

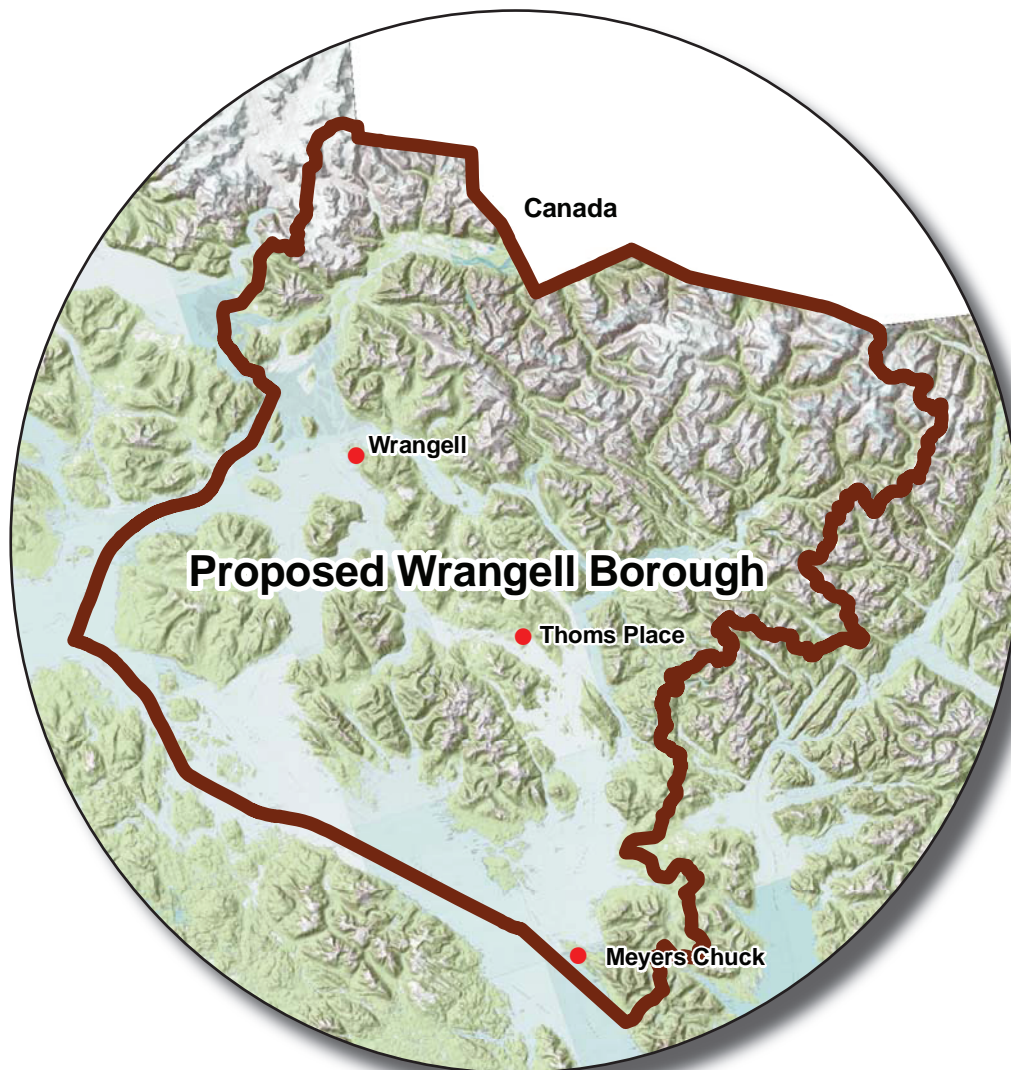


Department of Commerce, Community, and
Economic Development

Local Boundary Commission Staff

August 2007

Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Unified Home-Rule Borough of Wrangell



This is the *Preliminary Report to the Local Boundary Commission Regarding the Petition to Incorporate the Unified Home-Rule Borough of Wrangell*. The report was prepared by the Alaska Department of Commerce, Community, and Economic Development (“DCCED”), which serves as staff to the Local Boundary Commission. The report can also be found on the Internet at the following address:

<http://www.commerce.state.ak.us/dca/lbc/wrangell.htm>

This Preliminary Report is issued for public review and comment in accordance with 3 AAC 110.530(b). That same law requires DCCED to issue a Final Report after considering written comments regarding the Preliminary Report.

DCCED 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. Such requests should be directly to the Local Boundary Commission staff at 907-269-4560.

The maps included in this publication are intended to be used as general reference guides only. Source documents remain the official record and should be reviewed to determine the accuracy of the illustrations.

This Preliminary Report was written by Kathy Atkinson, DCCED Local Government Specialist. Page layout was designed by Jennie Starkey, DCCED Publications Technician.

The deadline for the **receipt** of written comments on the Preliminary Report is **September 24, 2007 at 4:30 p.m.** Comments may be submitted by mail, courier, facsimile, or e-mail as indicated below:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907-269-4539
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Notice of Proposed Amendment to Wrangell Borough Incorporation Petition

Voters in the greater Wrangell area have petitioned the Alaska Local Boundary Commission (LBC) for incorporation of a borough encompassing 3,465 square miles. In addition, the Ketchikan Gateway Borough has petitioned the LBC for annexation of 4,701 square miles. Both petitions seek to include a 191-square-mile area encompassing Meyers Chuck and Union Bay; however, no portion of that overlapping area may be included in more than one borough.

The Alaska Department of Commerce, Community, and Economic Development ("DCCED") serves as staff for the LBC. DCCED is required to "investigate" borough incorporation and borough annexation proposals filed with the LBC. Further, DCCED must prepare a preliminary report with "findings and recommendations" regarding each incorporation and annexation proposal. Following an opportunity for public comment on a preliminary report, DCCED must issue a final report with findings and recommendations.

The LBC, which is independent of DCCED, must hold at least one public hearing on each proposal. Following the hearings, the LBC will apply formal standards established in law to act on the petitions.

Based on its preliminary investigation, analyses, and findings, DCCED concluded that the applicable legal standards favor inclusion of the 191-square-mile area in the Ketchikan Gateway Borough rather than the proposed Wrangell borough. Accordingly, DCCED has proposed in its Wrangell *Preliminary Report* that the LBC amend the Wrangell petition to exclude the 191-square-mile area. In a separate report regarding the Ketchikan petition, DCCED recommends inclusion of that area within the Ketchikan Gateway Borough.

In accordance with AS 29.05.100(a) and 3 AAC 110.530(e), DCCED provides this public notice of its recommendation to amend the Wrangell petition to exclude the 191-square mile area noted above. Written comments on the proposed amendment and other elements of the Wrangell *Preliminary Report* are invited. To be considered, written comments must be received in the office noted below by 4:30 p.m., September 24, 2007:

LBC Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Fax: (907) 269-4539
E-mail: LBC@alaska.gov

Written public comments received in response to this notice will be included in DCCED's *Final Report* on the Wrangell proposal.

Oral comments regarding the proposed amendment will be solicited at the LBC public hearing to be held under 3 AAC 110.560. Extensive notice of that hearing will be given once the hearing has been scheduled.

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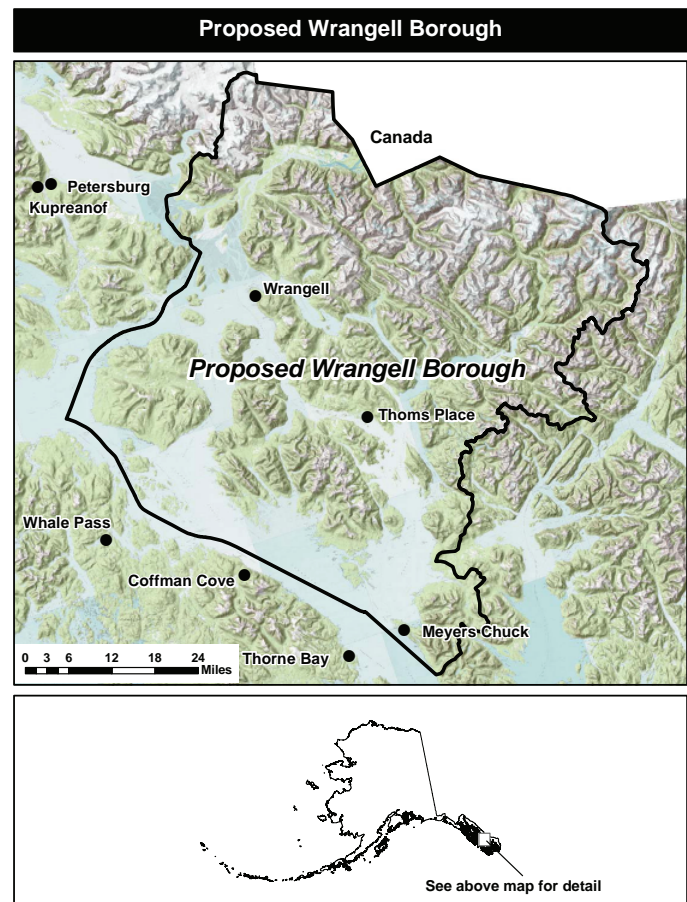
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Chapter 1 - Background

Part 1. Introduction.

This chapter begins by providing general background on local government in Alaska. There is a discussion on characteristics of municipal government units, including home-rule cities (e.g. the City of Wrangell) and boroughs. This approach is utilized to provide information on the present form of local government in the area (i.e., a home-rule city in the unorganized borough) as compared to the proposed City and Borough of Wrangell (i.e., a unified home-rule borough). Discussion then focuses on an overview of the petition process for the City and Borough of Wrangell in particular, and examines the effects of borough incorporation.



Part 2. General Background on Local Government in Alaska.

A. Alaska Has Only Two Types of Municipal Government Units – Cities and Organized Boroughs.

Most states have complex structures for local government comprised of multiple governmental units with narrow functions.¹ Typically, the agglomeration of local governments serving a particular area in other states is comprised of units with overlapping boundaries. Each of those governmental units characteristically has an independent elected governing body with authority to levy taxes.

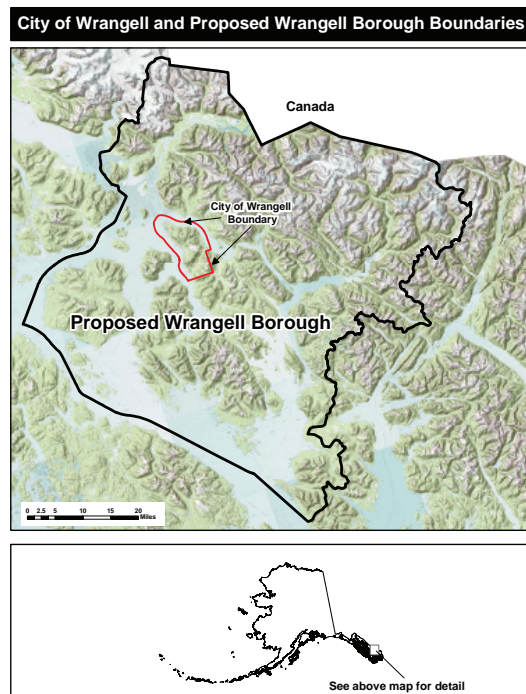
¹ For example, the State of Washington provides for 17 different local government units. They consist of counties, cities, port districts, transit districts, cemetery districts, fire protection districts, hospital districts, irrigation and reclamation districts, library districts, parks and recreation districts, school districts, sewer districts, water districts, public utility districts, diking and drainage districts, health districts, and weed control districts.

When the framers of the Constitution of the State of Alaska (hereafter “Alaska’s Constitution” or “Constitution”) developed the foundation for state government, they endeavored to avoid the shortcomings of the existing 48 states. At the time, Alaska had only a rudimentary system of local government. Consequently, the framers enjoyed greater capacity to be innovative when it came to formulating local government structure for the future of the State of Alaska.²

The framers of Alaska’s Constitution rejected the complex and cumbersome arrangement of local government found in other states, favoring instead, a streamlined approach to local government focusing on efficiency and effectiveness. Alaska’s Constitution recognizes just two types of municipal government – cities and boroughs.

B. A City is a Community-Level Municipal Government; a Borough is a Regional-Level Municipal Government.

City governments and borough governments in Alaska are municipal corporations and political subdivisions of the State of Alaska. City governments in Alaska operate at the community level. By law, the corporate boundaries of new city governments are limited to just that territory encompassing the present local community, plus reasonably predictable growth, development, and public safety needs during the next ten years.³ Similar limitations exist concerning territory that may be annexed to existing city governments. In contrast to the limits of city government, an organized borough is a regional government. Borough governments are intended to encompass large natural regions. The Alaska Constitution requires that all of Alaska be divided into boroughs – organized or unorganized.⁴



² At the time of statehood, Alaska’s local government system consisted of city governments, public utility districts, and independent school districts. The Alaska Territorial Legislature was prohibited by federal law from establishing counties without the express approval of the United States House and Senate.

³ See, in particular, 3 AAC 110.040(b) and, more generally, AS 29.05.011 and 3 AAC 110.005 – 3 AAC 110.042. The full text of the statutory and regulatory standards for borough incorporation is found in [Appendix A](#).

⁴ In 1961, the Alaska Legislature passed a law designating the entire area of Alaska outside organized boroughs as a single unorganized borough. At the time, there were no organized boroughs. Thus, initially, the unorganized borough encompassed the entire state. Today, the unorganized borough encompasses an

estimated 374,400 square miles, 57 percent of the total area of Alaska. A single, amorphous unorganized borough is considered by many experts to lack conformity with the requirements of article X, section 3 of the Constitution, which requires that each borough embrace a maximum area and population with common

Footnote continued on next page

C. State Law Provides for Different Classes of City and Borough Governments.

There are three different classifications of city government in Alaska: home-rule, first-class, and second-class. A community must have at least 400 permanent residents to form a first-class or home-rule city.

There is no minimum or maximum population requirement for the incorporation of a second-class city. However, at least 25 resident registered voters must sign a petition for incorporation of a second-class city under the local option method.

The particular city classification and whether it is located within an organized borough (i.e., its borough affiliation) are significant in terms of the powers and duties of that city government. For example, AS 29.35.260(b) requires home-rule and first-class cities in the unorganized borough to operate a system of municipal public schools. In contrast, a second-class city in the unorganized borough is expressly prohibited from exercising education powers. No city government within an organized borough operates a school district because public education is a mandatory areawide function of organized boroughs.

AS 29.35.260(c) requires home-rule and first-class cities in the unorganized borough to exercise planning, platting, and land use regulation powers. Second-class cities in the unorganized borough have discretion to exercise those powers.

Five different classes of borough government are recognized in State law. Those are unified home-rule borough (referred to as a unified municipality), non-unified home-rule borough, first-class borough, second-class borough, and third-class borough.⁵ A home-rule borough is a municipal government that has adopted a charter (the equivalent of a municipal constitution). A home-rule borough has all legislative powers not prohibited by State or federal law or by the home-rule charter. (AS 29.04.010.)

First-class boroughs, second-class boroughs, and third class boroughs are general law boroughs. They are unchartered municipal governments that have legislative powers conferred by law. (AS 29.04.020.)

Footnote continued from previous page

interests. [Appendix B](#), an article entitled “It’s Time to Fully Implement the Local Government Provisions of Our Constitution,” is a commentary on this circumstance by local government experts Victor Fischer and Arliss Sturgulewski.

⁵ In 1985, the legislature enacted a law prohibiting the incorporation of new third class boroughs. Only one third-class borough was ever formed (Haines Borough in 1968); it was reclassified as a home-rule borough in October 2002. While State laws still refer to third-class boroughs, those laws are pointless since no new third-class boroughs may be formed.

D. All City and Borough Governments in Alaska Possess Broad Discretionary Powers.

Article X of Alaska's Constitution establishes the framework for local government in Alaska. Section 1 of article X states as follows with respect to the purpose and construction of the constitutional provisions regarding local government:

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

The Alaska Supreme Court has held that the provisions of article X, section 1 were "intended to make explicit the framers' intention to overrule a common law rule of interpretation which required a narrow reading of local government powers."⁶ (*Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978).)

