are in place prior to US Navy withdrawal from Adak."

DCED Response.

According to DCED Planner John Gliva, "*circumstances have changed since the petition was filed. Although the current draft of the land transfer agreement identifies the prospective city as being responsible for implementing the institutional controls, the reasons that approach was included in the agreement have changed. At the time the language was developed it was*

anticipated that the land transfer agreement would have been completed by this point. The Navy, at that point in the process felt it was important that a city be responsible for implementing the controls. However, since the initial language was developed, changes have occurred in the process. The Navy's position at this point is that EPA and DEC are the entities that are responsible for determining who will be responsible for implementing the controls. Based on recent comments from DEC and EPA, both agencies are will require that the institutional controls established as part of the land transfer be implemented for the purpose of protecting public health and welfare. However, both agencies are not requiring that a city government be responsible for implementing the controls.

Since DEC and EPA are no longer requiring that the City of Adak be responsible for implementing the institutional controls, the petition should be amended to render incorporation no longer contingent upon adoption of an institutional controls ordinance at the incorporation election."

At the request of LBC staff, DEC staff reviewed Mr. Gliva's statement and provided the following comments.[3]

"Re the statement: 'The Navy's position at this point is that EPA and DEC are the entities that are responsible for determining who will be responsible for implementing the controls.' The EPA and DEC have always held that the Navy will be responsible for implementing institutional controls at Adak. As long as the ICs are satisfactory to the EPA and DEC, the Navy can hand off their implementation and management to another entity (e.g. TAC), but at this time the responsibility and accountability for ICs remains with the Navy.

Re. the summary statement that: 'Since DEC and EPA are no longer requiring that the City of Adak be responsible for implementing the institutional controls, the petition should be amended to render incorporation no longer contingent upon adoption of an institutional controls ordinance at the incorporation election.' This is essentially correct, with the minor correction that DEC and EPA never did require that the City of Adak be responsible for implementing institutional controls. We were, instead, receptive to the proposal that ICs be managed by a city. ADEC's primary concern is that ICs be adequate, that they be enforceable, and that their adequacy and enforceability be documented, reviewed, and approved by the agencies. The party responsible for defining and carrying out the ICs may be the Navy, or their agent, as long as we know who that party is.

2. Commissioner Waring inquired whether the petitioners addressed to the satisfaction of the Department of Law, Division of Risk Management, or other appropriate state agency any state concerns that it might succeed to the liabilities of a defunct City of Adak?

DCED Response.

The Division of Risk Management's objective is to protect the financial assets and operations of the State of Alaska from accidental loss through a comprehensive self-insurance program for normal and expected property and casualty claims of high frequency and low severity, combined with high limit broad form excess insurance protection for catastrophic loss exposures.

Risk Management acts as the insurance carrier for each State agency, funding all sudden and accidental property and casualty claims. The annual premiums allocated by Risk Management are the maximum each agency is called upon to pay. This planning for known and cata-

3 The DEC comments were received from Tess Carr and Jennifer Roberts.

strophic losses forestalls the need for the affected agency to seek supplemental appropriation or disrupt vital state services after a major property loss, adverse civil jury award, or significant workers' compensation claim.

The Department of Law has not raised concerns about potential liability of the State of Alaska should the City be dissolved. DCED asked the Department of Law for legal guidance on the issue. A memorandum from the MRAD Director to the Department of Law is included in the appendix to this Final Report. The Department of Law has not yet provided the legal counsel requested on this point, but such is expected prior to the Local Boundary Commission's April 28, 2000 public hearing.

3. Who shall fund airport operation and maintenance if city incorporation is approved?

DCED Response.

A letter from Christopher H. Gates, Executive Director of the Adak Reuse Corporation, replied to that question in a letter dated March 22, 200. A copy of the letter is included in the appendix to this report.

4. How many Alaska Permanent Fund Dividend applications have been filed each year since 1990 by persons with Adak mailing addresses?

DCED Response.

The Department of Revenue advised LBC staff that there were 113 permanent fund dividend applications from Adak for 1999 dividends and 87 for 1998. Department of Revenue staff advised that figures for the previous years of the decade were not readily available, but would be provided upon receipt of a written request. A written request for such information was sent to the Department of Revenue, but no response has been forthcoming yet.

5. The incorporation petition makes several references to tourism as a local economic activity. Can staff provide any information on the recent scale of tourist visitorship as distinct from business visitors?

DCED Response.

On March 28, Petitioners' Representative Agafon Krukoff, Jr. advised LBC staff that cruise ships visited Adak twice in 1997 and once in 1998. He indicated that bird watchers also visit Adak, but no enumeration of such visitors to Adak for bird watching is available.

Part 4 - Conclusion and Final Recommendation

It is DCED's responsibility in this matter to offer an objective recommendation to the LBC based on the standards existing in law for incorporation of a second class city in the unorganized borough.

After carefully considering the comments on DCED's Preliminary Report and further independent analysis by DCED concerning potential liabilities to the State of Alaska should the City of Adak dissolve, DCED maintains certain recommendations made in that report but has revised others.

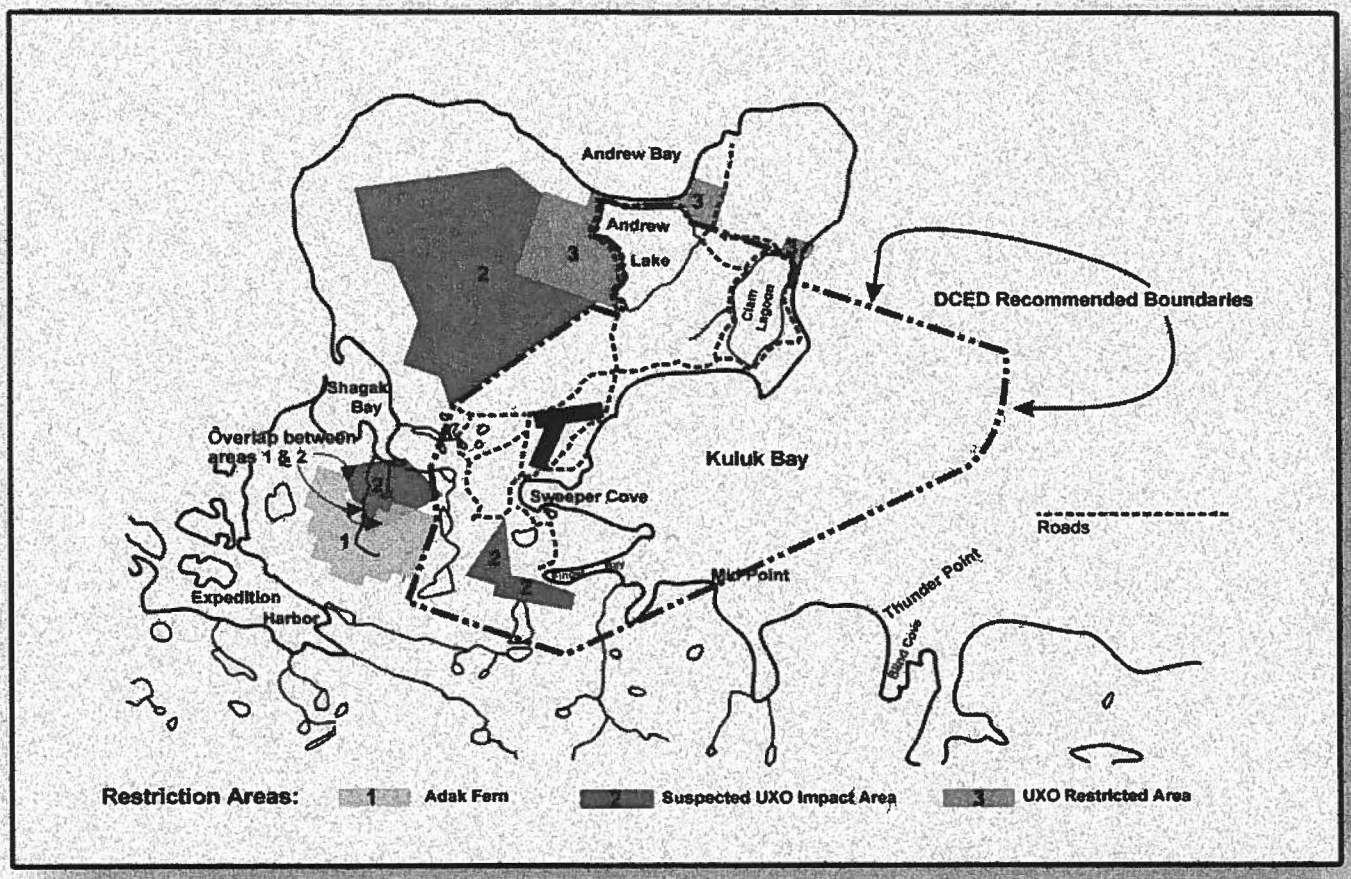
Specifically, DCED maintains its preliminary recommendations that, if incorporation is approved:

- the Local Boundary Commission should amend the boundaries of the proposed city to encompass an estimated 71.72 square miles instead of the 676 square miles proposed by the petition;
- city incorporation should be conditioned upon voter authorization at the incorporation election of the levy of a 3% sales tax by the City of Adak;
- city incorporation should be conditioned upon voter authorization at the incorporation election of the levy of a 2% fuel transfer tax.

DCED has modified its preliminary report by supporting approval of an amended incorporation petition, with the following provisions:

- the Local Boundary Commission condition city incorporation upon execution of an agreement between the State of Alaska and The Aleut Corporation that, at the discretion of the State, any real property transferred to the City of Adak by The Aleut Corporation or its subsidiaries revert to ownership of The Aleut Corporation, subsidiaries of The Aleut Corporation, or an organized borough, if the City of Adak is dissolved as a result of proceedings initiated within a defined period of time to be determined by the Local Boundary Commission, but no less than ten years from the date of incorporation;
- the Local Boundary Commission amend the petition to remove the provision that incorporation shall be conditioned upon voter approval of an institutional controls ordinance.

The boundaries recommended by DCED for the proposed City of Adak consist of 31.18 miles of land and 40.54 square miles of offshore territory. A map of the recommended boundaries appears on the following page.


Andrew Bay
Andrew
Lake
Clam Lagoon
DCED Recommended Boundaries
Shagak Bay
Overlap between areas 1 & 2
Kuluk Bay
Sweeper Cove
Roads
Mid Point
Thunder Point
Expedition Harbor
Restriction Areas:
1 Adak Fern
2 Suspected UXO Impact Area
3 UXO Restricted Area

Appendices

Contents

Two-page memorandum dated March 22, 2000 from Patrick Poland, Director, Municipal & Regional Assistance Division to Marjorie Vandor, Assistant Attorney General, Department of Law.

Two-page letter dated February 28, 2000 from State Senator Lyman Hoffman and State Representative Carl Moses.

Two-page letter dated March 13, 2000 from Deborah Sedwick, Commissioner of the Department of Community & Economic Development, to State Sentator Lyman Hoffman and State Representative Carl Moses.

Twelve-page letter dated March 21, 2000 from Agafon Krukoff, Jr., Adak Community Council.

Two-page letter dated March 22, 2000 from Chris Gates, Adak Reuse Corporation to Patrick Poland, Director, Municipal and Regional Assistance Division

One-page letter dated March 3, 2000 from Jennifer Malatesta, Arthur Andersen & Associates.

Four-page letter dated March 12, 2000 and two-page letter dated January 25, 2000 from Michael A. Adams.

One-page letter dated March 14, 2000 from Karol Kolehmainen, Aleutians West CRSA.

Two-page letter, dated March 22, 2000 from Robert Urich, Department of the Navy.

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MEMORANDUM

State of Alaska

Department of Community and Economic Development

TO: Marjorie Vandor
Assistant Attorney General

DATE: March 22, 2000

FILE NO:

FROM: Patrick K. Poland
Director
Municipal and Regional
Assistance Division

TELEPHONE:

SUBJECT: Adak Incorporation

This follows up our informal written inquiries of February 28 and 29 concerning ways to mitigate concerns over risks the State would face in regard to incorporation of the City of Adak.

You were previously provided with a copy of DCED's February 19, 2000 preliminary report concerning the pending petition for incorporation of the City of Adak. The preliminary report recommends that the Local Boundary Commission deny the petition, in large part, because of the concern that the prospective city government in Adak may ultimately prove to be infeasible.

As is discussed on pages 69-70 of our preliminary report, if the prospective city were to form and subsequently become inactive, AS 29.06.450(b) (regarding dissolution of inactive cities) and AS 29.06.520 (concerning succession by the state to the assets and liabilities of certain dissolved municipalities) may place the State in the role as successor to the prospective City of Adak. The liabilities that the State would face in such an instance are potentially substantial.

We wish to explore ways in which the State might insulate itself from the risks of becoming the successor to the City of Adak should it form and subsequently dissolve. One option that we would like to particularly consider is for the Local Boundary Commission to condition incorporation on the execution of an agreement between the Aleut Corporation and the State addressing the State's potential risks. Such an agreement might provide that if the City of Adak dissolves and there is no municipality willing to become its successor, the Aleut Corporation will agree to assume all liabilities of the City. Such an agreement might provide further that the Aleut Corporation, at the discretion of the State, will agree to be the successor to some or all assets, contracts, etc., of the City.

We note that the Commission appears to enjoy broad authority under AS 29.05.100 (as amended by ch 86, SLA 1999) to impose conditions on incorporation of cities.

If there is a way to ensure that the State of Alaska will not be saddled with Adak's massive water and sewer utilities, landfills, fuel storage facilities, electrical utilities, certain lands and buildings, and a host of other "assets" as well as debts and other liabilities of the City, DCED may be willing to view the petition in more favorable terms in its final report. The Adak incorporation proposal is certainly unique with regard to the nature of the community. While we have

legitimate reservations about the viability of the community over the long-term, others are suggesting that our views may be overly cautious (see "Adak's Future Could Be Bright", by Tim Bradner, Anchorage Daily News, 2/27/00).
We understand that the Aleut Corporation has indicated that it would be willing to insulate the State in the general manner outlined above in order to address the State's concern.

By law, we must publish our final report concerning the Adak incorporation proposal by April 7, 2000. Given the limitations of 3 AAC 110.500(a), that is the last guaranteed opportunity this agency has to address our concerns before the Local Boundary Commission's April 28, 2000 hearing on the matter. Therefore, if possible, I would appreciate a written response concerning this matter by noon on April 3.

Alaska State Legislature

Official Business

State Capitol
Juneau, AK 99801-1182

February 28, 2000

The Honorable Deborah B. Sedwick, Commissioner
Department of Community & Economic Development
P.O. Box 110800
Juneau, Alaska 99811-0800

Dear Commissioner Sedwick:

We are writing to express our concerns over the *Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Second Class City of Adak.* Many of our constituents have been working hard for several years to establish a viable community at Adak. We have followed their efforts closely and been quite impressed with their spirit and achievements in the face of tough odds and difficult challenges.

The work of local residents, the Adak Reuse Corporation (ARC) and the Aleut Regional Native Corporation to achieve commercial reuse of the assets of the former Naval Air Station is proceeding ahead of schedule and producing real dividends. Numerous local, regional, state and national benefits have been realized already. Continued operation of the first-class jet airport supports local and regional transportation needs, while serving as an important emergency alternative for many international flights.

A number of new, well paying, permanent jobs have been created (e.g., onshore fish processing; fuel tank farm operations; other marine support services). State revenues have been increased from new marine fuel and fishery taxes on activity that, in major part, did not occur previously. Over one million square feet of buildings have been leased from the Navy and put into commercial reuse.

Adak has a new onshore fish processing facility, Adak Seafoods, which processed over 6.8 million pounds of product last year. Additional fish transfers occurred in Adak waters. More floating and onshore processing is expected. The ARC estimates that these activities have generated between $200,000 to $300,000 or more in state fishery business and landing tax revenues during fiscal year (FY) 2000.

Adak's fueling facilities provide an impressive capability to serve the commercial fishing industry and other commercial marine operations in the area. About 3 million gallons of fuel has been sold in the last year, which means another $150,000 in state marine fuel tax revenue during FY 2000. The Russian fishing fleet has expressed interest in using Adak for crew transfers and fueling support. Some activity of this nature has occurred already, including use of the airport for emergency medical transfers. The U.S. Coast Guard is looking closely at additional use of the airport and port facilities to support operations in adjacent waters.