⁶ Footnote 19 in original.

The rule, called Dillon's Rule, states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

Merriam v. Moody's Executors, 25 Iowa 163, 170 (1868).

The minutes of the constitutional convention reveal that the liberal construction clause of article x, section 1 was intended to assure that general law municipalities, as well as those having home-rule powers, would not be governed by this rule, but would have their powers liberally interpreted. The following colloquy between delegates Hellenenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called 'Dillon's Rule', or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

. . . .

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home-rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home-rule authority by the legislature and it may not want to adopt a home-rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 – 96.

Omission in original.

As previously noted, general law city and borough governments in Alaska have legislative powers conferred by law. (AS 29.04.030.) The constitutional principle of liberal construction of local government powers is reflected in the laws enacted by the legislature granting powers to general law governments. Among the statutes are the following provisions:

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

In 1983, the Alaska Supreme Court addressed article X, section 1 along with the version of the two statutes noted above that was in effect at the time. The Court concluded that a second-class (general law) borough had powers beyond those expressly stated in law. Specifically, the Court concluded that although State statutes did not specifically authorize a second-class borough to dispose of land by lottery, that power was “fairly implied.” (*Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983).)

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it used in *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974). The court made no distinction as to the deference due to an enactment by a home-rule municipality as compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman* clearly enhanced the powers of general law municipalities in Alaska.

Those powers were further enhanced to a great degree in 1985 when the State legislature abolished the enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and the enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists were replaced with the broadest possible grant of powers to general law municipalities; i.e., “. . . any power not otherwise prohibited by law.” (AS 29.35.200(a) and (c); AS 29.35.210(c) and (d); AS 29.35.220(d); AS 29.35.250(a); and AS 29.35.260(a).)

The statutory grant of powers to general law municipalities has no general limitations such as “any municipal power” or “any local government power” that would imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of article X, section 1, *Liberati*, *Gilman*, and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of Article X, Section 1 reads, “A liberal construction shall be given to the powers of local government units” instead of, “A liberal construction shall be given to local government powers.” The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a

court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a “local government power” as envisioned by the courts across the nation, then the court need not apply a liberal construction to it.

The language of Alaska’s Constitution does not lend itself easily to such an interpretation. Article X, section 1 of the Constitution, coupled with the language of the previously noted grants in AS 29.35 (“any power not otherwise prohibited by law”), would make it difficult for a court to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

As a practical matter, under the present language of AS 29, the nature of the powers to which a general law municipality has access are substantially the same as those to which a home-rule municipality has access, bearing in mind the specific limitations in AS 29.10.200 that apply to general law municipalities.

E. Characteristics of Existing City and Borough Governments in Alaska.

Presently, there are 145 city governments and 17 organized borough governments in Alaska.

Table 1-1 lists the number, in both absolute and relative terms, of cities in Alaska by classification and borough affiliation. It is noteworthy that more than three quarters (78.6 percent) of all city governments in Alaska are second-class cities.

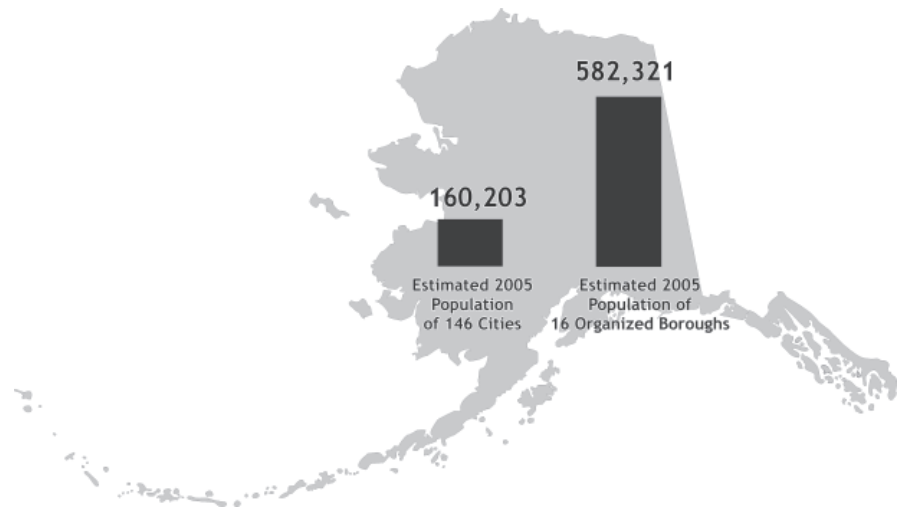
Table 1-2 presents the classifications of the 17 existing organized boroughs in Alaska.

Table 1-1. Classification of Existing City Governments in Alaska						
	Cities Within Organized Boroughs		Cities Within the Unorganized Borough		Total of All Cities	
Classification	Number of Cities	Percentage of All Cities	Number of Cities	Percentage of All Cities	Number of Cities	Percentage of All Cities
Home-Rule Cities	7	4.8%	5	3.4%	12	8.3%
First-Class Cities	7	4.8%	12	8.3%	19	13.1%
Second-Class Cities	34	23.4%	80	55.2%	114	78.6%
Total	48	33.1%	97	66.9%	145	100.0%

Table 1-2. Classification of Existing Organized Borough Governments in Alaska		
Classification	Number of Boroughs	Percentage of All Boroughs
Home-Rule Boroughs (unified)	3	17.6%
Home-Rule Boroughs (non-unified)	6	35.3%
First-Class Boroughs	1	5.9%
Second-Class Boroughs	7	41.2%
Third Class Boroughs	0	0.0%
Total	17	100.0%

Home-rule boroughs (either unified or non-unified) comprise a majority of the organized boroughs. All of the remaining organized boroughs are second-class boroughs, except for the Municipality of Skagway which is a first-class borough.

Population of Cities in Alaska Versus Organized Boroughs



The number of city governments in Alaska exceeds the number of organized boroughs by a margin of nine to one. Notwithstanding, the relatively few organized boroughs serve three and one-half times more Alaskans than all city

governments combined. The 2005 estimated population of all 146 cities⁷ in Alaska was 160,203 (24.1 percent of the total population of Alaska). In comparison, the population of organized boroughs in 2005 was estimated to be 582,321 (87.7 percent of Alaska's population).

In 2005, fewer than 17 of every 100 Alaskans (16.7 percent) who lived within an organized borough also lived within a city government. In contrast, more than 77 of every 100 residents of the unorganized borough (77.1 percent) lived within the boundaries of city governments in 2005.

The circumstances described above reflect the fact that Alaskans, in general, embrace Alaska's constitutional provision calling for "a minimum of local government units" (article x, section 1, Alaska Constitution). That is, 83.3 percent of organized borough residents receive local services exclusively from their borough government; the remaining 16.7 percent receive services from both a borough and a city. In the unorganized borough, the city is the only existing municipal service provider.

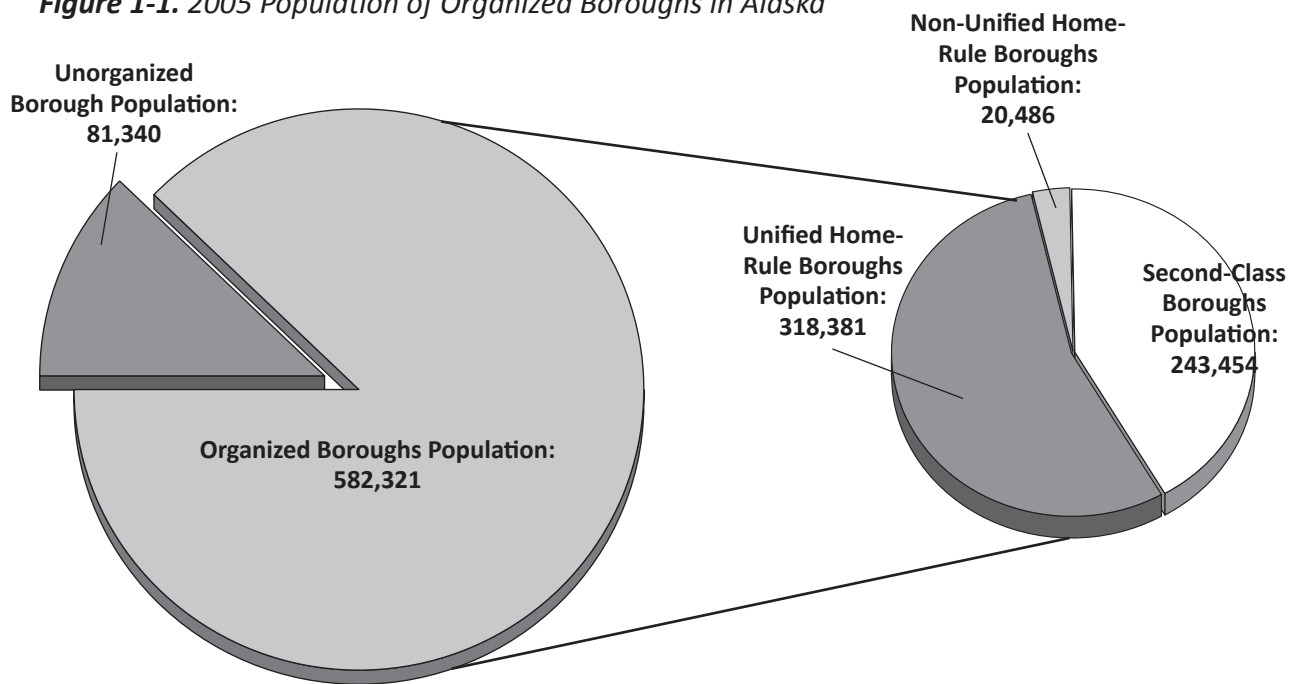
Table 1-3 on the following page lists the 2005 population of all cities in Alaska. During 2005, the median population of cities in Alaska was 379, while the average population of all cities was 1,097.

⁷ After the formation of the Municipality of Skagway and the concomitant dissolution of the City of Skagway on June 27, 2007, the number of cities in the State has decreased to 145.

Table 1-3. 2005 Population of Existing City Governments in Alaska

Classification	Within Organized Boroughs		Within the Unorganized Borough		Total	
	2005 Population	Percentage of Entire State	2005 Population	Percentage of Entire State	2005 Population	Percentage of Entire State
Home-Rule Cities	61,315	9.2%	12,420	1.9%	73,735	11.1%
First-Class Cities	21,865	3.3%	16,339	2.5%	38,204	5.8%
Second-Class Cities	14,302	2.2%	33,962	5.1%	48,264	7.3%
Total	97,482	14.7%	62,721	9.5%	160,203	24.1%

Figure 1-1 illustrates the 2005 population of all the organized and unorganized boroughs in Alaska.

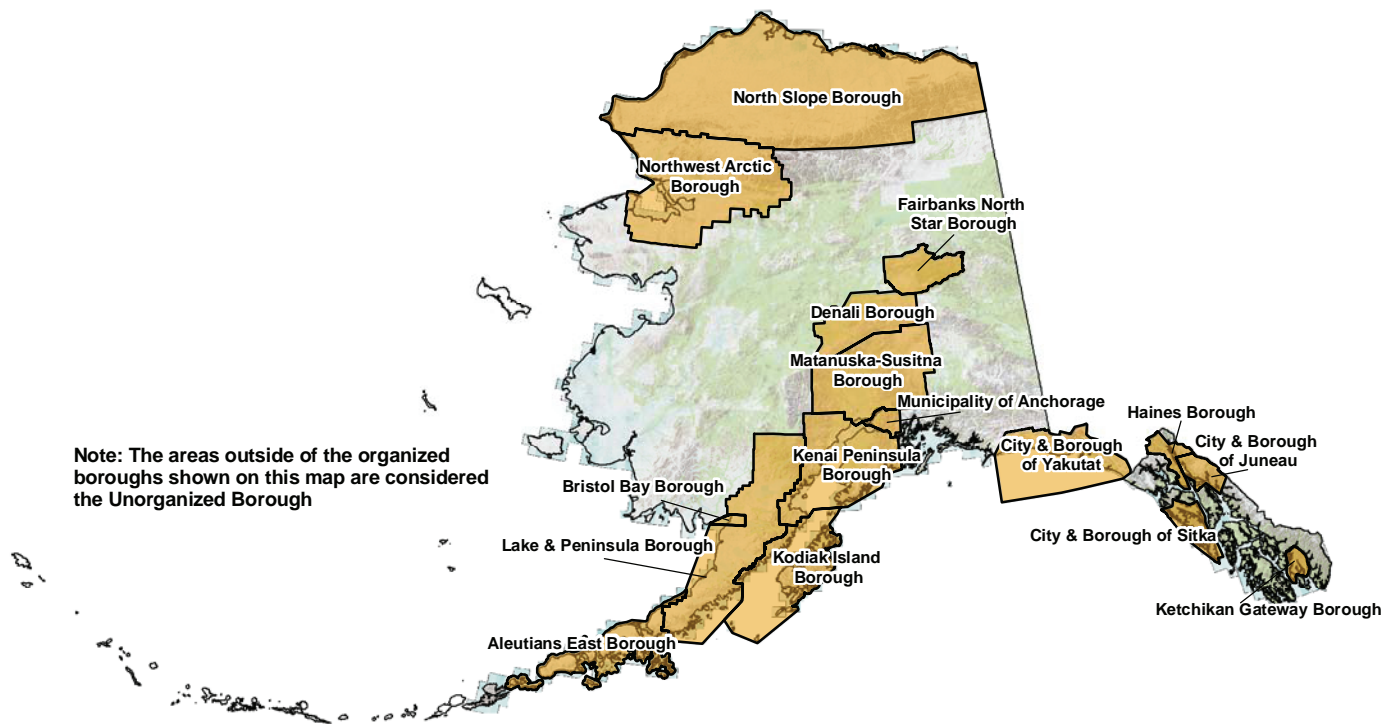
Figure 1-1. 2005 Population of Organized Boroughs in Alaska

In 2005, on average, city governments in Alaska encompassed 30.6 square miles. In contrast, the mean size of organized boroughs in Alaska in 2005 was just over 17,400 square miles.⁸ However, the size of individual city and borough governments varies considerably. The City of Kiana, located along the Kobuk River in the Northwest Arctic Borough, encompasses the smallest territory (0.3 square miles) of any city in Alaska. On the other end of the spectrum,

⁸ The 2005 Population figures in Figure 1-1 precede the recent incorporation of the Municipality of Skagway, a first-class borough, and the dissolution of the City of Skagway, a first-class city, on June 27, 2007.

as of June 27, 2007, the City of Valdez, located in the unorganized borough, covers the largest territory (277 square miles).⁹ Organized boroughs encompass about 43 percent of the geographic area of Alaska. As presently configured, the unorganized borough encompasses 374,400 square miles.

The largest organized borough is the North Slope Borough (93,823 square miles); the Municipality of Skagway is the smallest (443 square miles).



Part 3. Petition Submitted for Incorporation of the City and Borough of Wrangell.

The Local Boundary Commission (LBC) received a proposal to incorporate the City and Borough of Wrangell, a unified home-rule municipality, on April 26, 2006. The LBC is a State commission established in Alaska's Constitution to adjudicate municipal boundary proposals, including proposals for borough incorporation and annexation. Information about the LBC is included in Appendix C to this report.

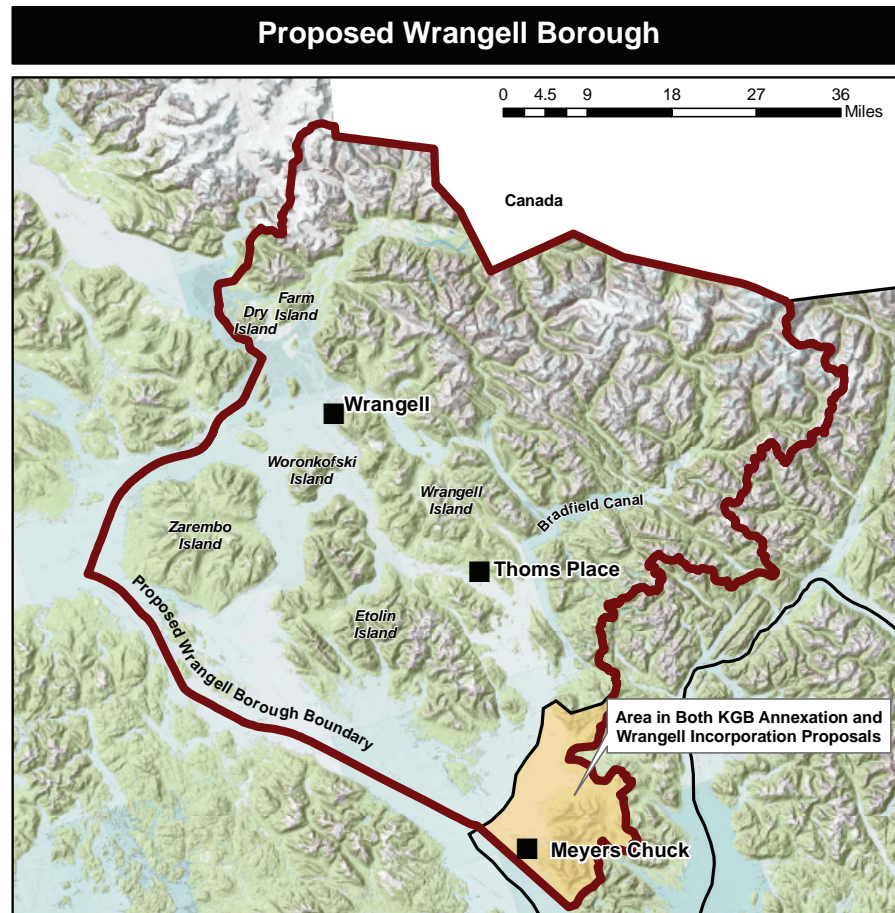
⁹ The City of Skagway, prior to its dissolution in June 2007, used to be the city encompassing the largest territory (466 square miles).

The proposed unified home rule borough is estimated to encompass a total area of 3,465 square miles inhabited by an estimated 2,017 residents.¹⁰ This includes 2,582 square miles of land and 883 square miles of tidelands and submerged lands. The Petition states that the territory proposed for incorporation includes all of Wrangell Island, Etolin Island, Zarembo Island, Woronkofski Island, Dry Island, Farm Island; numerous small islands and the mainland lying to the north and east of

Wrangell Island and extending to the Canadian border, including all drainage areas of the Stikine River and Bradford Canal; and a portion of the Cleveland Peninsula to the south, including the watersheds, draining to the north and west.

The boundaries of the proposed borough include only a portion of the area within the Petersburg-Wrangell model borough boundaries, but also include the Meyers Chuck/Union Bay portion of the area within the Ketchikan Gateway Borough model boundaries.

A portion of the area proposed for incorporation as the City and Borough of Wrangell overlaps the area proposed for annexation by the Ketchikan Gateway Borough. A petition for annexation of a 4,701 square mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (including Meyers Chuck and Union Bay) was filed by the Ketchikan Gateway Borough (KGB) in February 2006. The KGB is a second-class, general law borough that incorporated in 1963. Specifically, both the Wrangell and the KGB Petitions include the same 191 square-mile territory in and around Meyers Chuck and Union Bay. The Petitioner's representative for the Wrangell borough proposal expressed a desire that concurrent consideration be given to the Wrangell proposal and the Ketchikan borough annexation proposal since the two proposals contain overlapping areas.



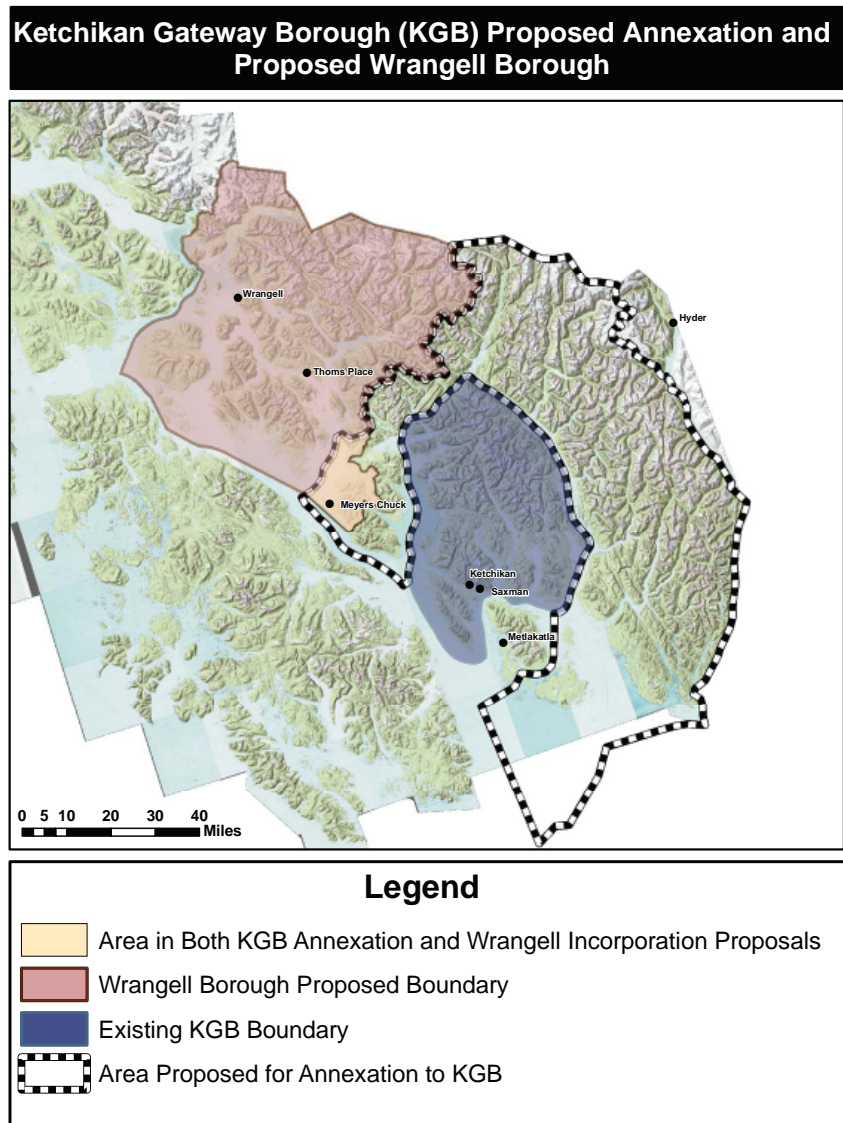
¹⁰ The DCCED population estimate of 2,017 is based on more recent data and therefore differs from the Petitioners' estimate of 2,445 residents.

Figure 1-2 shows the area proposed for incorporation by the Wrangell Petition and the area proposed for annexation by the KGB Petition. The proposed KGB annexation proposal is evaluated by DCCED in a separate preliminary report to the LBC.

According to the Petition, slightly more than 95 percent of the population of the proposed borough resides within the corporate boundaries of the City of Wrangell (2,308 of 2,445 residents or 95.2 percent). Of the remaining 137 residents, an estimated 40 live in what the Petitioner refers to as 'Wrangell West,' which is immediately outside the existing corporate boundaries of the City of Wrangell. Additionally, according to the Petitioner, Thoms Place (on the south side of Wrangell Island) is estimated to have 22 residents; Olive Cove (on Etolin Island) is estimated to have 2 residents; Meyers Chuck and Union Bay (which are the subject of a competing petition for annexation filed by the Ketchikan Gateway Borough) are estimated to have a population of 25; Farm Island is inhabited by 2 residents; and the Tyee Lake Hydroelectric Project facility houses three individuals. (The State Demographer's estimate is based on the 2000 census differs somewhat, see Chapter 2, Part 4 of this report.) The Petitioner estimates that approximately 90 percent of the taxable real and personal property in the proposed borough lies within the existing boundaries of the City of Wrangell (\$139.2 million of \$154.6 million).

All of the students enrolled in public schools within the proposed borough are served by the Wrangell City School District.

Figure 1-2. Areas Proposed for Incorporation by the Proposed Wrangell Borough and the Proposed KGB Annexation



On May 11, 2006, DCCED completed its technical review of the form and content of the original Petition and accepted the Petition for filing on that date. The Chair set July 14, 2006, as the deadline for receipt of responsive briefs and comments concerning the original Petition. No formal responsive briefs were filed during the comment period. Thirty-three sets of comments were received. On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the comments.

Part 4. The Petitioner's Stated Reasons for the Borough Incorporation Proposal.

The Petitioner's reasons for petitioning for incorporation is expressed on page 3 of the Petition:

The area identified for incorporation is historically and currently tied to the community of Wrangell, and as such is separated from regions to the north and south which have greater ties to other communities.

Residents of the proposed incorporated municipality use and rely upon the public and private infrastructure provided by the current City of Wrangell, and should bear some share of the public cost thereof and have a voice in this municipal government.

A unified municipality will enhance the ability of residents of this region to influence governmental and private land and resource decisions which affect the region.

Incorporation of a unified municipality, along with its ability to select municipal entitlement lands, will give residents of the Wrangell area greater ability to support and enhance economic development in the region, including development of transportation links.

The area proposed for incorporation as a unified municipality constitutes a natural region, with Wrangell as the hub of activities and development. Incorporation will improve the community of Wrangell's ties with the surrounding area and its ability to plan the future use and development of the region.

Incorporation of a unified municipality will result in modestly increased national forest receipts over those currently received by the City of Wrangell, commensurate with the contribution of municipal services already afforded to this sub-region of the Tongass National Forest by the existing city, and with those additional services expected from the proposed unified municipality.

Voluntary incorporation is preferable to the potential alternative of either having a different borough government imposed upon residents by the state or of leaving this entire region, except the existing city, in the unorganized borough. Petitioners are able to describe municipal boundaries which are both cohesive, workable, and acceptable to local residents, and which are generally accepted by residents of adjacent regions and by government agencies as accurately

describing the “Wrangell” region. A voluntarily organized municipal government is likely to receive greater local political support and acceptance than one which might be imposed by the State.

Part 5. Effects of the Pending Borough Incorporation Proposal.

Historically, residents in the area have relied on certain services provided by the City of Wrangell. If a borough is formed, providing these services to the community will become a borough function. Details concerning changes in the structure for delivery of services that would result from incorporation of the City and Borough of Wrangell are set out in the Petition. In particular, the Petition includes such details in the three-year operating budget (revenues and expenditures) presented in Exhibit D-1; the current capital projects presented in Exhibit D-2; and in the Transition Plan found in Exhibit E. The following is a summary of those changes.

A. Local Government Structure.

1) Fundamental Changes.

The proposed City and Borough of Wrangell would be a unified home-rule borough. According to the Petition, the area proposed for incorporation is estimated to encompass 2,582 square miles of land, and 883 square miles of tidelands and submerged lands, for a total area of 3,465 square miles. DCCED estimates the current population of the territory proposed for incorporation to be 2,017.¹¹

If voters approve formation of the proposed City and Borough of Wrangell, incorporation would take effect on the day that the incorporation election results are certified. At that time, the home-rule City of Wrangell would be dissolved. The Charter stipulates “The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.”

In most cases, the services supplied to the proposed service area and areawide, respectively, correspond closely to services already being provided by the City of Wrangell to those areas.

¹¹ The Petitioner’s population estimates were largely based on data from the United States Census Bureau, 2000 Census, includes total population figures for Tract 3 of Wrangell-Petersburg Census Area, Alaska (which includes the City of Wrangell and Thoms Place) and for the Meyers Chuck CDP. The population figures for the area proposed for incorporation are discussed in the Petitioner’s Supporting Brief (Exhibit H) at pp. 9-10. According to the Petition submitted in April 2006, the Petitioner estimated there were 2,445 residents in the Proposed borough. DCCED’s estimate of 2,017 residents is based on more current data from the State Demographer.

Census Designated Places (CDPs) are statistical areas defined by the U.S. Census Bureau as “closely settled, named, unincorporated communities that generally contain a mixture of residential, commercial, and retail areas similar to those found in incorporated places of similar sizes.” The Census Bureau notes further that it works with local participants to delineate boundaries for CDPs. By defining CDPs, the Census Bureau can tabulate and disseminate data for localities that otherwise would not be identified as places in the decennial census data products. See <<http://www.census.gov/geo/www/psapage.html#CDP>>.

Just one elected body, the assembly and mayor of the City and Borough of Wrangell, would govern citizens. Voters throughout the new borough would also have the right to vote on propositions of areawide interest.

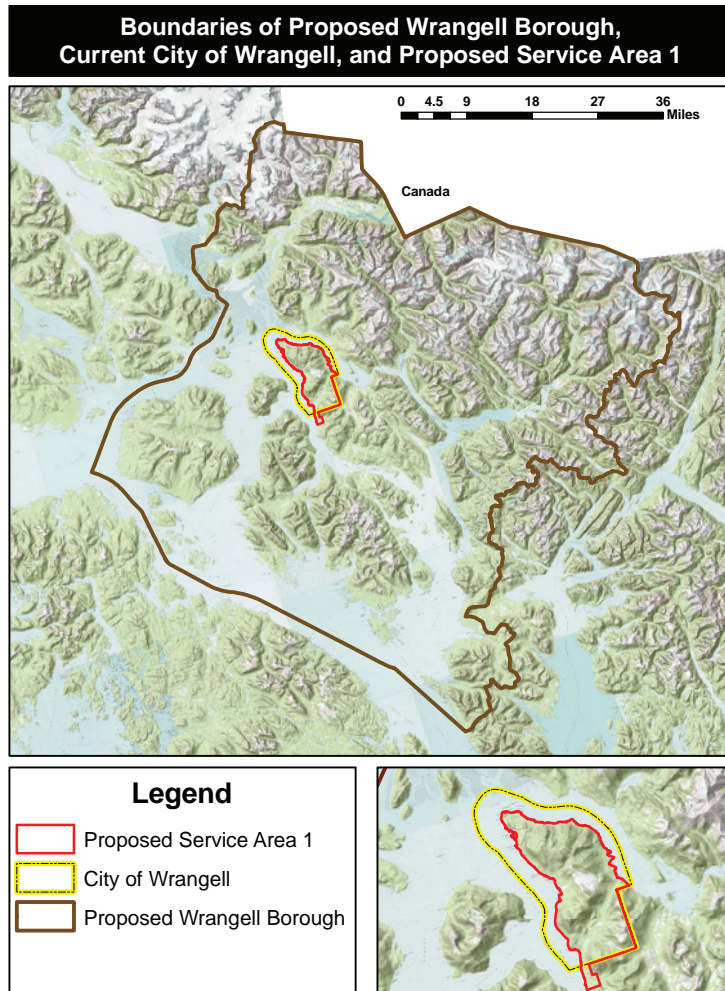
Pursuant to the Charter, the Division of Elections will conduct a school board election at the same time they conduct the election to form the borough and to elect the municipal officials.

2) **Fundamental Aspects That Would Not Change.**

As stated in the Petitioner's Transition Plan:¹²

As set out in Section 13 of this petition, the facilities of the City of Wrangell will be transferred to the proposed borough, along with the bonded indebtedness associated with such facilities. In order to provide for orderly transition from the City of Wrangell to the City and Borough of Wrangell, the City and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the City under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.

According to Section 18.08 of the Wrangell Home Rule Charter, "The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell." (The Charter is included here as Appendix D.



¹² The transition plan is Exhibit E to the Petition.