This effort has been achieved without any financial help from the State with one exception. Two years ago, the ARC received a reappropriation of about $150,000 in one-time money, which was used to pay for a Village Public Safety Officer (VPSO) over the last 18 months and to match a small federal airport planning grant. These funds have run out, and this cost is now being covered with local contributions and other sources.

Making this effort come together successfully is a massive undertaking. Unlike most other base closings, Adak does not receive federal transition assistance and had no existing community in place to step in to provide needed public services. The ARC and the local residents have already overcome many challenges to transition these facilities to commercial reuse. Adak's remote and isolated location increases the challenge confronting those working to achieve success.

While we have not conducted a comprehensive review of the entire Preliminary Report, we are troubled by an underlying attitude by staff that appears to prevail throughout the document to view each issue is as negative a light as possible. It almost appears that staff has tried to find every conceivable argument to justify a recommendation against this petition. We find this approach unfair and counterproductive to viewing the submitted petition objectively.

State policy has been to encourage governmental organization when possible. This policy remains in effect even in the face of legislative actions over the last several years such as sizeable reductions in municipal assistance, revenue sharing and other important public services. These actions clearly work at cross purposes with the stated goal to encourage local governmental organization. It may also suggest a need to reconsider the standards used to judge incorporation requests in the future.

We recognize there are certain questions that need further attention by the petitioners and the ARC. Paramount among this list is to explain how the airport will be kept open and whether there is a way to minimize the State's liability in case of a future dissolution action. On the basis of our research, we are confident that the petitioners have satisfactory answers to these concerns. However, the petitioners cannot succeed if the assigned staff working on this issue are unwilling to be reasonable and flexible in looking at the entire picture.

We understand that the Local Boundary Commission (LBC) must conduct this review in an independent and responsible fashion. Accordingly, we have chosen to communicate these concerns to you since your department serves as the staff to the LBC. Achieving incorporation of the community at Adak as a second class city is essential if this undertaking is going to have any chance to succeed. We remain available to assist in whatever manner appropriate to help my constituents accomplish their goals.

Sincerely,

Lyman Hoffman
Alaska State Senate

Carl Moses
Alaska State House

Tony Knowles, Governor

Alaska Department of Community and Economic Development

Office of the Commissioner
P.O. Box 110800, Juneau, AK 99811-0800
Telephone: (907) 465-2500 • Fax: (907) 465-5442 • TDD: (907) 465-5437
Email: questions@dced.state.ak.us • Website: www.dced.state.ak.us/

March 13, 2000

The Honorable Lyman F. Hoffman
State Senator, District T
State Capitol, Room 7
Juneau, AK 99801-1182

The Honorable Carl Moses
State Representative, District 40
State Capitol, Room 500
Juneau, AK 99801-1182

Dear Senator Hoffman and Representative Moses:

Thank you for your letter of February 28 expressing concern over our preliminary report and recommendation regarding the petition for incorporation of a second class City of Adak.

I sincerely regret that you found our approach to be *"unfair and counterproductive to viewing the submitted petition objectively."* It is also unfortunate that you perceive *"an underlying attitude by staff that appears to prevail throughout the document to view each issue in as negative a light as possible."* I hope that a clarification of our role with respect to city incorporation proceedings will alleviate your concerns.

AS 29.05.080 requires us to investigate city incorporation proposals. Naturally, our investigation focuses on the threshold set out in AS 29.05.100 concerning whether the proposal "meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state."

By raising issues and relevant public policy concerns such as the future of the Adak airport and risks to the State in the event the City of Adak forms and later dissolves, I believe that we are carrying out our duties in a credible and proper fashion. Your letter, in fact, acknowledges those two concerns as paramount issues that must be addressed by the petitioners.

By raising those issues in our preliminary report, the petitioners are now clearly aware that they must address those matters in a satisfactory manner. Had we not raised those concerns and, instead, endorsed the incorporation proposal because it may have been expedient to do so, it would have been a grave disservice to the petitioners – your constituents.

In that event, the Local Boundary Commission, which is independent of this agency, would most certainly have raised those difficult questions during its April 28 hearing. The petitioners would then be faced with the prospect of rejection of their petition or a protracted delay until arrangements could be made to address those concerns. More than likely, we would have then been criticized by the Commission and perhaps the petitioners for not raising those issues during the course of our investigation.

As it is, we are now conferring with the Department of Law on ways that the State might mitigate the risks that we all recognize it would face if the City of Adak forms. If we are able to do so, it will do much to relieve our public policy concerns over the incorporation proposal.

Again, I thank you for your comments regarding this matter. I hope my response eases your concerns.

Cordially,

Deborah B. Sedwick
Commissioner

March 21, 2000

Local Boundary Commission Staff
State of Alaska
Department of Community and Economic Development
550 W. 7th Avenue, Suite 1790
Anchorage, Alaska 99501

Regarding: Community Response to Preliminary Report to the Local Boundary Commission Regarding the petition to Incorporate the Second Class City of Adak

Dear Mr. Poland:

Comes now the Adak Community Council, by and through its appointed spokesman to correct and respond to DCED staff recommendation against formation of a Second Class City on Adak as contained in the "Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Second Class City of Adak".

At the outset it is important that we restate in the strongest way possible our earnest desire to be a City under the mantle of State of Alaska oversight and process. Incorporation is vital to our strategic plan of encouraging investment and growth in Adak. Many companies and families look to the stability of known systems and laws as a prerequisite for considering investing in, and moving to, Adak. The alternatives of a "Company town or a tribal creation (if possible) are not the best course for Adak or the State of Alaska. We recognize the benefits of State sanction and urge your approval of our petition as submitted, or as you see fit to modify.

Recognizing the short and long term benefits of incorporation, the community put considerable effort into preparing and responding to the petition process. We entered the process believing that the State of Alaska had a small bias in favor of incorporating communities who are prepared to assume the responsibilities of city status. We thought that the State desired to see new communities incorporated out of the Unorganized Borough to allow citizens more local control and self-determination over events that impacted them and their local areas. We wanted to build a strong sense of community that has already led many of our citizens to sacrifice personal gain for the community good. We wanted to establish links between families that are not just based on money or economic gain, but in a desire to grow a new community. While we remain prepared to have and operate a successful city on Adak, we are now skeptical that the State system desires to see new communities.

We were quite surprised to see the subjective statements and what some consider as bias directed against our efforts towards city incorporation in the Preliminary Report by DCED staff. To us it seems that staff is using every effort to convince the Commission that the Adak cup is "half-empty" rather than "half-full". Perhaps they are trying to balance what they perceive as over-optimism on the part of the community. Perhaps they have a real fear that Adak will not survive as a city. For whatever the reason, this letter must now focus not only on correcting factual errors and errors in conclusion, but also we must now attempt to prove a negative – that Adak will not fail. This is a standard that no community in Alaska could possibly meet yet we will respond to statements of staff that are unduly pessimistic and negative. We suggest that there would be no communities allowed in the state if staff's view of qualifying criteria were totally adopted by the Commission.

Therefore the remainder of this response will address:

A. Responding to the three main concerns put forward by DCED staff,
B. Providing a point by point discussion of the conclusions to qualifying criteria and issues outlined in the Executive Summary, and
C. Providing clarifications to our petition (by Exhibit)

A. Three fatal areas for our petition according to staff include:

1. The petition area is too large
2. The community cannot survive without federal (or external) airport assistance
3. The State cannot allow the petition to be accepted because it may result in unacceptable liability being added to the State of Alaska.

1. The requested area is too large.

Adak has asked for the area that it needs for a community to survive. We propose a different view of the state standard that staff insists is "expansive". We urge you to adopt the view that the state standard be applied, not in a limiting manner, i.e. only for the minimum land needed for **physical** growth for the next ten years, but in a manner that takes an economic perspective in mind; i.e. the minimum needed for community **economic** viability. The community needs the fish tax revenue generated from the entire island area, including the south end of the island – even if we can't precisely determine the incremental annual amount of revenue that will come to the city from those areas. City control over this area for revenue generation purposes is as important to the survival and success of the city as is physical room to grow. The fish tax revenue that is expected to accrue to the city from tramper/catcher transfers in bays and harbors along the south side of the island is vital to the successful operation of the city over the long term. Adopting the petition's boundary request also solves many "out of jurisdiction" problems that Unalaska and other communities have, and are, facing. It provides a small amount of added ability to influence federal actions that will impact Adak. It recognizes the reality that "first-response" search and rescue will most likely originate from the City than from state or federal assets located many, many hundreds of miles distant. Additionally, the city will be administering, managing, monitoring and improving a hazard warning system for the entire island as hikers, campers, hunters, tourists and boaters will all originate from the city. Adak's natural geographic features are perfectly suited for the requested boundary. We do not believe that State legislators mandated a physical growth consideration only, but instead wanted to assure that **all** the land needed for proper development of the city was included in the petition.