B. Local Government Services.***1) Fundamental Changes.***

Under the borough incorporation proposal, the services and facilities currently provided by the City of Wrangell would become borough services. In addition, the borough would collect borough taxes and national forest receipts. According to the Petitioner's transition plan, "in most cases, the services supplied, respectively, to the service area and areawide correspond closely to services already being supplied by the City of Wrangell to these areas."

Areawide services.

The new borough responsibilities throughout the entire area of the proposed borough, including the Meyers Chuck/Union Bay area, would include:

- education
- economic development planning
- taxation
- search and rescue services (provision of equipment and facilities for volunteer organization)
- police
- incarceration facilities
- borough hospital
- boat harbor
- library
- parks and recreation
- platting, planning, and land use regulation

Services only in the proposed service area.

- road and highway construction, maintenance and repair
- refuse service to portion of service area
- fire service to portion of service area
- snow plowing service on city streets and non-state roadways which are dedicated right-of-ways, based on a priority listing
- electrical generation and transmission to portion of service area
- water and sewer service to portion of service area
- greater police protection, on a routine and/or as-needed basis
- transportation of school students to Wrangell Borough schools, in portion of serviced areas

Taxes.

As a unified municipality, sales and property tax revenue will increase. The petition proposes that the Borough would levy a 4 mill rate for property outside the service area, a 12 mill rate for property within the service area, a 7 percent sales tax, and a 6 percent transient tax. It is estimated that \$14,400,000 in real property value will be added to the tax roll. Projected annual average revenues over the first three years equal \$5,616,723. Projected annual average expenditures over the same period equal \$5,505,141, resulting in an anticipated budget surplus of \$111,582.

Continuation of Employment.

Employees of the former City of Wrangell shall become employees of the new borough government, in accordance with AS 29.05.130 and AS 29.05.140. According to the Continuation of Employment provision in the Wrangell Home Rule Charter, Section 18.06 provides:

All employees of the City of Wrangell, except elected officials, shall continue in employment until the Assembly or the Borough Manager, as the case may be, provides otherwise. Like salaries and benefits shall continue unless and until provision is made to the contrary.

2) Fundamental Aspects That Would Not Change.

All community services previously provided by the City of Wrangell will be assumed by the City and Borough of Wrangell.

C. Fiscal Impacts.

As proposed, incorporation would have the following four fundamental fiscal impacts:

- Residents and property owners throughout the City and Borough of Wrangell will all pay a property tax of 4 mills, as well as a 7 percent sales tax and a 6 percent transient tax. Areawide revenues will be generated as a result of the taxes to be levied by the newly incorporated borough.
- Residents and property owners in the proposed service area will pay an additional property tax of 8 mills (in addition to the areawide tax of 4 mills).
- Upon borough incorporation, all of the City of Wrangell's assets will be transferred to the proposed City and Borough of Wrangell.

As staff to the LBC, the Alaska Department of Commerce, Community, and Economic Development (DCCED) is required by State law (AS 29.05.050(a) and (c)) to "investigate" the incorporation proposal. Additionally, DCCED is required to prepare a preliminary report and a final report regarding the incorporation proposal.

DCCED must examine whether the proposed borough has an economy with the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. This is a standard established in law and must be met in order for incorporation to occur. Analysis of that standard is addressed in Chapter 2 of this report.

Part 6. Structure for Delivery of Municipal Services in the Proposed Wrangell Borough Compared to Other Parts of Alaska.

There are currently 17 organized boroughs in Alaska. Nine of those are home-rule boroughs, seven are second-class boroughs, and one is a first-class borough. If the proposed Wrangell borough is incorporated, there would then be ten home-rule boroughs, seven second-class boroughs, and one first-class borough.

In 2005, just over 58 percent of Alaskans who live within organized boroughs were residents of home-rule boroughs. The remainder lived within second-class boroughs.

These figures do not reflect the portion of Alaska outside the 17 organized boroughs, which constitutes a single unorganized borough. Approximately one-eighth of all Alaskans lived within the unorganized borough in 2005.

Table 1-4 lists the 2005 population of each borough and its classification. (Note that the new Skagway Borough, incorporated June 27, 2007, is not included in the table.)

Table 1-4. Classification and Population of Boroughs (ranked by classification in descending order of population)		
Borough	Classification	2005 Population
Municipality of Anchorage	home-rule (unified)	278,241
City and Borough of Juneau	home-rule (unified)	31,193
City and Borough of Sitka	home-rule (unified)	8,947
Northwest Arctic Borough	home-rule (non-unified)	7,323
North Slope Borough	home-rule (non-unified)	6,894
Haines Borough	home-rule (non-unified)	2,207
Denali Borough	home-rule (non-unified)	1,823
Lake and Peninsula Borough	home-rule (non-unified)	1,620
City and Borough of Yakutat	home-rule (non-unified)	618
Subtotal of home-rule boroughs	home-rule	338,866
Fairbanks North Star Borough	second-class	87,650
Matanuska-Susitna Borough	second-class	74,041
Kenai Peninsula Borough	second-class	51,224
Kodiak Island Borough	second-class	13,638
KGB	second-class	13,125
Aleutians East Borough	second-class	2,659
Bristol Bay Borough	second-class	1,073
Subtotal of second-class boroughs	second-class	243,410
Unorganized borough	NA	81,385
Total	NA	663,661
Source: Population data provided by Alaska Department of Labor and Workforce Development		

DCCED estimates that the proposed City and Borough of Wrangell is inhabited by 2,017 permanent residents. This would exceed the population of four of the sixteen Alaska boroughs that existed when the petition was filed.

Today, seven of Alaska's seventeen organized boroughs have no city governments within their boundaries. Those include Alaska's most populous borough (Municipality of Anchorage) and its least populous borough (City and Borough of Yakutat).

In 2005, of the 582,276 residents of organized boroughs, 97,438 also live within the boundaries of city governments. In other words, 16.7 percent of organized borough residents also live within a city government. That reflects a considerable change from 1970, when nearly fifty percent of Alaskans who lived in organized boroughs also lived within city governments.

Table 1-5 lists the number of city governments within each borough. It also lists the 2005 total population within those cities. The percentage of residents living within cities is also provided for each borough. (Note that the newly incorporated Municipality of Skagway is not included in this table.)

Borough	Number of Cities within Borough	Number of Borough Residents within Cities	Cities
Municipality of Anchorage	0	0 of 278,241	0.0
City and Borough of Juneau	0	0 of 31,193	0.0
City and Borough of Sitka	0	0 of 8,947	0.0
Haines Borough	0	0 of 2,207	0.0
City and Borough of Yakutat	0	0 of 618	0.0
Bristol Bay Borough	0	0 of 1,073	0.0
Matanuska-Susitna Borough	3	13,242 of 74,041	17.9
Denali Borough	1	546 of 1,823	30.0
Fairbanks North Star Borough	2	32,777 of 87,650	37.4
Kenai Peninsula Borough	6	19,387 of 51,224	37.8
Lake and Peninsula Borough	6	721 of 1,620	44.5
Kodiak Island Borough	6	6,837 of 13,638	50.1
KGB	2	8,090 of 13,125	61.6
Northwest Arctic Borough	10	6,588 of 7,323	90.0
North Slope Borough	7	6,663 of 6,894	96.6
Aleutians East Borough	5	2,587 of 2,659	97.3
<i>Subtotal for organized boroughs</i>	<i>48</i>	<i>97,438 of 582,276</i>	<i>16.7</i>
Unorganized borough	98	63,043 of 81,385	77.5
Totals	146	160,481 of 663,661	24.2

Part 7. Significant Historical Developments Regarding Wrangell and Local Governments in Alaska.

1868: Alaska designated as Department of Alaska under U.S. Army.*¹³

1868-1870: New fort built on the hill above the wharf named Fort Wrangell after Baron Ferdinand Von Wrangell.*

1876: Philip McKay, Tsimpsian Indian from Methodist Mission at Port Simpson B.C. arrived in Wrangell and began the first church and school.*

1877: Jurisdiction of territory passed from U.S. Army to Treasury Department. Army left Fort Wrangell.*



Logging near Wrangell circa 1864

1884: Organic Act passed by Congress providing for Civil Gov't for Alaska is passed.*

1885: Rev. S. Hall Young published first newspaper in Wrangell and the Territory of Alaska. "The Glacier" published until 1888.*

1887: Aberdeen Packing Company was built at mouth of Stikine River, the first commercial fish processor in Wrangell.*

1888: Canadian/Alaska boundary survey started.*

1897: Fort Wrangell reoccupied by 14th Infantry with orders – "To preserve order and to protect the interests of the United States."*

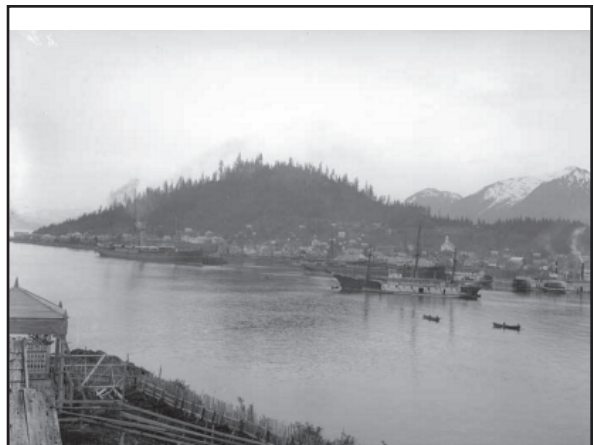
1900: Congress first authorized the formation of city governments in what was then the Civil and Judicial District of Alaska.

1903: Fort Wrangell incorporated and becomes the City of Wrangell.*

1903: Alaska-Canada border settled.*

1913: The marking of the boundary between Alaska and Canada completed.*

1922: Town boundaries extended to include all of tideland and waterfront to Shustak Point.*



Fort Wrangell circa 1898

¹³ Starred entries (*) are quotations from Attachment 5 to Exhibit H of the Petition, a historical chronology titled "Chapter Two" on letterhead from Phoenix Associates in Wrangell, Alaska.

1922: 143 pupils enrolled in Wrangell Public School.*

1935: The Alaska Territorial Legislature enacted laws allowing the creation of independent school districts and public utility districts. Each independent school district could encompass a city and adjoining unincorporated territory. This provided a mechanism through which taxes could be levied to support schools and voting rights could be extended beyond the boundaries of a city to the adjoining outlying areas. Public utility districts were allowed in areas outside city governments. Public utility districts had the capacity to provide a broad range of services including utilities, hospitals, dams, cold storage plants, warehouses, and canneries.



Wrangell circa 1929

1959: Alaska became a state, at which time the Constitution of the State of Alaska took effect. The Constitution allowed municipal governments to adopt home-rule charters. It also provided for the division of all of Alaska into boroughs (organized or unorganized). Independent school districts and public utility districts were rendered unconstitutional; however, provisions were made to allow for a transition of those governments into city and borough governments.

1960: The City of Wrangell adopted a home-rule charter.

1961: The Alaska State Legislature enacted standards and procedures for incorporation of boroughs using the local option method.

1963: Concerned over the lack of progress in terms of borough formation, the Alaska State Legislature mandated that eight areas of Alaska form boroughs. The legislature declared that the purpose of the mandate was to “provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions. . . .” (Section 1, Chapter 52, SLA 1963.)

1989 – 1992: Model borough boundaries project underway.

1994: Prior to 1994, a unified municipality could only be formed where a pre-existing borough government and all pre-existing city governments in the borough could unite to form a single unit of home rule government, upon compliance with the provisions of AS 29.06.200-.410. In 1994, the statute was amended to provide that a unified municipality could be formed even in absence of a pre-existing borough or city government, upon compliance with the statutory standards for formation of a borough AS 29.06.190(b).

2003: The LBC submitted a report to the Alaska Legislature entitled *Unorganized Areas of Alaska that Meet Borough Incorporation Standards* on February 19, 2003. The report concluded that seven areas, including the Wrangell-Petersburg Model Borough (which contains the area now proposed for incorporation as the City and Borough of Wrangell)

had the economic and administrative capacity to support borough formation and such borough formation met the standards established in the Alaska Constitution, statutes, and regulations, and was in the overall best interest of the State.

2006: The Petition to Incorporate the City and Borough of Wrangell was received by the LBC on April 26.

DCCED completed its technical review of the form and content of the original Petition on May 11 and accepted the Petition for filing on that date. The LBC Chair set July 14, 2006, as the deadline for receipt of responsive briefs and comments concerning the original Petition. Extensive notice of the filing of the Petition and service thereof was provided by the Petitioner in accordance with law.

Thirty-two sets of written comments were received by the deadline. In addition, one comment received on July 17 was accepted by the LBC Chair because it had been postmarked well before the deadline, and the Petitioner did not object to accepting the late-filed letter. No formal responsive briefs were filed during the comment period. The comments were posted on the LBC website. The comments are included here as Appendix E.

On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the comments received by the LBC regarding the Wrangell borough incorporation Petition. The reply brief is included here as Appendix F.

2007: Preliminary Report on the Petition for incorporation of the City and Borough of Wrangell completed by LBC Staff in July.

Part 8. Public Comments Regarding Petition.

The LBC received 33 written comments regarding the Wrangell borough proposal from the following:

1. Robert Meyer
2. Catherine and Steve Peavey
3. Catherine and Steve Peavey (second, longer letter)
4. John Church
5. Debbie Johnson
6. Cliff Hall
7. Dave and Maggie Grantham
8. Bruce Jones, City Manager, City of Petersburg
9. Valery McCandless, Serving as Mayor of the City of Wrangell
10. Vince and Cherri Langley
11. Dan Higgins and Carol Brown
12. Robert Hunley
13. Lynn Koland, District Ranger, U.S. Forest Service
14. Laurene Rogers
15. Ernie Christian
16. Marcy Garrison
17. Terri Henson
18. Jillian Privett
19. Janell Privett
20. Ketchikan Gateway Borough
21. Marni Privett
22. Cheryl Meyer
23. Olga Norris
24. William and Janell Privett
25. Peter Rice

26. Samuel Privett
27. Augie Schultz
28. C.L. Snoddy
29. Wilma Stokes-Leslie

30. John Taylor
31. Shane Legg-Privett
32. Cathryn Vanderzicht
33. Rebecca Welti and Greg Rice

These comments are reproduced in Appendix E. Of these 33 letters, 20 writers supported formation of a Wrangell Borough, and nine opposed it. Fourteen property owners or residents of Meyers Chuck and Union Bay said it should be part of Wrangell Borough; the Meyers Chuck/Union Bay area is included in a pending annexation petition by the City and Borough of Ketchikan.

On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the thirty-three sets of comments received by the LBC regarding the Wrangell borough incorporation Petition.

Part 9. Future Proceedings Regarding the Pending Incorporation Proposal.

A. Opportunity to Comment on DCCED's Preliminary Report.

DCCED's Preliminary Report has been provided to the Petitioner and others, and is available for public review at the Irene Ingle Public Library. The LBC Chair has set the deadline for the receipt of written comments on the Preliminary Report for September 24, 2007 at 4:30 p.m.

Comments may be submitted by mail, courier, facsimile, or e-mail. To be considered, comments must be received at the following location by the deadline noted above:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907-269-4539
E-mail: LBC@alaska.gov

B. Public Informational Meeting.

DCCED is required by AS 29.05.080(a) and 3 AAC 110.520(a) to conduct at least one public informational meeting in the territory proposed for incorporation. The meeting provides an opportunity for citizens of the community to become better informed about the pending incorporation proposal and the process for establishing a borough government. State law requires DCCED to summarize the meeting in its final report to the LBC on the incorporation proposal.

C. DCCED's Final Report.

After DCCED has considered all timely submitted written comments on its Preliminary Report, it will issue a Final Report on the matter. The Final Report will be mailed to the Petitioner at least three weeks prior to the LBC's hearing on the Petition. Copies of the Final Report will also be available for public review at the Irene Ingle Public Library.