2. Adak cannot survive without a subsidized airport.

Staff is off-base in stating that without a subsidized airport Adak will not survive. We suggest that staff misunderstood the community's attempt to get assistance from the FAA and state ADOTPF in operating under FAA Part 139 rules rather than running a more normal community airfield. The misunderstanding becomes explainable when viewed from the perspective of an older report that suggests that Adak will have to pay over $800,000. to operate a non-Part 139 certificated airfield. The community believes that it can run a non-Part 139 airfield for a very small amount of money that could be donated by companies or provided by landing fees and a small amount of city labor. The field would operate as most airfields in the state using VFR approaches only. While this hampers growth and development of Adak it is not fatal to the continued growth and development of the community. While we are working

on maintaining scheduled jet service from Anchorage, the Commission should know that Part 139 service is **not** a prerequisite for community survival. Many small villages do not have FAA Part 139 service yet many communities operate quite well with small community airports. Yes it will be inconvenient. Yes it will require citizen volunteers and city workers to address runway maintenance in addition to other duties. Yes it will prohibit scheduled airline service for aircraft of greater than 30 seats. Yes it will require service from Cold Bay or Unalaska instead of scheduled service from Anchorage. But the airport would still be able to handle a hundred cargo 747's a week under charter. It could easily move twice the number of passengers handled by Unalaska in a year. It could handle the same class of aircraft that have served Atka and many other villages throughout Alaska for many years. Please do not believe staff's assertion that without an $800,000 per year airport "...sustaining a city would be impossible."

3. If Adak fails it may add liability to the State of Alaska.
How could any community not add liability to the state if it failed? Every community has the potential to fail, yet in our review of past petitions, only Adak is singled out where this takes on the character of a "fatal" problem in the petition. We ask for no more or less of a relationship with the State of Alaska then did Anchorage or Pelican when they became political subdivisions of the State. In order to provide an additional measure of "protection" to the State, the community has requested that The Aleut Corporation (TAC) consider providing a contractual mechanism to re-take liability from the city for "Exhibit E" facilities in the event of a community dissolution. Since TAC will not be a party to the city's use of transferred assets this may be problematic. We are awaiting TAC's response to that request and will supply it to staff when received from them.

Executive Summary Discussion:

We address Executive Summary points as staff conclusions to details located throughout the Preliminary Draft report. We do not restate staff positions or recommendations, but instead we address the underlying concerns expressed in the report.

1. Pg 1, Para. 1:
The boundaries of the proposed city includes the land and water **necessary** to provide full development of essential city services.

- Pg 1, (Para. starting "Land use...)
Land use supports inclusion of the entire area because all of the island will receive a measure of city service. The entire island is needed for incremental revenue generation from fish tax revenues for the successful **development** and operation of the city over time.

- Pg 1, (Para. starting "The expansive...)
The area is not "expansive". There is no definition of the land needed by all cities from which to judge that Adak is expansive or not. In fact the regulations are clear that cities can be any size the meets the requirements of statute – whether a thousand square miles - or two. The issue that staff should focus on is what land does Adak need to include for its proper development. The answer is we need all

land in the natural geographic area that can provide on-going revenues to meet the disproportionately expensive costs of city operation (due to its remote location) over the long term. Staff has not addressed the fault of the petition on the reasons that the boundaries were addressed in the first place. The requested area fits the state standard for natural geographic features. The area is necessary for incremental fish tax revenue generation, increased planning coordination with the federal landowner, avoidance of rogue "out-of-jurisdiction" land uses (like Unalaska), recognition of the fact that nearly all use of the south end of the island will originate from people coming from the community, and proper service delivery to the entire island for the "Blue Card" safety program, and search and rescue services (increasing) over time. The requested area is practical and responsible in that it recognizes the practical reality of life on Adak while optimizing the probability of financial and operation success for the city.

- Pg 1, (Para. starting: Existing and reasonable...)

Existing and reasonable anticipated transportation patterns do support the proposed boundaries. Fishing boats trans-ship and off-load fish cargoes in protected bays around the island. Fishing is taking place around the island. Cruise ships circumnavigate Adak. Tourists and fishing charters originating in the north end of the island use shores and waters throughout the island. Also, fishing, exploration and other boats will require an increasing amount of city response and assistance from time to time as use increases.

- Pg 1, (Para. starting: Natural geographic...)

Natural geographic features assist in justifying the requested boundaries. There is no more distinct natural feature on the island than the water land interface of the island. It is illogical and wrong to say that Adak's natural geographic features don't appear to support the requested boundaries.

- Pg 1, (Para. starting:" Considerations relating to ...)

Extra-territorial powers of cities do not address the primary reason for inclusion of the entire island, i.e. the ability to better fund city services from fish taxes brought about as a result of cargo transfers in Adak's bays on the south end of the island. It is petitioner's belief that a new city should not be built around a premise of supplying services in an extraterritorial manner where revenues for the service from the start of a city. Perhaps as needs change extraterritorial actions will become necessary, but a city should be designed correctly from the outset to match known service delivery points to the area enclosed by the city.

2. Pg 3, (Para. starting:" The area...)

The area proposed for development is limited to the area occupied by the present residential and commercial use area plus an area around the island that is needed for the proper fiscal development of the community.

3. Pg 3, (Para. starting:" The proposed ...)

The proposed city boundary includes only those areas covered by an expected "Blue Card" safety system to inform all island users of safety hazards associated with prior military use of Adak. Additionally, the area includes the area where city search and rescue services will, to the extent to which it is able, respond to distressed vessels and stranded hikers/boaters.

4. Pg 3, (Para. starting:" The economy…)
The economy of the proposed city does include the resources needed to provide essential city services.

- Pg 3, (Para. starting:" Reasonably anticipated…)

Essential services to the petitioners are those services enunciated in the petition. Utilities are not required to be a part of the city. It is incorrect for staff to suggest that because the city is not involved in operating utilities that it does not meet the criteria for a second class city. Staff goes on to say that it is "troubling" for the city to take on the responsibility for operation of key infrastructure – when such facilities are not proposed as a part of the city's plan. P3, para 4, line 8.

- Pg 3, (Para. starting:" The anticipated ability…)

Staff suggests that since the city cannot demonstrate a current ability to obtain pro-forma revenues, or operate some facilities at the proposed level, that the community should be considered "questionable". We believe that many communities obtain city status on proposed and reasonable ability to obtain revenue and operate normal general government functions. A new City of Adak should not be condemned, or considered "questionable" because it has not yet started to operate.

- Pg 3, (Para. starting:" The anticipated operating…)

The city budget was put together using other community's experiences as a guide. Even if a line item or two on the proposed budget appears low, so too should revenues appear low. There is a small amount of excess revenue that is anticipated for the city at even current levels of fish and fuel tax activity levels to provide a contingency against expense overruns. Revenue may be available to purchase a port operating vessel capable of limited search and rescue activities sooner than our transition plan envisions. In any event, the community's proposed budget is in line with other community operating budgets that are functioning satisfactorily.

- Pg 4, (Para. starting:" As a consequence…)

DCED Staff attempts to build an image of the City of Adak failing as a result of having to operate extremely expensive infrastructure. Staff builds an impression that all infrastructure currently paid for by the Navy must be operated by the new city. This is misleading and wrong. Staff knew that the expensive utilities (those that comprise the substantial majority of the referenced $15 million per year) are **not** included as city run or operated infrastructure. They also know that substantial changes are proposed to decrease the cost of operating the small systems that remain in use after Navy departure. They know that not all infrastructure will even be operated after final Navy departure. Staff should have instead looked at the cost that the Navy currently pays to operate the services that are planned for city take-over. The city is not proposing to operate the expensive infrastructure on the island. Utilities will be priced by ARC or private operators at levels that will not drive off industrial/commercial development[1].

[1] There is no debt to include in pricing structure. There are spare parts for most systems on island.

- Pg 4, (Para. starting:" If a functioning...)

It is incorrect to say that a functioning airport is required for community viability if the staff definition of "functioning" is anything other than a normal community airport. The statement that "...operation of the airport may **depend** upon a special appropriation from the federal government to maintain operations for five years." is not in line with community intentions to run a community airport even if it does not receive federal assistance. While the community is seeking federal assistance to upgrade operation of the airfield to meet the requirements of FAA Part 139 service, it is wrong to imply that the community cannot exist unless we have this level of service.

- Pg 4, (Para. starting:" Property valuations...)

The inclusion of property valuations as an "indicator" of incorporation success has more than one use. The commission should be informed about the quality and quantity of developed real and personal property in a community whether or not a property tax is being proposed for a newly incorporated community. Staff should not keep the commission ignorant of, or just dismiss, the 4.5 million square feet of developed buildings on Adak. At the least, the possibility of enacting a property tax on the 900,000 square feet of space **already successfully under commercial lease** represents a source of contingent revenue, if the city ever experienced financial difficulties, or wanted to expand into other general government or utility systems. A property tax can be assessed by the community in the future if financial difficulties arise.

- Pg4, (Para. starting:" Land use...)

Existing land uses on Adak are island wide. They are not limited to just the downtown area. Staff's opinion and statement about existing land use is inaccurate when hikers, hunters, subsistence gathers, community recreation, tourism and fish transfers are taken into consideration.

- Pg 4, (Para. starting:" Existing and reasonable...)

"Existing and reasonable anticipated industrial, commercial and resource development for the proposed city is questionable." Petitioners believe that the Commission will see that there is easily enough economic activity occurring on Adak today to maintain a sustainable community – especially when compared against many communities that do not have the level of commercial activity that Adak now enjoys. Considerable new interest in Adak's port facilities and fisheries processing is apparent and growing. There are lands and buildings to accommodate the development needs of Adak for many years. Further the city has proposed boundaries that take into consideration future revenue needs of the community. We consider these to be "resource development" areas because revenue is created for the community by natural resource activities (fish transfers).

- Pg. 4, (Para. starting:" Personal Income...)

Personal income data for residents is not available until after incorporation.

- Pg 5, (Para. starting:" Commitment and interest...)

Commitment to the city by its residents is evident to even the most casual observer.

- P. 5, (Para. starting:" Commitment and interest...)

The preliminary staff report condemns incorporation by suggesting that the daunting prospect of operating the "elaborate infrastructure" is out of reach of the new city. Yet the proposal for incorporation is clear that that city is **not** the entity proposed to be responsible for operating the "elaborate infrastructure." We see a false statement set up and then used as argument against incorporation.

- Pg 6, (Para. starting:"In terms of stability ...)

It is not conclusively demonstrated that **any** city's proposed workforce will last one day after any city's formation. Yet in Adak's case this lack of "conclusive demonstration" is established as an argument against allowing a city to become established.

5. Pg 5, (Para. starting:" The population ...)

The population of the proposed city is presently large enough to support city government. Forecasting population on Adak is difficult. Perhaps it is more difficult to forecast for Adak than for other proposed cities. But to single out one of many possibly scenarios, i.e. that Adak will fail - instead of continuing, or growing, and then using only that one scenario to forecast the future is not fair to the community, or true to the facts of reuse as we see them today. If a guess must be made as to the prospects for successful reuse, than use the lease up rate, and the success of private companies coming to Adak to-date as a more proper base from which to draw conclusions about the future. The two largest employers, Adak Seafoods and Aleut Enterprise Corporation lease hundreds of thousands of square feet of developed buildings in Adak. They are both making money and expect to make additional investments, employ additional people, sponsor additional families and grow.

- Pg 5, (Para. starting:" The record suggests...)

Staff characterizes Adak's population as "short-term" and "transient" yet many who signed the petition have been working at Adak for over two years. Some have sold homes and moved to Adak permanently. Some are just waiting for city status to ramp up additional private development. The community is growing an economy that will change present employment patterns as it goes.

- Pg 5, (Para. starting:" The population of Adak...)

Staff defines the <u>only</u> reasons for Adak population fluctuations as "number of Navy contractors" and "seasonal seafood processors". Yet they do not tell about the 18 Aleut Enterprise Corporation full time, year-round employees, the Aleutian Region School District, the US Fish and Wildlife Service, the new store operator, Reeve Aleutian Airlines or other small, but growing private businesses. They do not show the activity levels in the port or the use of the airfield for military and other planes. While the Commission may come to the conclusion that Adak is too early in its formation to be allowed to exist as a city, the Commission should at least have all the facts - those that show good prospects for reuse as well as the selected facts presented by staff that suggest a failing operating scenario.

- Pg 5, (Para. starting:" The present population…)

Staff states the fact that "**Adak appears to be large enough to support a small government.**", yet in the next sentence they lay out a failure scenario that contradicts the current success of privatization and lease up of Adak facilities over the last two years. Using loaded, subjective terms like "questionable whether the population will be large enough or stable enough to support a municipal government" when we appear to be making more money today (fish and fuel tax revenue for the city) than envisioned in the pro-forma revenue projection, is not fair to the facts at hand or to the new community. It **is** large and stable enough. It appears stable for the future. And yes, there is always the possibility that circumstances will turn.

- Pg 6, (Para. starting:" In terms of stability …)

Staff uses no adjectives when describing Adak's year-round families who regard the community as their permanent home. They make the sterile statement that these families "…suggest an element of population stability consistent with satisfaction of the standard." Yet in the next sentence they manufacture a word-image against the community by saying "However the record suggests that many, if not most, people are (only) short term visitors working for Navy contractors and transient employees of the local fish processor or Aleut Enterprise Corporation subsidiaries." What "record" do they have that has anything to do with life on Adak after Navy departure. Our petition describes a small, tight community living within its means and selectively using Navy-built infrastructure to produce a quality, sustainable, growing economy. Staff inappropriately uses past Navy-dominated personnel events to trash a logical view of the future of Adak.

- Pg 6,(Para. starting:" The record…)

Again staff judges the petition, (and infers that the reader should agree with their judgment) by using some instrument call "The record" to condemn the vision of Adak as presented in the petition. The city's plans can not be judged by the downsizing of Navy operations from 6000 people to 200 in the '96 to 2000 time period. The city's plans should **not** be judged against a "record" dominated by Navy clean-up activities over the last two years. It should look to the logic and reality of private profits that companies can and are making when they use Navy stuff on Adak. Commission should conclude that while Adak is a long way from developed areas it still makes sense to conduct business on the island and employ families - especially those families who love living there - as the labor force. And, by-the-way there appears to be enough direct and indirect jobs to reasonably support a sustainable growing community. And, by-the-way, it's the only full-service port within almost a thousand miles of the international fleet. And, by-the-way Adak happens to be located in the middle of almost untouched halibut, cod and rockfish resource. And, by-the-way, Adak happens to be very conveniently located to help other ships stay longer on other fishing grounds because they can buy fuel on Adak at Dutch Harbor prices. And, by-the-way Adak happens to have its own local protected fishery for small boat fishermen.

6. Pg 6, (Para. starting:" The territory...)
The territory **does** demonstrate a need for City government. However, we can' tell from the staff report if we demonstrate enough of a need to meet staff's standard for city incorporation. Is there a magic amount of "need" that must be demonstrated, or can staff just condemn the petition by saying that in their opinion we don't qualify. Of course people can better govern themselves on Adak with a local city government especially given the alternative of a company-owned-town or (possibly), a federal designation as a tribal village. This is true by definition. What standard of "need" is staff saying that the community does not meet? We are, and will be attracting hundreds of foreign and domestic vessels to a previously unused (in normal "use" terms) territory of Alaska. Public safety may, probably will be added as a city service when revenue is available. Proper public process on the island is needed even without public safety. A feeling of community and sacrifice has already been shown to exist and more of this "sense of community" is needed. Minorities can have their voice heard in a far better way than by not having a city. What more needs to happen to counter the decree of staff that Adak "may not demonstrate a need for city government"? Certainly the desire of federal and state regulators who (until the preliminary staff report was issued) looked to city ordinances as their best vehicle for enforcing what are essentially public land use controls [2] gives one example of "need". The community would evaluate Navy, EPA and ADEC intentions, see if they came with permanent funding for implementation and debate whether to adopt such institutional controls by ordinance or not. What better example of "need" is there than placing into public consideration public land use and safety controls?

- (Para. starting:" The petition ...)