D. Pre-Hearing Requirements.

As described below in "LBC Public Hearing," the Petitioner may present sworn testimony during the upcoming public hearing on the incorporation proposal. The public hearing will be conducted by the LBC in Wrangell.

Witnesses providing sworn testimony must have expertise in matters relevant to the pending incorporation proposal. According to 3 AAC 110.990(14), "witnesses with expertise in matters relevant to the proposed change" means individuals who are either specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or long-standing members of the community or region that are directly familiar with social, cultural, economic, geographic, and other characteristics of the community or region. If the Petitioner plans to provide sworn testimony, they must submit to the LBC a list of witnesses they intend to call to provide sworn testimony. The list must be received by LBC Staff at least 14 days prior to the hearing.

The witness list must include the name and qualifications of each witness, the subjects about which each witness will testify, and the estimated time anticipated for the testimony of each witness.

E. LBC Public Hearing.

The LBC will hold at least one public hearing on the incorporation proposal in Wrangell. The date, time, and location of the hearing have not yet been determined.



The LBC taking public comment at a hearing

Formal notice of the hearing will be published at least three times, with the initial publication occurring at least thirty days prior to the hearing. The notice will be published in the *Wrangell Sentinel* and the *Ketchikan Daily News*. Additionally, public notice of the hearing will be posted in prominent locations and mailed to the Petitioner.

The hearing will begin with a summary by the LBC Staff of its conclusions and recommendations concerning the pending proposal.

Following the LBC Staff's summary, the Petitioner will be allowed to make an opening statement limited to ten minutes.

Next, sworn testimony may be provided by the Petitioner.

The time and content of testimony will be regulated by the LBC Chair to exclude irrelevant or repetitious testimony. Commission members may question witnesses providing sworn testimony.

Following the sworn testimony, the public will have an opportunity to comment on the proposal. Three minutes will be allowed for each person who wishes to offer comments. Commission members may question persons providing public comment.


The hearing will conclude with a closing statement by the Petitioner not to exceed ten minutes.

A sample hearing agenda is provided in Figure 1-3.

No brief or other written materials may be filed at the time of the public hearing unless the Commission determines that good cause exists for such materials not being presented in a timely manner for consideration by the Petitioner and LBC Staff.

In compliance with Title II of the Americans with Disabilities Act of 1990, LBC Staff will make available reasonable auxiliary aids, services, and/or special modifications to individuals with disabilities who need such accommodations to participate at the hearing on this matter. Persons needing such accommodations should contact LBC Staff at least two weeks prior to the hearing.

Figure 1-3. Sample Hearing Agenda



State of Alaska
Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
 Telephone: 907-269-4560 • Fax: 907-269-4539

SAMPLE AGENDA

PUBLIC HEARING AND DECISIONAL SESSION
PETITION TO INCORPORATE THE
CITY AND BOROUGH OF WRANGELL

- I. Call to order
- II. Roll call and determination of quorum
- III. Approval of agenda
- IV. Comments by members of the Local Boundary Commission
- V. Comments by members of the public concerning matters that are neither on the agenda nor pending before the Commission
- VI. Public hearing regarding the Petition to Incorporate the City and Borough of Wrangell, a unified home-rule borough
 - A. Summary and presentation by LBC Staff of its conclusions and recommendations
 - B. Petitioner's opening statement (limited to 10 minutes)
 - C. Sworn testimony of witnesses called by the Petitioner
 - D. Summary of LBC Staff conclusions and recommendations (limited to 10 minutes)
 - E. Summary by Petitioner (limited to 10 minutes)
 - F. Period of public comment by interested persons (limited to 3 minutes per person)
 - G. Petitioner's closing statement (limited to 10 minutes)
- VII. Decisional session regarding the Petition to Incorporate the City and Borough of Wrangell (optional at this time)
- VIII. Comments from Commissioners and staff
- IX. Adjournment

Members: Kermit L. Ketchum, Chair; Georgianna Zimmerle, First Judicial District;
 Robert Harcharek, Second Judicial District; Lynn Chrystal, Third Judicial District;
 Lavell Wilson, Fourth Judicial District

If anyone attending the hearing lacks a fluent understanding of English, the LBC may allow time for translation. Unless other arrangements are made before the hearing, the individual requiring assistance must arrange for a translator. Upon request, and if local facilities permit, reasonable arrangements can be made to connect other sites to the hearing by teleconference.

F. LBC Decision.

The LBC must make its decision within 90 days following its last hearing on the Petition.

During the decisional session, no new evidence, testimony, or briefing may be submitted to the LBC. However, the LBC may ask its staff or another person for a point of information or clarification.

In 2006, the Alaska Legislature modified AS 29.05.100(a) governing LBC action on city and borough incorporation proposals. The modification added the requirement for “public notice of each proposed amendment or condition and an opportunity for public comment” before the LBC amends or imposes conditions on the incorporation.

The amended law took effect on May 28, 2006, after the Wrangell Petition was accepted for filing. Statutes are generally presumed to operate prospectively only, and will not be applied to causes of action arising prior to their enactment unless contrary legislative intent appears by express terms or necessary implication. *Pan Alaska Trucking, Inc. v. Crouch*, 773 P.2d 947, (Alaska 1989).

DCCED takes the position that the LBC should comply with the provisions of AS 29.05.100(a), as amended effective May 28, 2006. To implement the amended version of AS 29.05.100(a), the LBC adopted 3 AAC 110.530(e) on April 30, 2007.

The new regulation provides that if the DCCED’s preliminary or final reports contain recommendations to amend or condition approval of a municipal incorporation petition subject to AS 29.05.060 – 29.05.110, the following applies:

(A) DCCED shall issue a public notice regarding the recommended amendment or condition;

(B) the public notice required under (A) must be issued coterminously with the report that recommends an amendment or conditional approval;

(C) the notice required under (A) must be published in conformance with the requirements of 3 AAC 110.450(a)(1)¹⁴ except the notice need be published only one time;

¹⁴ The provisions of 3 AAC 110.450(a) state:

No later than 45 days after receipt of the department’s written notice of acceptance of the petition for filing, the petitioner shall (1) publish public notice of the filing of the petition in a display ad format of no less than six inches long by two columns wide at least once each week

Footnote continued on next page

(D) if the recommendation for amendment or conditional approval is part of a DCCED preliminary report, the notice under (A) must state that comments on the recommendation must be filed by the same deadline as comments on the preliminary report under 3 AAC 110.640(b)(3), and that date must be set out in the notice;

(E) if the recommendation for amendment or conditional approval is part of a DCCED final report, the notice under (A) must specify a deadline for written comment on the recommendation, which must allow at least fourteen days for written comment;

(F) the notice issued under (A) must contain a statement that oral comments on a recommendation for amendment or conditional approval may also be provided at the public hearing under 3 AAC 110.560; and

(G) public comment received in response to the notice must be included in the DCCED's final report or summarized at the public hearing, whichever occurs first.

After the LBC renders its decision, it must adopt a written statement explaining all major considerations that led to its decision. A copy of the statement will be provided to the Petitioner and all others who request a copy.

G. Opportunity to Seek Reconsideration.

The LBC may grant a request for reconsideration or, on its own motion, order reconsideration of its decision if:

1. a substantial procedural error occurred in the original proceeding;
2. the original vote was based on fraud or misrepresentation;
3. the LBC failed to address a material issue of fact or a controlling principle of law; or
4. new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.¹⁵

Details regarding procedural requirements for reconsideration are set out in 3 AAC 110.580.

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for three consecutive weeks in one or more newspapers of general circulation designated by the department; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate within the boundaries proposed for change, the department shall require the petitioner to provide notice through other means designed to reach the public.

¹⁵ In a revision of its regulations, a fifth standard for reconsideration was added by the Commission on April 30, 2007: "insufficient opportunity was provided to refute a matter of official notice that was given significant weight by the Commission in reaching its decision." This fifth standard will not apply here, but will only be applied to prospective petitions.

H. Election.

If the LBC approves the petition for incorporation, the Director of the Alaska Division of Elections will be notified. Within thirty days, the Elections Director must set the date and terms of the election. The election must be conducted not less than thirty or more than ninety days from the date of the election order. At the time of the incorporation election, voters would also choose a new mayor, assembly, and school board, who would take office only if voters approve the proposition for incorporation.

The Federal Voting Rights Act (43 U.S.C. § 1973) applies to municipal incorporations and other municipal boundary changes in Alaska. The Voting Rights Act forbids any change affecting voting rights that has the purpose or effect of denying or abridging the right to vote for racial reasons. The U.S. Department of Justice or U.S. District Court in Washington D.C. will review the incorporation proposal, method of the incorporation election, and the proposed date for the incorporation election. The review typically takes about 65 days.

I. Judicial Appeal.

A decision of the LBC may be appealed to Superior Court. The appeal must be made within thirty days after the last day on which reconsideration may be ordered by the Commission. (Rules of Appellate Procedure, Rule 601, *et seq.*)

Chapter 2 - Application of Legal Standards to the Wrangell Borough Petition

This chapter presents DCCED’s analysis of the extent to which the City and Borough of Wrangell unified home-rule borough incorporation proposal meets the requirements of State law. A unified-home-rule borough is a borough incorporated under AS 29.05.031 or unified in accordance with AS 29.06.190-29.06.420. The Petition seeks incorporation of the borough described herein under the local option method provided for in AS 29.05.060 – 29.05.150.

A borough incorporation proposal must fulfill applicable principles and standards relating to borough incorporation. Those include principles and standards under Article I, Section 1, Constitution of the State of Alaska; Article X, Sections 1, 3, and 12, Constitution of the State of Alaska; AS 29.05.031; AS 29.05.100; 3 AAC 110.045 - 3 AAC 110.065; and 3 AAC 110.900 - 3 AAC 110.990.¹⁴ Additionally, provisions in the Federal Voting Rights Act¹⁵ apply to incorporation of local governments in Alaska.

The applicable standards should be flexibly applied and the law should be read to uphold LBC decisions approving borough incorporation whenever the applicable requirements have been met.

State law, AS 29.05.100(a), provides as follows regarding a municipal incorporation:

After providing public notice of each proposed amendment or condition and an opportunity for public comment,¹⁶ the Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, 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, it may accept the petition. Otherwise it shall reject the petition.

The Alaska Supreme Court has held that statutory standards for borough incorporation were intended to be flexibly applied to a wide range of regional conditions. The Court stated further that the Commission’s determinations regarding whether such standards are satisfied should be affirmed if the Court perceives that the LBC’s reading of the standards and its evaluation of the evidence has a reasonable basis. Specifically, the Court stated:

¹⁴ See Appendix A for the full text of the statutory and regulatory standards for incorporation.

¹⁵ 42 U.S.C. § 1973.

¹⁶ The underlined portion of the statutory language above took effect on May 28, 2006, after the filing of the Wrangell Petition.

A determination whether an area is cohesive and prosperous enough for local self-government involves broad judgments of political and social policy. The standards for incorporation set out in AS 07.10.030 were intended to be flexibly applied to a wide range of regional conditions. This is evident from such terms as ‘large enough’, ‘stable enough’, ‘conform generally’, ‘all areas necessary and proper’, ‘necessary or desirable’, ‘adequate level’ and the like. The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adapted to both urban and sparsely populated areas of Alaska,¹⁷ and the Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission’s reading of the standards and its evaluation of the evidence.

Mobil Oil Corp. v. Local Boundary Commission, 518 P.2d 92, 98 (Alaska 1974) (emphasis added).

DCCED’s analysis of the incorporation proposal with regard to the applicable standards is presented below. In Part 1 through Part 9, DCCED explains each standard and then presents DCCED’s preliminary findings and conclusions regarding each standard applicable to the pending City and Borough of Wrangell incorporation proposal.

¹⁷ [Footnote 14 in original.] A summary by the local government committee at the constitutional convention of the principles underlying the borough concept is preserved in T. Morehouse & V. Fischer, *Borough Government in Alaska* at 63-64 (1971). This relates:

Self-government – The proposed article bridges the gap now existing in many parts of Alaska. It opens the way to democratic self-government for people now ruled directly from the capital of the territory or even Washington D.C. The proposed article allows some degree of self-determination in local affairs whether in urban or sparsely populated areas. . . .

Flexibility – The proposed article provides a local government framework adaptable to different areas of the state as well as to changes that occur with the passage of time. . . .

The authors describe how evolution of the borough has reflected this intended flexibility.

(T)wo recognizable types of organized boroughs now exist in Alaska: the *regional borough*, generally covering an extensive area including several widely dispersed small communities, incorporated and unincorporated, and the *urban borough*, having a population concentrated primarily in a single urban core area, characteristically overspilling the boundaries of a central city. It could be anticipated that the local governmental system will evolve in the two directions of unification and regionalism associated with these basic physical and socio-economic patterns.

Part 1. Whether Incorporation Promotes Maximum Local Self-Government in Article X, Section 1 of the Alaska Constitution.

Article X, Section 1 of the Alaska Constitution promotes “maximum local self-government.” As reflected the background information regarding this particular standard found in Chapter 1, maximum local self-government under Alaska’s Constitution can be reached in at least one of two ways. One is through the extension of a municipal government structure (city or a borough government) where none exists. The other is through home-rule status.¹⁸

The proposed City and Borough of Wrangell is a unified-home-rule borough. As pointed out in Chapter 1, the framers of Alaska’s Constitution took the view that home-rule status offers the highest form of self-government.

DCCED concludes that the pending proposal for a unified home-rule borough fosters maximum local self-government and therefore meets this standard.

A. The legal standard.

Article X, section 1 of the Alaska Constitution reads as follows:

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

B. Maximum local self-government is achieved by means of democratic self-government through cities and boroughs.

Alaska’s Constitutional Convention convened on November 8, 1955. Fifteen committees were organized by the Delegates, including the Committee on Local Government (“Local Government Committee” or “Committee”). The Local Government Committee was given the task of crafting the local government framework for the future State of Alaska.

¹⁸ DCCED notes further that even if a proposal does not extend home-rule status to areas or territories governed by general law local governments, it can still satisfy the maximum local self-government standard. In 2000, voters in the greater Fairbanks area petitioned the LBC for consolidation that would have (1) dissolved the home-rule City of Fairbanks and the general law Fairbanks North Star Borough and (2) incorporated a new general law borough with boundaries identical to those of the existing borough. Opponents argued that the elimination of the city government structure and loss of home-rule status represented a diminution of local self-government for residents of the City of Fairbanks. The LBC concluded, however, that maximum local self-government “is a matter of local residents having access to local government and an optionally broad range of power to pursue local government as they wish.” Consequently, the LBC determined that the standard was met in that case. (See *Statement of Decision in the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, p. 18, LBC, June 7, 2001.)

The Local Government Committee held 31 meetings before Convention Delegates recessed for a 15-day period from December 20, 1955 through January 3, 1956. On December 15, five days before the recess, the Committee unanimously approved its fourth draft of the Local Government Article and agreed to formally submit it as the Committee's proposal to the Convention.¹⁹ However, at the time, members also agreed that when the Convention reconvened on January 4, 1956, the Committee "would ask for the return of the proposal to the committee for additional work, primarily to cut out the excess language, eliminate duplication and resolve conflicts."²⁰

On December 17, the Local Government Committee approved the commentary for the Local Government Article.²¹

The commentary, designated *General Discussion of Local Government Under Proposed Article*, was introduced to the Convention on December 19. The commentary described the Committee's goal of maximum local self-government and articulated five fundamental principles to achieve that goal:²²



Local Government Committee in session during the Constitutional Convention

The committee on local government aimed at providing a maximum of self-government to people in all parts of Alaska. To meet this goal, two basic local government units were established -- boroughs and cities. This framework is designed to accommodate today's needs and tomorrow's growth and development.