Maybe the control of a "Dig Permit" Institutional control on Adak could be administered from a remote borough, or even from ADEC's office in Anchorage, but it would not be the best location for what is an essentially a local land use control. Staff states on the following page that:

> "Essential City Services cannot be provided more efficiently or more effectively by annexation to an existing city or provided by an existing organized borough."

Most would agree that if government needed to be involved in administering or enforcing ADEC required Institutional Controls than they would best be performed at the local level. Staff's suggestion that this could be handled by a future borough or by another government is not a practical alternative, or a reason to say that a city is not needed.

- Pg 6, (Para. starting:" Adak clearly ...)

Staff starts their analysis of the need for city government by declaring that Adak may not need a city. They then state that "Adak clearly exhibits well-documented health and safety issues." Doesn't this suggest that Adak **would** be well served by city government? Isn't public safety one of the things that cities do best? Isn't grant writing for health care a positive reason for a city when in some cases only a branch of government qualifies for grants or assistance?.

[2] These are associated with a discarded and unexploded ordinance hazards that the Navy proposes to leave on Adak.

- Pg 6, (Para. starting:" If a community...)

The report goes on to say that if a community is not viable over the long term, there is no demonstrated need for City government. The first reaction of those preparing this response is a unanimous – Of course! But what city's petition would meet this? Do we have to show "X" years of pre-incorporation activity to "prove" long term city viability in order to qualify under staff's standard? How many years? What are the rules for this?

- Pg 7, (Para. starting:" If dissolution...)

Staff paints a factually incorrect picture of the airport "closing" as being the end of the community, with the state then being "saddled" with tremendous liability.[3] The risk of added liability to the state upon failure of a political subdivision is true in almost 100% of all the petitions for incorporation that have ever passed across the desk of the State of Alaska. Isn't this the reason we band together and operate as a state - to share in the benefits and spread the liability in the case of failure. If the possibility of adding liability to the state is a reason for denying a city's petition for incorporation, then the state is doomed to have a great part of Alaska remaining as unorganized groups in an Unorganized Borough forever. This is not an appropriate criteria by which to condemn Adak's petition because it is arbitrary and capriciously applied versus state law, state regulations and other petitions. The liability issue was addressed by the legislature when they set up specific incorporation criteria.

- Pg 7, (Para. starting:" The Adak proposal ...)

Staff plants the thought that incorporation of Adak parallels a Development City approach towards incorporation that was repealed by the legislature in 1985. They say that repeal of the development city concept proves that it was a failure in practice. In fact the repeal of this statute proves nothing other than the legislature at the time thought it inconsistent with their vision of incorporating cities. In discussions we have had about this event in 1985, we were told that the Legislature wanted to facilitate cities without excessive bureaucratic regulations and requirements that the Development City statutes placed on remote, resource development communities. Saying that Adak's petition is like a statute that has proven a failure in practice is misleading and wrong if the Legislature's real effort was in fact to facilitate Adak-like incorporations.

- Pg 7, (Para. starting:" The state declined...)

Staff brings up the 1996 decision of the state to not sponsor the reuse of Adak - as a reason why the state should not now approve the Adak's petition. Putting aside the hard work the community went through to generate a petition that was acceptable to DCED staff in 1997, 1998 and 1999, perhaps the staff is correct. But considerable work has been undertaken and performed since the summer of 1996 that shows measurable differences in the assumptions that the state's consultant used when recommending that the state not proceed with sponsoring Adak's reuse. For example, we now know that operation of a Non-Part 139 airfield is well within the capabilities of even a tiny volunteer, fish-processing, or city staff. We see investment and operation of a fish processing plant years ahead of the time forecasted in the 1996 report. We see Russian airplanes flying to Adak to take advantage of crew-

[3] First of all the airport can just exist as an airport. In the future it may pass from usability, but not for many years even with little maintenance. Visual flight rules allow beach landings how much better are two 7800 foot by 200foot runways.

change cost savings that were only minimally addressed in the report. We see millions of dollars of new capital investment proposed in their report as either not being needed or already purchased and installed by the Navy. We believe, and we are seeking a written statement from the State of Alaska's original consultant, that if that team had known what we know today, their unfavorable conclusion would be changed. The Adak community will attempt to get and present this information by the expected public hearing date of April 28, 2000.

7. Pg 8, (Para. starting:" Essential City services...)
The proposed city clearly meets this standard.

8. Pg 8, (Para. starting:" The petition does...)
The petition includes a community transition plan. The included plan met the requirements of DCED staff when it was reviewed and approved for submission in early 1999. However staff now may feel that the plan is lacking in the number of details to extend essential municipal services in the shortest possible time. The community will develop a more precise plan for extending essential City services – as a clarification of our prior submitted petition to be presented to the Commission during its public hearing on Adak.

Summary: Staff recommends denial of the petition for many reasons that are either not true or unduly pessimistic given the success of reusing Adak assets over the last two years. The cup really is half-full, not half-empty. Community incorporation is perfectly in line with the intent of state statutes.

Adak incorporation represents the addition of a true asset to the people of the State of Alaska. At the least, Adak adds to public benefit by providing fish tax revenue to the State of Alaska (estimated at over $175,000 just with the 1999 start of commercial fish landings at the Port of Adak.) Adak's unique and beneficial location has and will attract foreign commerce that has never been possible to secure in the state or the country. Adak saves lives as a medivac transfer location versus the more distant Aleutian ports. Adak maintains the option of a forward military capability that may become very important for our state and country in the future. Adak provides an additional measure of safety (and economic convenience) for fishermen and for hundreds of over-flying aircraft. We provide a base for all government and private use and federal clean-up of the Western Aleutians. Adak may, under the right combination of political and economic support, attract large quantities of fish (tens of thousands of tons) from foreign waters. Adak is the closest deep draught marine port for vessel services, fish auction, cold storage and trans-shipping to US destinations for Russian caught fish products that now must use Pusan or other, more distant foreign ports. There is a chance that Adak's key attributes of location, installed infrastructure, developable land, and local fish resources may produce a significantly viable port that could operates as one of the top ten US ports for fish landings. We have the ability today to saving foreign fishers over $200 per metric ton in shipping cost to the US west coast versus their present routing - primarily through Pusan.[4] They currently ship in excess of 200,000 metric tons of fish products to US destinations per year.

[4] An exemption to the Nicholson Act is all that is required to allow landing of foreign caught fish at US Ports.

Our community suggests that there is at least as much to believe in with Adak's successful growth and development as staff suggest would have you fear for its failure.

The above paragraphs are written to provide an immediate response to DCED staff's Preliminary report to the Local Boundary Commission. Staff took from September '99 to February 19, 2000 to prepare their report. Our team had 30 days to respond. We will provide additional testimony during the public hearing in April.

We thank you for your consideration of the points raised in this response. We urge the Commission to look at the fundamental economic viability attributes of Adak, and not the requirement for "conclusive demonstration" as the real test of the viability of a community on Adak.

Sincerely,
Adak Community Council

Agafon Krukoff, Jr.
Mayor of Council

cc: Adak Community Council
Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Governor Tony Knowles
Representative Carl Moses
Senator Lyman Hoffman
Lt.CDR. Theodore Posuniak, CSO Adak
The Aleut Corporation
Aleut Enterprise Corporation
Adak Reuse Corporation

ADAK REUSE CORPORATION

March 22, 2000

State of Alaska
Department of Community and Economic Development
Municipal and Regional Assistance Division
550 W 7th Ave.
Anchorage, Alaska 99501

Re: Adak Petition for Incorporation

Dear Mr. Poland:

Thank you for your letter of March 20, 2000. I am sorry that I have not been able to respond sooner.

In response to the questions contained in your letter please note the following:

1 We have learned in the last 7 days that there appears to be no federal funding available for operation or maintenance of Adak's airport in the FY 2000 fiscal year. As you are aware there was an attempt to put operational assistance into the federal budget, but the vehicle chosen (Contract Towers Program) appears to be unsuited by law and regulation to provide airport operating assistance to the community this year.

2. The Adak Reuse Corporation, along with The Aleut Corporation, Aleut Enterprise Corporation and the Adak Community Council plans to seek airport operating funds for this year (FY 2000 budget) through supplemental appropriation, or if this proves to be problematic then we will drop our efforts for funding this year and continue our efforts to seek funding for FY 2001. We have been working with Senator Stevens staff to secure such funding. As of this date no firm appropriations have been promised or received.