¹⁹ Section 1 of the proposed Local Government Article approved by the Committee on December 15, 1955, stated as follows:

Section 1. The purposes of this Article are to secure the maximum amount of local self-government consistent with the state's responsibilities to the whole people and the state's membership in the Union, and to provide a framework which will accommodate future development and prevent the pyramiding of independent tax-levying local government units. A liberal construction shall be given to the provisions of this Article in order that these purposes may be progressively achieved.

²⁰ Committee Minutes, December 15, 1955.

²¹ Committee Minutes, December 17, 1955.

²² The *General Discussion of Local Government Under Proposed Article* and the initial proposed Local Government Article are included in Appendix V to the Minutes of the Alaska Constitutional Convention. Although approved on December 17, 1955, the *General Discussion* is dated December 19, 1955, the date on which it and the proposed Local Government Article were introduced.

The proposed article is based upon experiences in the territory, the states, Canada and other countries. Proven principles and practices were brought together to establish a system of local government for the State of Alaska. It is a system which, in essence, many states have been attempting to achieve by modernizing existing units. We are fortunate in being able to start more or less from scratch.

The “borough”, area-wise, is the larger of the two local government units. Cities would be located within the boundaries of the boroughs. The relationship between the two emphasizes mutual interest and cooperation.

Principles Underlying Proposed Local Government System:

1. Self-government -- The proposed article bridges the gap now existing in many parts of Alaska. It opens the way to democratic self-government for people now ruled directly from the capital of the territory or even Washington, D. C. The proposed article allows some degree of self determination in local affairs whether in urban or sparsely populated areas. The highest form of self-government is exercised under home rule charters which cities and first class boroughs could secure.
2. One basic local government system -- The proposed article vests all local government authority in boroughs and cities. It prevents creation of numerous types of local units which can become not only complicated but unworkable.
3. Prevention of overlapping taxing authorities -- The proposed article grants local taxing power exclusively to borough and cities. This will allow consideration of all local needs in the levying of taxes and the allocation of funds. It will lead to balanced taxation. Single interest agencies with taxing authority often do not realize needs other than their own.
4. Flexibility -- The proposed article provides a local government framework adaptable to different areas of the state as well as changes that occur with the passage of time. It allows classification of units on the basis of ability to provide and finance local services. It allows optional administrative forms, adoption of home rule charters, boundary changes, etc.
5. State interest -- The proposed article recognizes that the state has a very definite interest in and concern with local affairs. For example, the credit of the state is indirectly involved in local financial matters and local units are the agencies through which many state functions are performed. The proposal therefore gives the state power to establish and classify boroughs, to alter boundaries of local units, to prescribe powers of non-charter governments, to withhold authority from home-rule boroughs and cities and to exercise advisory and review functions.

The Local Government Article and commentary were formally introduced at the Convention on December 19, 1955. As noted above, the Convention recessed the following day for fifteen days.

After the Convention reconvened on January 4, 1956, the proposed Local Government Article was returned to the Committee. The Committee held thirteen post-recess meetings to redraft the Local Government Article. The Committee's revised proposal was introduced on January 18, 1956. The Committee's revisions to Section 1 of the proposed Local Government Article did not alter the intent of the initial proposal.²³



Constitutional Convention in session

In its January 18 commentary that accompanied the revised proposal, the Local Government Committee offered the following explanation of Section 1 of the proposed Local Government Article:

Section 1. This section states the purpose and intent of this article; to promote democratic self-government below the state level, guarding the interests and welfare of all concerned in a framework which will foster orderly development and prevent the abuses of duplication and overlapping of taxing entities.

Local Government Committee, *Commentary on Local Government Article*, p. 1, January 18, 1956.

²³ Section 1 of the proposed Local Government Article prepared by the Committee on Local Government and formally introduced at the Alaska Constitutional Convention on January 18, 1956, stated as follows:

Section 1. The purposes of this Article are to secure the maximum amount of local self-government consistent with the interests and welfare of all the people of the state, and to provide a framework which will accommodate future development and prevent the duplication and overlapping of independent tax-levying local government units. A liberal construction shall be given to the provisions of this article in order that these purposes may be achieved.

C. The framers viewed home-rule as the greatest level of local self-government; however, in practical terms, general law municipalities today have access to home-rule like powers.

As noted in the preceding subsection, the Committee expressed the view in December 1955 that “The highest form of self-government is exercised under home rule charters.” However, today, as a practical matter, the nature of powers to which a general law municipality in Alaska has access is substantially the same as that to which a home-rule municipality has access.

General law local governments derive their powers from laws enacted by the State legislature. The principle of liberal construction of local government powers set out in article X, section 1 is reflected in laws enacted by the legislature granting powers to general law governments. Among such are the following statutory provisions that apply to general law local governments:

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

Sec. 29.35.420. Enumeration of powers. Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

Moreover, Alaska’s courts have largely recognized that general law local governments have broad powers. For example, in 1983, the Alaska Supreme Court concluded that a second-class general law borough had powers beyond those expressly stated in law. The Court held that even though State statutes did not specifically authorize a second-class borough to dispose of land by lottery, that power was “fairly implied.” (*Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983).)

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it had utilized in a case involving a home-rule municipality. (*Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974).) The court made no distinction regarding the deference due to a home-rule municipal enactment compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman v. Martin* enhanced the powers of general law municipalities in Alaska.

Those powers were further enhanced when the 1985 Alaska Legislature eliminated an enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and an enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists were replaced with the broadest possible grant of powers to general law municipalities; i.e., “any power not otherwise prohibited by law.” (AS 29.35.200(a) and (c); 29.35.210(c) and (d); 29.35.220(d); 29.35.250(a); 29.35.260(a).)

The statutory grant of powers to general law municipalities has no general limitations such as “any municipal power” or “any local government power,” which would imply that the granted powers were limited to those that the court might view as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of article X, section 1; *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978); *Gilman v. Martin*; and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of Article X, Section 1 reads, “A liberal construction shall be given to the powers of local government units” instead of, “A liberal construction shall be given to local government powers.” The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a “local government power” as envisioned by the courts across the nation, then the court need not apply a liberal construction to it. The actual language of Alaska’s Constitution does not lend itself as easily to such an interpretation and, coupled with the granting language of AS 29 (“any power not otherwise prohibited by law”), would make it difficult for a court (in a well-briefed case) to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

D. In 1963, the Legislature passed, and Governor signed into law, legislation citing the Maximum-Local-Self-Government Clause as a basis for mandatory boroughs.

In 1963, four years after the inauguration of statehood and the effective date of the Local Government Article of our Constitution, the State of Alaska mandated formation of organized boroughs in eight regions of Alaska.

In drafting the bill mandating borough government in certain regions, Representative John L. Rader emphasized that “The Legislature, the Courts and the Executive are bound by the local government article to provide maximum local self-government with a minimum number of local government units and tax levying jurisdictions.” (*Supplement to House Journal*, p. 3, February 25, 1963, emphasis added.) Representative Rader stressed that the intent of the legislature was to accomplish the constitutional purpose set out in article X, section 1. (*Id.*, p. 5.)

Section 1 of the 1963 law mandating borough formation specifically cited the provisions of article X, section 1 of the Constitution as a fundamental basis for the action.

Section 1. Declaration of Intent. It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation. With the exception of planning and zoning, education, and tax collection and assessments, all powers granted the first-class boroughs are exercised at the option of the borough assemblies.

It is noteworthy that six of the twenty members of the 1963 Senate (30 percent) had been delegates to the Constitutional Convention²⁴ and that two members of the 1963 House of Representatives had also served as delegates.²⁵ Moreover, the 1963 Mandatory Borough Act was signed into law by Governor William Egan, who had served as President of the Alaska Constitutional Convention.



Members of the 1963 State Legislature

The 1963 Mandatory Borough Act afforded the eight affected regions an opportunity to incorporate “by local option” before January 1, 1964. For any of the eight areas that did not incorporate by local option before the deadline, a borough with boundaries designated in the Mandatory Borough Act would be established on January 1, 1964.²⁶ The regions were defined by State election districts.

²⁴ The former delegates in the 1963 Senate were Senators John B. Coghill, Yule F. Kilcher, Robert J. McNealy, James Nolan, Frank Peratrovich, and W. O. Smith.

²⁵ The former delegates that were members of the 1963 House of Representatives were Representatives Dora M. Sweeney and Warren A. Taylor.

²⁶ Section 3(a) and (b) of Chapter 52, SLA 1963 provided as follows:

Areas Incorporated. (a) If an organized borough is not incorporated by local option as provided by AS 07.10.010 within areas designated in this section, each area designated becomes, on January 1, 1964, a first- or second-class organized borough as determined by local election and a municipal corporation, and possesses all the powers and privileges prescribed by AS 07. Areas designated are:

- (1) Sitka Election District #3
- (2) Juneau Election District #4
- (3) Palmer-Wasilla-Talkeetna Election District #7
- (4) Anchorage Election District #8
- (5) Combined Seward Election District #9 and Kenai-Cook Inlet Election District #10
- (6) Kodiak Election District #11
- (7) Ketchikan Election District #2 as designated in Sec. 3, Art. XIV, of the State Constitution, except the Annette Island Indian Reservation created by Act of Congress dated March 3, 1961, 26 Stat. 1101.
- (8) Fairbanks Election District #19 as designated in Sec. 3, Art. XIV, of the State Constitution.

Regarding the use of election district boundaries for boroughs, Representative John Rader, the sponsor of the Mandatory Borough Act, wrote:

As a practical legal matter, a bill which provides ultimately for mandatory incorporation must state boundaries with precision. We considered definitions in terms of mountain ranges, shorelines, rivers, and watersheds, and in terms of longitude and latitude. Finally, we settled on election district lines, which were precise and known to everyone. In many instances, election district lines seemed to be closer to the lines proposed by the local groups, or at least considered by the local groups, than any other existing definitions of area. I considered, as a general proposition, that the election district lines in most areas covered too small a geographical area for regional government. I hoped that when the tax equalization problem was overcome there would be a tendency for adjacent boroughs to consolidate. In other words, when talk was commenced concerning the joining of boroughs, the only question would be whether or not the area could best be governed by one or two boroughs. This combined with the land grant incentive, I thought, resulted in a good formula which would bring the rural and urban areas together.



John Rader

John L. Rader, "Legislative History [of the Mandatory Borough Act]," in Ronald C. Cease and Jerome R. Saroff (eds.), *The Metropolitan Experiment in Alaska, A Study of Borough Government*, Frederick A. Praeger, Publishers, New York, 1968, p. 102.

(b) If a portion of any district designated above is incorporated by local option before October 1, 1963, and the remaining portion of the district meets the standards for incorporation as provided in AS 07.10.030, the Local Affairs Agency shall make a finding to that effect and notify the secretary of state to hold elections in the area. The area is incorporated as an organized borough on January 1, 1964.

E. In 1974, the Alaska Supreme Court found that article X, section 1 encourages borough formation.

Article X, section 1 was cited twice by the Alaska Supreme Court in the *Mobil Oil* case. First, the Court found that article X, section 1 favors the establishment of boroughs such that LBC decisions granting borough status should be sustained whenever the requirements for incorporation have been minimally met.²⁷ In that regard, the Court stated:

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

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. . . .

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

Id., p. 99 (emphasis added).

The Supreme Court also stated in *Mobil Oil* that article X, section 1 encourages the formation of boroughs. The Court indicated:

²⁷ In a 1995 decision, the Alaska Supreme Court clarified that the LBC was not obligated to approve any minimally acceptable petition:

Petitioners' arguments, however, reflect the mistaken premise that the LBC must approve any minimally acceptable petition for incorporation and has only limited authority to consider or adopt "the most desirable" borough boundaries. Given the Alaska Constitution's mandate that boroughs be cohesive "to the maximum degree possible,"[] the LBC acted well within the purview of its authority in considering the desirability of future incorporation of neighboring areas such as Prince William Sound and the interests of affected land owners and users such as the Chugach Alaska Corporation. (*Petitioners for Incorporation of City and Borough of Yakutat v. Local Boundary Com'n*, 900 P.2d 721, 727 (Alaska 1995).)

Moreover, in the *Yakutat* case, the Supreme Court expressed its expectation that the LBC would undertake "a thorough consideration of alternative boundaries" and decide "as to what boundaries would be optimal" and "most appropriate." The Court stated:

An informed decision as to whether boundaries proposed in a petition for incorporation maximize the common interests of the area and population and thus meet the applicable statutory standards presupposes a thorough consideration of alternative boundaries and a decision as to what boundaries would be optimal. For this reason, in discharging its duties under AS 29.05.100(a), the LBC is inevitably called upon to undertake precisely the type of inquiry that Petitioners allege to be improper: an inquiry into the "most appropriate boundaries" for the proposed borough. (*Id.*, p. 725.)

Aside from the standards for incorporation in AS 07.10.030, there are no limitations in Alaska law on the organization of borough governments. Our constitution encourages their creation. Alaska Const. art. X, § 1. And boroughs are not restricted to the form and function of municipalities.²⁸ They are meant to provide local government for regions as well as localities and encompass lands with no present municipal use.^[29] (*Id.*, p. 101; emphasis added.)

F. Conclusion: Incorporation of the City and Borough of Wrangell will provide for maximum local self-government.

Article X, section 1 of Alaska’s Constitution encourages the extension of organized borough government to unorganized areas. Incorporation of the Wrangell Borough will achieve the goal articulated more than 50 years ago by the Local Government Committee at the Alaska Constitutional Convention calling for “democratic self-government below the state level.”³⁰ If not for the pending Wrangell Borough incorporation proposal, at least 3,274 square miles of the 3,465 square-mile area proposed for incorporation is likely to remain part of the unorganized borough for the foreseeable future.³¹ Further, no portion of the proposed borough area outside the City of Wrangell is likely to organize as a city government in the foreseeable future because it is so sparsely populated and undeveloped. That area does not meet the standards for city incorporation in the Alaska Constitution, Alaska Statutes, and the Alaska Administrative Code.

Annexation of a previously unincorporated area to an existing city also accomplishes the goal of providing for maximum local self-government. Using that rationale, some may argue that an alternative to incorporation of a Wrangell Borough would be for the City of Wrangell to annex this area in question. That alternative may be feasible for a small portion of the area proposed for annexation (e.g., the populated area known as “Wrangell West” which is adjacent to the

²⁸ The Court was making a distinction between “boroughs” and “municipalities” (e.g., “boroughs are not restricted to the form and function of municipalities”). It appears that the Court was referring to city governments when it used the term “municipalities.” When the North Slope Borough incorporation petition was filed, statutory standards and procedures for borough incorporation as well as other laws concerning boroughs were codified in “Alaska Statutes – Title 7 – Boroughs.” In contrast, statutory standards and procedures for city incorporation were codified in “Alaska Statutes – Title 29 – Municipal Corporations.” In 1972, after the LBC decision in the North Slope Borough case, Titles 7 and 29 of the Alaska Statutes were repealed and new laws concerning both cities and boroughs were enacted as “Alaska Statutes – Title 29 – Municipal Government.” Today, AS 29.71.800(13) defines municipality as “a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;”

²⁹ [Footnote 25 in original.] See [original] note 14, *supra*.

³⁰ Local Government Committee, *Commentary of Local Government Article*, p. 1 (January 18, 1956).

³¹ A 191-square-mile portion of the area proposed for incorporation in the vicinity of Meyers Chuck and Union Bay is included in the competing Ketchikan Gateway Borough (KGB) annexation proposal.

existing limits of the City of Wrangell). However, annexation of the entire area is not feasible, because it violates two boundary standards found in the regulations that limit the corporate boundaries of a city, 3 AAC 110.130(c) and (d).

These two particular regulatory boundary standards reflect the “limitation-of-community doctrine.” That doctrine restricts the geographic size of city governments. In *Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 97-8 (Alaska 1974), the court recognized that cities may not encompass lands that receive no benefit from the city government.