3. The plan for the airport if FAA Part 139 funds are not available is to reduce the level of service and maintenance from jet capable service of aircraft of greater than 30 seats to a level more typically found in small communities throughout Alaska. We will use all available labor, possibly including staff from the City of Adak (if approved), Adak Seafoods, Adak Reuse Corporation and Aleut Enterprise corporation to keep a portion of the airfield alive and well for non-Part 139, Community airport operations. We have confirmed today, with over 20 managers of the Alaska Region of the Federal Aviation Administration, that there are no regulatory or structural impediments for the community to operate in non-Part 139 service immediately upon take over of the facility from the Navy.

4000 Old Seward Highway
Anchorage, Alaska 99503
(907) 562-5444, (907) 562-5808, Fax

4. The petition was clear that, at the outset the city of Adak would only operate a small number of services. These were listed on page

Initial Services to be performed
by the City of Adak are:

Library
Volunteer Fire Department
Street Maintenance
Cemetery
Parks and Recreation
Administration – including part time clerk,
lobbying, manager

The community **will** be involved with the finalization of a utility transition plan that is underway now by use of a federal Department of Commerce Grant to the Adak Reuse Corporation. A preliminary deliverable concerning the definition of a final utility/service transition plan is expected before the Local Boundary Commission meets on Adak in April. While it is not expected that the community will operate any public utility at the outset of their formation they may desire to consider such involvement after the economic assessment and operating plans are available for review. Again, the petition does not envision City operation of utilities upon start-up.

I hope this assists you in finalizing recommendations to the Local Boundary Commission regarding the Adak petition.

Sincerely,
Adak Reuse Corporation

Christopher H. Gates
Executive Director

CC: ARC Board
Adak Community Council
Aleut Enterprise Corporation

4000 Old Seward Highway
Anchorage, Alaska 99503
(907) 562-5444, (907) 562-5808, Fax

For 269-4539

Michael A. Adams P O Box 100008 Anchorage, Alaska 99510 12 March 2000

Telephone/ Fax 1 (907) 563-4454

Local Boundry Commission Staff

550 West 7th Avenue Suite 1790

Anchorage, Alaska

99501-3510

Dear Sirs:

This letter is in reference to "PRELIMINARY REPORT TO THE LOCAL BOUNDRY COMMISSION REGARDING THE PETITION TO INCORPORATE THE SECOND CLASS CITY OF ADAK. Your report was excellent and very informative and a service to the public who are concerned.

My response to to THIS is very negative and I oppose any petition to incorporate the city of Adak into a second class city. I spent a period of five UN interrupted years on Adak, Attu and Chemya. I was one of the last off on Attu after closing the base and shipping the assets to the states as well as shipping all the bodies out from the Little Falls cemetary, those killed in the war. I therefore can give some advise on salvaging Adak. I strongly oppose it and offer the following suggestions.

All the assets left on the island should be destroyed. Those salvagable item should be sold as they were on Attu. Buildings should be destroyed and the ground leveled. The island should be used for bombing practice. This sounds harsh but is within reason. Some parts of the island could remain intact to support any small activity, such as government fish and wildlife and other agencies of the government. CONTIMANATION would not have to be cleaned up which I understand will be very costly. This could all be avoided if my sugesstion is taken seriously.

The plan proposed to incorporate Adak into a second class city is beyond sound reasoning as it is being pushed by those of a selfish interest. The consequences would be as follows:

a. A city without any means of support.

b. A welfare state for those living on the island.

c. Food stamps, welfare checks, subsidies, FREE FUEL SUBSIDIES.

D. Grants and related benefits from the government.

e. Enviromential cost which will be astronomical.

In other words the inhabitants will have no income and the government will have to support the habitants. As well they will have to keep the air port open at government expense, an definately free fuel will be very costly as the inhabitants are "entitled" to it. The cost of enviromental cleanup will be expensive. Closure of the island as per my suggestion could avoid this. Incorporation will last forever and the cost of this upkeep at government expense will be trememdous. The only way to avoid these repeatable expenses is to close the island.

Recentaly I attended a meeting in Anchorage on the cleanup enviromentally, of Adak. THE GROUP RECOMMENDING THE CLEANUP STATED THAT THE GOVERNMENT CLEANUP OF THE ISLAND WAS GOING SLOW, THEY WANTED THE ENTIRE ISLAND CLEANED UP INCLUDING THE SUBMARINE BASE WHICH WAS HIGHLY CONTAMINATED. The group stated that the cleanup was the governments responsibility and that that group would seek legal action if the government did not clean it up. THEY ALSO STATED THEY RAN OUT OF A GRANT TO ENFORCE THE CLEANUP AND WOULD HAVE TO ASK FOR ANOTHER GOVERNMENT GRANT TO ENFORCE THE CLEANUP. The group failed to inform the public that the island was owned by the group and they wanted the island cleaned up at government expense. This is just an example as to what

will be expected from the government in the future. You must take these into consideration before you make a decision to incorporate.

Of course to incorporate will give the group some income. They will tax any government building left on the property for their use. Charge anyone using the airport, although government maintained. The use of the docking facilities is very expensive as evidenced a recent user had to leave ~~mmmorin~~ Anchorage due to the expensive costs. The island will have to be maintained and the only means is the taxing authority, government grants, supplemented by welfare, food stamps. The inhabitants of the island can only support themselves with these subsidies. Just like Wildwood, we gave it away and leased it back. Another St Pauls Island in the Prilioffs. The entire island was given to the natives , there independent, but still rely on government hadouts- food, stamps, welfare.

Unless your commission takes a more positive action you will create a welfare state on Adak.The city of Adak will also subdivide the island, sell lots and tax them. If you intend to favor the natives then in that event you should make the islands available to the public. I would like to purchase a part of Adak, preferable one with a building on it, but of course the entire island will be in native ownership. All they had to do is move on the island for free, hover there is no room for the public.

Take my suggestion under consideration. My working on the islands was not very easy and I know the hardships endured. Then what credit is given to those who were killed in action in order to save the islands. In all fairness the islands should be sold and the monies derived from the sale should be sent to the thousands that were killed in action.

If you have any comments you can reach me at the above address. Meanwhile I would like to purchase part of the island and would like to know if it is possible. . I guess the island is owned by the natives and I will have to purchase it from them

will have to purchase it from them. I would also like to purchase the docking facilities with some land besides the port. What a wonderful income this would be, however it is reserved for the natives.

After that meeting in Anchorage involving the enviromental cleanup I walked out with one of the executive members. I had sacrificed five solid years in the Aleutians at 1.00 per hour. I worked on the docks and I was chief checker. I worked at sea, hundred miles an hour wind, soaking wet and sometimes not sleeping for eight days in order to ~~lost~~ load those ships. Due to port conditions the 700 ft foot vessels had to be unloaded at sea onto smaller ships for tramshipment and high seas. All this was in vain as the Aleuts all they had to do is sit back and wait for the opportunity. I suggest you use precaution that the free island will results in tremendous costs by the government. As a matter of fact if you give me the island for free I will take it as it is and save you millions in subsidies, grants and cleanup. This is litterally, of course, but it still has some basics.

Thank you for the report, it was excellent.

Yours, Michael A. Adams

Michael A. Adams

P S A better use of the island would be a missle site, a prison, radio active burial site. . It is too early to dispose of the island as it appears that in the immediate future this island will be important to the government. Should be placed on hold. , left as it is until future use is definately known. Once the island is transferred to the Aleuts, it will be off limites to the public, Just like Tyonek.

Michael A. Adams P O Box 100008 Anchorage, Alaska 25 Jan 2000

Engineer Field Activity , Northwest
19917 Seventh Avenue, NW
Poulsbo, Wa 98730

(Local Boundry Commission Staff
550 West 7th Ave:Suite 1790
Anchorage, Alaska 99501)

Gentlemen,

I strongly oppose that Adak not to be come a Second Class City for the followin reasons. I have spent considerable times in the Aleutian Islands and would like to give you my comments in order that you not continue in your efforts.