In the *Mobil Oil* case, the Court stated that boroughs were intended to encompass areas in which there is no need for local government services. Immediately following its citation of article X, section 1, the Court stated that boroughs “are meant to provide local government for regions as well as localities and encompass lands with no present municipal use. (*Mobil Oil*, p. 101, emphasis added.) Thus, DCCED contends that the constitutional standard in article X, section 1 is met whenever organized borough government is extended to an unorganized area in accordance with applicable standards, regardless of any particular need for municipal services.³²

A boundary standard found in the regulations, 3 AAC 110.130(c), limits the corporate boundaries of a proposed city to just that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the ten years following incorporation.³³ A second boundary standard, 3 AAC 110.130(d), states that city boundaries must exclude entire geographic regions or large unpopulated areas, except where justified by the application of all of the incorporation standards.³⁴ In other words, the “limitation-of-community doctrine” is formally reflected in the State laws governing city boundaries which, subject to narrow exceptions, are limited to a “local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following . . . incorporation,” and may not include “entire geographical regions or large unpopulated areas.”

That view is wholly consistent with new provisions in 3 AAC 110.981 adopted by the LBC on April 30, 2007, to guide determinations regarding whether a proposed boundary change promotes maximum local self-government. With regard to a borough incorporation proposal, 3 AAC 110.981(1) provides:

³² With regard to borough incorporation, this view is tempered by the requirement that the proposed borough comply with the regional size intent underlying the applicable standards in the Alaska Constitution, statutes, and Commission regulations.

³³ The provisions of 3 AAC 110.130(c) state: “The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

³⁴ The provisions of 3 AAC 110.130(d) state: “The proposed boundaries of the city may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135.”

In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider (1) for borough incorporation, whether the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough.

In the view of DCCED, the proposed incorporation meets the provisions of 3 AAC 110.981(1). The entire area proposed for incorporation is entirely within Alaska's unorganized borough. The area in question has held that status since the unorganized borough was created 46 years ago in 1961. Moreover, the only city government within the estimated 3,465 square miles proposed for incorporation is the City of Wrangell (71 square miles of land and water), which represents only 2 percent of the total. Thus, 98 percent of the entire area proposed for incorporation is currently outside any municipal jurisdiction.

Based on the findings above, DCCED concludes that the City and Borough of Wrangell incorporation proposal provides for maximum local self-government in accordance with article X, section 1 of the Alaska Constitution. Furthermore, there is also realization of the Local Government Committee's goal in 1956 that "the interests and welfare of all concerned" are guarded "in a framework which will foster orderly development and prevent the abuses of duplication and overlapping of taxing entities."³⁵ When the City and Borough of Wrangell incorporates as a unified home-rule borough, the City of Wrangell will be dissolved. Therefore, there will be no duplication of administration and services and no overlapping taxing entity.

DCCED takes the view that article X, section 1 of Alaska's Constitution should be read to uphold LBC decisions approving borough incorporation that meet the reasonable-basis test. Moreover, DCCED concludes that borough incorporation is encouraged by article X, section 1, whenever the applicable legal standards are satisfied. Based on the findings above, DCCED concludes that the Wrangell borough incorporation proposal provides for maximum local self-government in accordance with article X, section 1 of the Alaska Constitution.

³⁵ *Id.*

Part 2. Whether Borough Incorporation Promotes “A Minimum Number of Local Government Units”

In addition to promoting maximum local self-government, article X, section 1 of Alaska’s Constitution encourages a minimum number of local government units.

Only one local government – the home-rule City of Wrangell - currently serves any residents of the proposed City and Borough of Wrangell. The 1,911 residents of the City of Wrangell make up 94.7 percent of DCCED’s estimate of the population of the proposed borough (2,017).³⁴ The geographic size of the City of Wrangell (71 square miles) represents only two percent of the area within the proposed City and Borough of Wrangell which totals 3,465 square miles.³⁵

The proposed City and Borough of Wrangell promotes a minimum of local government units by creating one local government to provide basic municipal services in the area, including education, planning, platting, land use regulation, taxation and collection of taxes, volunteer search and rescue services, police, borough hospital, boat harbor, library, incarceration facilities, economic development planning, and parks and recreation. Most of those services were previously provided by two separate government entities: the City of Wrangell, and in the case of platting outside the boundaries of the City of Wrangell, the State of Alaska.

The City and Borough of Wrangell will assume the assets, liabilities, facilities and bonded indebtedness of such facilities of the City of Wrangell. According to the Petition, on page 3 of Exhibit E: “In order to provide for orderly transition from the City of Wrangell to the City and Borough of Wrangell, the city and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the city under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.”

Given these circumstances, DCCED concludes that the pending proposal serves to minimize the number of local governments serving the residents of the greater area of the proposed City and Borough of Wrangell.

Background on the Minimum Number of Local Government Units Clause

In 1971, the Alaska Supreme Court concluded that unification of local governments serves the minimum of local governments clause in article X, section 1. The ruling stemmed from a challenge by the former home-rule City of Douglas regarding the unification of local governments in the greater Juneau area. The Court’s holding in that case that “[u]nification is

³⁴ DCCED’s population figures are based on more recent data and are therefore different from the population figures cited by the Petitioner for the proposed borough (2,445) and for the City of Wrangell (2,308) found at p. 9, Exhibit H of the Petition, which were largely based on the 2000 U.S. Census.

³⁵ According to p. 4 of the Petition, the area proposed for incorporation is estimated to encompass 2,582 square miles of land and 883 square miles of tidelands and submerged lands, a total area of 3,465 square miles.

consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units” is relevant and applicable to the pending proposal to incorporate the City and Borough of Wrangell as a unified home-rule borough and to dissolve the home-rule City of Wrangell. The Court stated in 1971:

Appellants further contend that unification is barred by an implied constitutional requirement that cities not be dissolved in favor of boroughs.^[36] On this theory appellants challenge the constitutionality of AS 29.85.170, which provides that upon ratification of the unification charter, local government units within the unified area are dissolved. We think appellants’ challenge is for the most part disposed of by our discussion pertaining to the constitutionality of AS 29.85.160(c). Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units. Article X, section 2 merely authorizes but does not require the coexistence of cities and boroughs. In view of the express constitutional policy of minimizing the number of local government units, the grant to the legislature of the power to decide on the manner of dissolution of cities, found in article X, section 7, and the absence of either an explicit ban against unification, or a persuasive basis for inferring such a prohibition, we hold AS 29.85.170 constitutional.

(City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, 1044 (Alaska 1971).)

In 1991, at the request of the Alaska Municipal League, the Alaska Legislature established the Task Force on Governmental Roles to define optimum federal, State, and local responsibilities in providing public services in Alaska. The Task Force was charged with three principal tasks, one of which was to review “the most efficient means of funding public services.” (See Governor’s Office of Management and Budget and the Alaska Municipal League, Task Force of Governmental Roles – Final Report, p. 5, July 10, 1992). The Task Force concluded with regard to local governmental efficiencies that:

Another main organizational thrust embodied in the state constitution is to develop a streamlined system of local government. There are four available means of unification. The first is conventional unification. Juneau, Sitka and Anchorage chose to unify and Fairbanks and Ketchikan have both considered and rejected this approach. The second is a merger in which one or more municipalities merge into an existing municipality with the latter becoming the surviving municipality. The third is consolidation, where one or more

³⁶ [Footnote 22 in original] The Constitutional provisions from which appellants infer a bar against unification are art. X, §§ 1, 2, 4, 7, 9, and 13. These six sections provide, respectively, that (1) the purpose of the local government article is to “provide for maximum local self-government with a minimum of local government units”; (2) “[a]ll local government powers shall be vested in boroughs and cities”; (4) cities are to be represented on borough assemblies; (7) cities are to be incorporated, merged, consolidated, and dissolved as provided by law and shall be part of the boroughs in which they are located; (9) home rule charters may be repealed by the voters of the city or borough having the charter; (13) cities may transfer powers or functions to boroughs unless prohibited by law or charter and may revoke the transfers. Appellants’ argument is that these sections show that their draftsmen contemplated the continuation of cities within boroughs rather than the swallowing up of the former by the latter.

municipalities consolidate into a new unit of government with all of the former units disappearing. This is the method that was looked at by the City of Kodiak and Kodiak Island Borough and is currently being explored by the Ketchikan Gateway Borough and the City of Ketchikan. The fourth method involves cities within a borough dissolving under the procedures set out in Title 29 whereby the borough succeeds to the responsibilities of the dissolved cities. This is currently being examined by the Northwest Arctic Borough. The Task Force endorses all of these methods.

Unification of borough and city administrations should be encouraged wherever possible for more efficient and cost-effective service delivery.

(*Id.* p. 15.)

Boroughs were first formed in Alaska during the 1960s. The 1970 census indicated that nearly 50 percent of Alaskans who lived in organized boroughs also lived within city governments. Today, that figure stands at 16.7 percent. It is a testament to the effectiveness of Alaska's constitutional policy of promoting city and borough consolidation that more than one-third of all organized boroughs in Alaska (6 of 16) have no city governments within them and that more than 83 percent of organized borough residents receive municipal services exclusively from their borough government.

A. The legal standard.

Article X, section 1 of the Alaska Constitution reads as follows:

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

B. The minimum number of local government units constraint favors boroughs that are large enough to prevent too many subdivisions in Alaska.

Article X, section 1 of the Alaska Constitution constrains the number of local government units. The Alaska Supreme Court termed the provisions in article X, section 1 to be, "an express constitutional policy of minimizing *the number of* local government units." (*City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040, 1044 (Alaska 1971), emphasis added.)

The constitutional constraint on the number of local government units is an important factor in the character of borough government. Principles articulated by the Local Government Committee at the Constitutional Convention included that "in the formation of the new areawide government units [boroughs] . . . should be large enough to prevent too many subdivisions in Alaska . . . [and] should cover large geographic areas with common economic, social, and political interests." (Victor Fischer, *Alaska's Constitutional Convention*, p. 119 (1975).)

The proposed City and Borough of Wrangell would be the sixth largest in area among Alaska's seventeen organized boroughs. Table 2-1 lists the size of existing and proposed boroughs and the proposed expansion of the Ketchikan Gateway Borough.

C. In 1963, the Legislature passed, and the Governor signed, a law citing the Minimum-of-Local-Government-Units Clause as a basis for mandatory boroughs.

As noted earlier in this report, the Alaska Legislature, with the formal endorsement of Governor Egan, mandated formation of organized boroughs in eight regions of Alaska. The sponsor of the measure, Representative John L. Rader emphasized that "The Legislature, the Courts and the Executive are bound by the local government article to provide maximum local self-government with a minimum number of local government units and tax levying jurisdictions." (*Supplement to House Journal*, p. 3, February 25, 1963, (emphasis added).) Representative Rader stressed that the intent of the legislature was to accomplish the constitutional purpose set out in article X, section 1. (*Id.*, p. 5.)

Section 1 of the 1963 law mandating borough formation specifically cited the provisions of article X, section 1 of the Constitution as a fundamental basis for the action.

Section 1. **Declaration of Intent.** It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation.

Table 2-1. Size of Existing and Proposed Boroughs

Borough	Size (Square Miles)
Skagway Borough	443
Bristol Bay Borough	850
Municipality of Anchorage	1,940
Haines Borough	2,730
City and Borough of Juneau	3,248
<i>Proposed Wrangell Borough</i>	<i>3,465</i>
City and Borough of Sitka	4,530
<i>Proposed Deltana Borough</i>	<i>5,892</i>
<i>Ketchikan Gateway Borough (proposed expanded)</i>	<i>6,453</i>
Fairbanks North Star Borough	7,430
City and Borough of Yakutat	9,251
Kodiak Island Borough	12,150
Denali Borough	12,610
Aleutians East Borough	15,020
Kenai Peninsula Borough	21,330
Matanuska-Susitna Borough	25,260
Lake & Peninsula Borough	29,560
Northwest Arctic Borough	39,150
North Slope Borough	94,770
Median of existing and proposed boroughs	7,430
Median of existing boroughs	9,251
Average of existing and proposed boroughs	15,583
Average of existing boroughs	16,590
Source for existing boroughs: DCCED Borough Boundaries Map, March 13, 2007.	

With the exception of planning and zoning, education, and tax collection and assessments, all powers granted the first-class boroughs are exercised at the option of the borough assemblies.

Chapter 52, Session Laws of Alaska 1963, (emphasis added).

The Legislature clearly endorsed boundaries encompassing large and natural regions for the eight regions listed in the 1963 Mandatory Borough Act. Of the eight boroughs formed under the Mandatory Borough Act, four were created with boundaries defined in the Act itself. Those were boroughs encompassing the greater Anchorage area, the Kenai Peninsula, the Matanuska-Susitna area, and the greater Fairbanks area. The average size of those boroughs was approximately 16,420 square miles.³⁷ Through the local action option allowed under the Mandatory Borough Act, the LBC approved boundaries for the other four boroughs that were smaller than those prescribed in the Mandatory Borough Act. In the case of the greater Ketchikan area, the LBC approved boundaries encompassing slightly more than one-quarter of the area proposed by the Legislature. In the case of Sitka, the Mandatory Borough Act designated boundaries that encompassed Angoon, Jamestown Bay, Mt. Edgecumbe, Sitka, and Tenakee. Boundaries approved for a Sitka borough under the local action option encompassed a considerably smaller area.

D. Conclusion: Incorporation of the City and Borough of Wrangell would comport with the minimum-of-local-government-units constraint.

Regarding the minimum-number-of-local-government-units constraint, the newly adopted LBC regulations at 3 AAC 110.982(1) provide:

Among the factors to be consider in determining whether a proposed boundary change comports with the minimum-number-of-local-government-units constraint of art. X, sec. 1, Constitution of the State of Alaska, the commission will consider (1) for borough incorporation, whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests.

In terms of the minimum-of-local-government-units constraint, it is noteworthy that incorporation of the Wrangell Borough (a unified municipality) will result in the concurrent dissolution of the City of Wrangell. Thus, the number of local governments will not increase. While the number will remain static, the size of the jurisdictional area of the local government unit serving the greater Wrangell area will grow from 71 square miles (the size of the territory within the City of Wrangell) to 3,465 square-miles.

³⁷ All four of those boroughs have undergone some boundary changes since 1964. However, only one borough has undergone significant change in terms of size. The Fairbanks North Star Borough boundaries originally encompassed 17,151 square miles, but currently encompass only 7,430 square miles. Based on the original boundaries of the Fairbanks North Star Borough and the current boundaries of the Anchorage, Kenai Peninsula, and Matanuska-Susitna area boroughs, the average size of those four boroughs originally was 16,420 square miles.

The Alaska Constitution and 3 AAC 110.982(1) promote boroughs that embrace large and natural regions. The area within the proposed Wrangell Borough is larger than five existing organized boroughs (Skagway Borough, Bristol Bay Borough, Municipality of Anchorage, Haines Borough, and City and Borough of Juneau). Based on the discussion and findings above, DCCED concludes that the Wrangell borough incorporation proposal would comport with the minimum-number-of-local-government-units constraint in article X, section 1 of the Alaska Constitution.

Part 3. Whether the Boundaries of the Proposed Unified Borough Are Suitable

The boundaries of any proposed borough must satisfy the applicable boundary standards for incorporation:

- include multiple communities (at least two) as required by 3 AAC 110.045(b), unless there is a specific and persuasive showing of a sufficient level of interrelationship in the proposed borough;
- conform to the boundaries of the existing regional school district (REAA boundaries) in accordance with 3 AAC 110.060(c);
- do not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b);
- do not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e);
- encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d);
- conform generally to natural geography and include all areas necessary for full development of essential municipal services as required by AS 29.05.031(a)(2) and 3 AAC 110.060(a);
- embrace an area and population with common interests to the maximum degree possible as required by article X, section 3 of the Alaska Constitution; and
- encompass a population that is interrelated and integrated as to its social, cultural, and economic activities as required by AS 29.05.031(a)(1) and 3 AAC 110.045(a); and is also interrelated and integrated as to its social, cultural, and economic characteristics as further required by 3 AAC 110.045(a).