In my opinion it would be better to destroy the buildings on the property at what ever cost. It will be cheaper in the long run. The natives will wind up with the property and the future in maintaining the property will be at Government expense such as grants. At the present time the Aleut Corporation has obtained the Island Of Adak and are making some progress in their behalf. THAT PARTICULAR NATIVE GROUP HAS BEEN ABLE TO OBTAIN A LARGE GRAND TO FORCE THE GOVERMENT TO CLEAN UP THEIR island. At their last meeting in Anchorage they asked for an additiinal grant so that they can force the government to enviromentall clean up their island. In the event the government makes no progress in cleaning up their island there will be a suit. Here we are paying them to sue us for cleaning up thr island. I know it will cost a fortune as the Island is con-a taminated. Here we are giving them something for free and they are demanding by court action that we clean it up for them.

Then there is the subject of heat required by the people that own it. Its obvious that continued grants will give them subsidized oil at goverment expense.

(2)

I strongly suggest that the island be destroyed by bomber practice, as a site forthe disposal of hazzard material , a prision or a MISSLE SITE.

There is no reason to dispose of the site at this time. as there will be a better use of it rather subsidize the Natives who can only keep the island on grants. I also suggest you give me the island for free and you wont have to clean it up. Giving it to the Natives who have no intent to keep it going without grants.

I suggest you look into the matter more thoroughly, otherwise the costs borne by the government will be serious. What the natives will do with their influence, lease it back to the government. Then who is going to maintain the airfield, it is obvious that a grant will be necessary. A good example is WILDWOOD, in the Keani district. We gave them the base for free and they turned around and leased it to the government. Also St Paul Island in the Prioffs. The natives own the entire island and they still apply for governmant grants, disater aid, welfare on an Island completely owned by them. I therefore suggest that you look the situation over more thoroughly than burden the tax payer with the responsibility of maintaining that island.

Thank you for you time,

Michael A. Adams

Michael A. Adams

ARTHUR ANDERSEN

Mr. Patrick K. Poland
Department of Community and Economic Development
550 W. 7th Avenue
Suite 1790
Anchorage, AK 99501-3510

Arthur Andersen LLP
1601 Market Street
Philadelphia PA 19103-2499
Tel 215 241 7300

March 3, 2000

Dear Mr. Poland ,

I wanted to take this opportunity to correct a misstatement made in DCED's *Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Second Class City of Adak*. On page 3 of the Executive Summary, the report states, "However, the Navy has retained Arthur Andersen Associates to evaluate and report on the anticipated economic viability of Adak." This statement is incorrect.

Arthur Andersen has been retained to do a direct evaluation of the reuse plan presented by the Adak Reuse Corporation (ARC). Arthur Andersen will evaluate the assumptions, projections and general approach to reuse described in the plan. To clarify the distinction, the type of report you suggest would describe whether or not Adak could be economically viable under a range of different circumstances and approaches. Our report will evaluate one approach in particular that has been selected by ARC. Given our approach, our report will not characterize the ARC approach as "viable" or "not viable." Please show this correction in future drafts of the report.

In addition, the report was developed expressly for the U.S. Navy in its evaluation of the reuse proposed for Adak Naval Complex and is limited in its scope to serve that purpose. DCED may request a copy of the report from U.S. Navy; however, the report is not intended for any other person or entity and should not be utilized by any other entity without the expressed written consent of *both* Arthur Andersen and the U.S. Navy. This report is not intended to support any action or review of any public entity such as the State of Alaska, Congress, federal agencies or any other public agency. Likewise, no investor, lender, financial institution, prospective tenant, funding organization or other person or entity should rely upon the report for the purposes of making any grants to, investments in or participating in the Adak reuse process. Any person or entity citing this report in print or publicly discussing its contents, should do so only with the expressed written permission of *both* Arthur Andersen LLP and the U.S. Navy.

Thank you for this opportunity to clarify this point.

With kind regards,

J. Malatesta

Jennifer Malatesta

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ALEUTIANS WEST
COASTAL RESOURCE SERVICE AREA

March 14, 2000

Alaska Department of Community and Economic Development
Local Boundary Commission Staff
550 W. 7th Avenue, Suite 1790
Anchorage, AK 99501

RE: Preliminary Report on the Petition to Incorporate a Second Class City of Adak (dated February 19, 2000)

Dear Mr. Kane,

This letter is written in response to the above referenced report. The AWCRSA surrounds Adak but to our knowledge, Adak remains federally excluded from our coastal district. The AWCRSA has no comment relating to the above referenced report. When Adak becomes part of our coastal district we will work with the community to include them in our coastal management plan.

Sincerely,

Karol Kolehmainen
Program Director

Cc: AWCRSA Board

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DEPARTMENT OF THE NAVY
ENGINEERING FIELD ACTIVITY, NORTHWEST
NAVAL FACILITIES ENGINEERING COMMAND
19917 7TH AVENUE N.E.
POULSBO, WASHINGTON 98370-7570

March 22, 2000

Local Boundary Commission Staff (attn: Gene Kane)
Department of Community and Economic Development
550 W. 7th Avenue, Suite 1790
Anchorage, AK 99501-3510

Dear Mr. Kane:

The purpose of this letter is to provide Navy comments on the "*Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Second Class City of Adak*" (the Report), dated February 2000.

Navy comments on the Report are as follows:

- In several places the Report refers to Space Mark, Inc. as the contracted caretaker of the Adak facilities while environmental remediation work is completed. While Space Mark, Inc. was the original contractor when the base closed in 1997, the current contractor is TAC Services, Inc. (TSI), another subsidiary of The Aleut Corporation. Accordingly, all references throughout the Report to the current caretaker contractor should be changed to TSI.

- Section 2.6, "Pending Land Exchange", pg. 14 – Under the terms of the draft agreement, The Aleut Corporation would relinquish approximately 46,000 acres of land selections at other locations to the US Fish and Wildlife Service, and receive approximately ***46,000*** acres within the current military reservation on Adak Island.

- Section 2.7, "Community Facilities" – Landfills, pg. 15 - Navy has submitted a permit extension request to the Alaska Department of Environmental Conservation for the Roberts Landfill. Refuse is not burned or baled before disposal in the landfill.

- Section 2.7, "Community Facilities" – Electricity, pg. 15 – As a point of clarification, Navy has not been requested to "retire" the Cooper-Bessemer engine generator sets, and has no current plan to do so.

- Section 2.7, "Community Facilities" – Cable television, pg. 16 – Navy owns the cable television distribution equipment, and obtains programming by subcontract through TSI.

- Section 3.1D, "DCED's Views", pg 33 – The sentence that reads, "Further, adjacent undeveloped areas contain extensive uncleared World War II minefields" is not correct. There was only one documented World War II minefield that existed on Adak, and it has been cleared. Other locations where World War II defensive plans

indicated potential minefield placement have been investigated and no evidence of actual minefields was found. Accordingly, there is no evidence that any uncleared minefields exist on Adak.

- Section 3.6B, "DCED's Views", pg. 69 – Navy does not agree with the elements of this assertion related to environmental conditions, including minefields and unexploded ordnance.

  First, as stated in an earlier comment, there is no evidence that any uncleared minefields exist on Adak.

  Second, Adak was placed on the National Priorities List (Superfund sites) in 1994. Since that time, as noted elsewhere in the Report, Navy has worked with federal and state environmental regulators to develop and implement remedies for the conditions that formed the basis for Superfund listing. Remedies have been completed or are in place and operating properly for chemical and petroleum contaminant sites in accordance with applicable federal and state regulations to standards that are protective of human health and the environment. Navy is responsible to assure the long term effectiveness of those remedies.

  Third, Navy is working with regulators to characterize and put appropriate remedies in place to address areas of potential concern for unexploded ordnance. The main "downtown" area of Adak was extensively investigated for unexploded ordnance in 1997 and 1998. Initial field investigations of known or suspected range areas outside "downtown" were conducted in 1999, and additional investigations will be conducted this year. No property on Adak will be conveyed to The Aleut Corporation or any other non-federal party until Navy and federal and state environmental regulators are convinced that remedies are in place that are protective of human health and the environment. Further, in the approximately 55 years since World War II of occupancy and use of widespread areas of Adak for recreational purposes by many thousands of military personnel, civilian employees and contractor personnel, and their dependents, there has not been a single known injury or death related to unexploded ordnance.

  Accordingly, Navy does not agree that the Superfund listing, minefields, or unexploded ordnance form part of any basis for characterizing Adak as a community with "…dramatic and well-documented health and safety issues…"

Thank you for this opportunity to comment on the Report. If there are any questions, please contact Mr. Mark Burnham of this office at (360)396-0084.

Sincerely,

Robert K. Uhrich
Director, Land Management