A. The boundaries of any proposed borough must include multiple communities (at least two) as required by 3 AAC 110.045(b), unless there is a specific and persuasive showing of a sufficient level of interrelationship in the proposed borough.

The Alaska Administrative Code, under 3 AAC 110.045(b), requires that there be multiple *bona fide* communities in the proposed borough, as defined by 3 AAC 110.990(5) and determined under 3 AAC 110.920, unless a specific and persuasive showing is made that a sufficient level of interrelationship exists with fewer than two communities.

State law implies that any city government is a community.³⁸ Absent a specific and persuasive showing to the contrary, the city government of Wrangell is reasonably presumed to be a community by law. Therefore, the home-rule City of Wrangell automatically meets the standard for a community. Factors considered in determining the existence of a “community” include the number of residents; the population density; the location and number of schools, commercial establishments and other service centers; and unimpeded public access and the right to reside there.

For purposes of the LBC, the term “community” is defined in 3 AAC 110.990(5) as “a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920.”

The Petitioner claims that the City of Wrangell and Meyers Chuck are two *bona fide* communities in the proposed borough that fulfill the requirements of 3 AAC 110.045(b). The Petitioner correctly cites the 2000 Census population figure of 21 residents in Meyers Chuck, and stated that the Meyers Chuck and Union Bay area combined had a population of “approximately 23 persons.” (See population figures, discussion, and Table 2-1 in Part 2 of Chapter 2 of this report.) However, the population of the proposed borough has declined significantly since the 2000 Census – as much as 17.2 percent in some areas of the proposed borough. The State Demographer estimates the 2006 population of Meyers Chuck is 11 residents. Seven residents of Union Bay applied for Permanent Funds in 2006. Given these more recent populations estimates, on its face, the Meyers Chuck and Union Bay area combined does not have the requisite 25 or more permanent residents to qualify as a community as defined by 3 AAC 110.990(5) and determined under 3 AAC 110.920.

However, the lack of at least two communities in the proposed borough is not fatal to the Petition. Even if multiple communities are not found to be present in the proposed borough, the legal requirements of 3 AAC 110.045 can be satisfied if a sufficient level of interrelationship exists with fewer than two communities. After careful study, DCCED concludes that a sufficient level of interrelationship exists in this case, even though there are fewer than two communities in the proposed borough. (See the discussion below in G and H in regard to the proposed borough having an interrelated and integrated population and area with common interests.)

B. The boundaries of any proposed borough must conform to the boundaries of the existing regional school district (REAA boundaries) in accordance with 3 AAC 110.060(c).

The proposed Wrangell Borough boundaries do not conform to REAA boundaries. However, the REAA boundaries are not suitable in this case to serve as boundaries for a solitary borough.

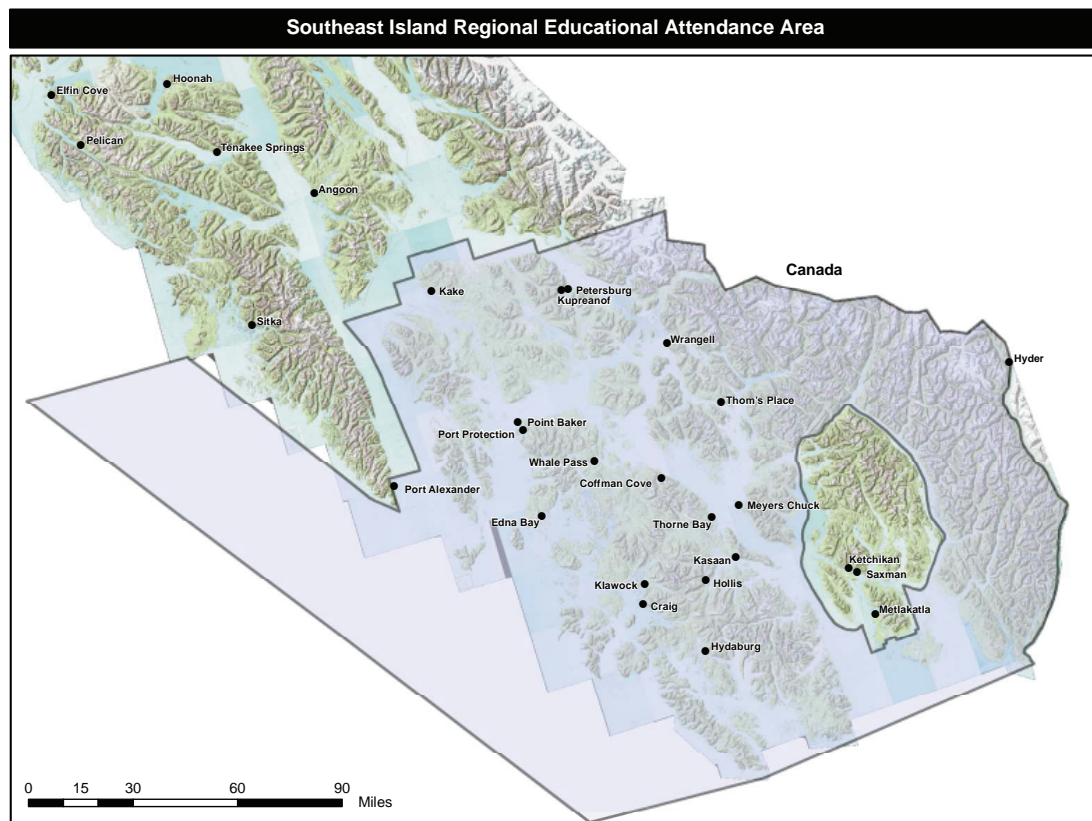
The provisions of 3 AAC 110.060(c) state:

³⁸ See AS 29.05.011, AS 29.05.021 and 3 AAC 110.005.

The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of education and early development, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

The area proposed for incorporation, including the territory inside the boundaries of the City of Wrangell, lies within the Southeast Island Regional Educational Attendance Area (REAA).³⁹ The Southeast Island REAA encompasses that portion of the unorganized borough in the southern portion of Southeast Alaska, with the exception of the Annette Island REAA. The Southeast Island REAA boundaries are described as follows:

All the territory in the unorganized borough of the State of Alaska east of longitude 141 degrees West and South of the mid-point on Fredrick Sound, said point defined as Latitude 57 degrees North. This area excludes all the territory on Admiralty Island and includes the City of Port Alexander, and Kupreanof Island. This area excludes the Annette Federal Reserve.



³⁹ Under AS 14.08.031, the entire unorganized borough, including first-class cities and home-rule cities, is divided into REAAs. AS 14.12.010 and AS 29.35.260(b) relate only to the delegated authority for local school administration in first-class cities and home-rule cities in the unorganized borough. Neither of those statutes changes the boundaries of REAAs. REAA boundaries are established by DCCED, which also serves as Staff to the Commission under AS 44.33.020(4). Further, 3 AAC 110.990(13), adopted by the LBC on April 30, 2007, defines "Regional Educational Attendance Area" as "an educational service area established in the unorganized borough under AS 14.08.031 by the department and includes the territory within the boundaries of a home rule city, first class city, or federal transfer regional educational attendance area in that area."

In terms of the applicable standard, it is significant that the LBC concluded long ago that the Southeast Island REAA does not represent suitable boundaries for a lone borough. Using borough boundary standards in the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code, the LBC defined the area within the Southeast Island REAA to comprise three entire model boroughs plus and a portion of a fourth. More specifically, the Southeast Island REAA encompasses:

1. An estimated 4,906 square miles within model borough boundaries defined by the LBC for the Ketchikan Gateway Borough.⁴⁰
2. An estimated 7,180 square miles identified by the LBC as the Prince of Wales Island Model Borough.
3. An estimated 6,484 square miles demarcated by the LBC as the Wrangell-Petersburg Model Borough.
4. The southern portion of the 3,304 area defined by the LBC as the Chatham Model Borough.

It is noteworthy that the Assembly of the Ketchikan Gateway Borough concurs that the Southeast Island REAA boundaries are not suitable for a solitary borough. In fact, the Ketchikan Borough Assembly concurs with the determination by the LBC in 1991 regarding model boundaries for the Ketchikan Gateway Borough.⁴¹ Obviously, voters in the greater Wrangell area also consider the boundaries of the Southeast Island REAA to be ill suited for a lone borough. Moreover, there are indications that voters in the greater Petersburg area are contemplating a borough proposal.

Beyond the circumstances addressed above, DCCED also recognizes that 3 AAC 110.060(c) allows the LBC and the Commissioner of DEED to evaluate the impact that a particular borough incorporation might have in terms of efficiencies and economies of scale in the delivery of educational services. For example, if the boundaries of a proposed borough include only a portion of the schools in a particular school district, there may be cause for concern that the proposal would adversely impact the capacity of the school district serving the remaining schools to be inefficient and ineffective.⁴² That is not the case here. All of the publicly educated students living in the proposed Wrangell Borough are presently served by the City of Wrangell School District or another district operating correspondence study. In other words, as shown in the table below, the number of schools served by the Southeast Island REAA will not change if the proposed Wrangell Borough is created.

⁴⁰ In a separate preliminary report dated June 30, 2007, DCCED recommended approval of the pending petition for annexation of 4,701 square miles of the area to the Ketchikan Gateway Borough.

⁴¹ The Ketchikan Gateway Borough's pending petition for annexation of 4,701 square miles seeks to defer annexation of 205 square miles of the area within its model borough boundaries.

⁴² In the case of the pending Ketchikan Gateway Borough annexation proposal, approval of the proposal would create a 205-square mile enclave in and around Hyder. The Southeast Island REAA operates a school at Hyder. The creation of the enclave, like the incorporation of a Wrangell Borough, would not alter the number of schools served by the Southeast Island REAA. DCCED took the position regarding the Ketchikan annexation proposal that concern over the creation of a Hyder enclave need arise only in the event of the creation of a Prince of Wales Island Borough.

Table 2-2	
School	Model Borough in Which the School is Located
Hollis School	Prince of Wales Island
Howard Valentine School (Coffman Cove)	Prince of Wales Island
Hyder School	Ketchikan Gateway Borough
Kasaan School	Prince of Wales Island
Naukati School	Prince of Wales Island
Port Alexander School	Prince of Wales Island
Port Protection School	Prince of Wales Island
Thorne Bay School	Prince of Wales Island

Balancing the standards for incorporation of a borough and considering the facts above, DCCED finds sufficient evidence to support a conclusion that the Southeast Island REAA boundaries do not represent an area that is best suited to the public interest and therefore, in this instance, smaller boundaries are appropriate.

DCCED recognizes, of course, that 3 AAC 110.060(c) requires the LBC to consult with the Commissioner of the Department of Education and Early Development (DEED) in terms of in terms of satisfaction of this standard. Notice of the filing of the Wrangell Petition was provided to the Commissioner of DEED on May 17, 2006. DEED did not comment on the Petition during the period of public comment on the proposal. DCCED will provide a copy of this report and the final report to DEED and invite that agency to comment on the preliminary report. Notice of the LBC's public hearing on the proposal will also be provided to DEED. Beyond that, DCCED will take any additional measures directed by the Commission to consult with DEED.

C. The boundaries of any proposed borough must not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b).

The provisions of 3 AAC 110.060(b) state:

Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.

The proposed boundaries of the City and Borough of Wrangell overlap the model borough boundaries of the KGB. In regard to the current competing KGB annexation proposal that claims the same 191-square mile area in the vicinity of Meyers Chuck and Union Bay, DCCED finds that Meyers Chuck and Union Bay have more in common with Ketchikan than Wrangell, and therefore recommends that the LBC amend the Wrangell Petition to exclude this area.

1) *The 1963 Legislature Concluded That Meyers Chuck had More in Common With Ketchikan Than Wrangell.*

The 1963 Alaska State Legislature defined boundaries for a prospective mandatory greater-Ketchikan-area borough to include Meyers Chuck. (See Section 3(a)(7) CSHB 90, Third Alaska State Legislature.) That action, on its face alone, warrants the presumption that the boundaries defined by the 1963 Legislature fully satisfied all constitutional and statutory standards for borough incorporation. Those standards included the constitutional mandate (still in place today) that “Each borough shall embrace an area and population with common interests to the maximum degree possible” (article X, section 12 of the Alaska Constitution).



Meyers Chuck

If the area and population of Meyers Chuck did not have greater interests in common with the area and population of Ketchikan compared to any other area and population in Alaska, including Wrangell, Section 3(a)(7) of SCHB 90 would have been unconstitutional and a violation of the statutory standards for borough incorporation.

It is significant that a majority of the 1963 legislators who defined the boundaries for a prospective mandatory greater-Ketchikan-area borough to include Meyers Chuck were also legislators during the enactment of the borough incorporation standards in 1961.⁴³ Further, eight members of the 1963 Legislature had been delegates to the Alaska Constitutional Convention.⁴⁴

⁴³ The 1961 Legislature enacted the first statutory standards for incorporation of organized boroughs (Chapter 146 SLA 1961). The following twelve individuals were part of both the twenty-member 1961 Alaska State Senate and the 1963 Alaska State Senate: Howard C. Bradshaw, Lester Bronson, John B. Coghill, Eben Hopson, Robert J. McNealy, James Nolan, Alfred A. Owen, Frank Peratrovich, Brad Phillips, Vance Phillips, W.O. Smith, and Pearse M. Walsh. The following twenty-three individuals were part of both the forty-member 1961 Alaska State House of Representatives and the 1963 Alaska State House of Representatives: Edgar L. Baggen, Forbes L. Baker, C.M. Binkley, Robert R. Blodgett, William K. Boardman, Frank E. Cashel, Raymond C. Christiansen, Robert I. Ditman, Jay S. Hammond, Arthur J. Harris, Gilbert A. Jarvela, Bruce Kendall, Walter L. Kubley, Bennie Leonard, John E. Longworth, James C. Parsons, Grant H. Pearson, Morgan W. Reed, William H. Sanders, Jacob A. Stalker, Harold D. Strandberg, Dora M. Sweeney, and Warren A. Taylor. Additionally, Harold Z. Hansen was a member of the 1961 House of Representatives and the 1963 Senate.

⁴⁴ The former delegates in the 1963 Senate were Senators John B. Coghill, Yule F. Kilcher, Robert J. McNealy, James Nolan, Frank Peratrovich, and W. O. Smith. The former delegates that were members of the 1963 House of Representatives were Representatives Dora M. Sweeney and Warren A. Taylor.

2) In 1963, Governor Egan Concurred with the Legislature That Meyers Chuck had More in Common With Ketchikan Than Wrangell.

Following passage of CSHB 90 by the 1963 Legislature, then-Governor Egan did not veto the measure nor did he simply allow it to become law without his signature. Instead, Governor Egan signed CSHB 90 into law as Chapter 52 SLA 1963. By doing so, the chief executive of the State of Alaska affirmatively embraced the action of the 1963 Legislature, including the definition of boundaries for the prospective mandatory greater-Ketchikan-area borough.

It is notable that article III, section 16 of the Alaska Constitution provides that “The governor shall be responsible for the faithful execution of the laws.” By signing CSHB 90 into law, Governor Egan faithfully executed the statutory standards for borough incorporation and the constitutional mandate that each borough embrace an area and population with common interest to the maximum degree possible.

3) In 1991, the LBC Determined that the 191-Square Mile Area in Question had More in Common with Ketchikan Than Wrangell.

After applying borough boundary standards in the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code, the LBC in 1991 formally defined model borough boundaries for the Ketchikan Gateway Borough. Those boundaries encompass the 191-square mile area common to both the pending Wrangell and Ketchikan petitions. Thus, the LBC concluded in 1991 that the people and area within the 191 square miles have more in common with the people and area of the existing Ketchikan Gateway Borough than any other part of Alaska. The model borough boundaries are formally established in law under regulations adopted by the LBC.

4) In 1999, the LBC Determined that the 191-Square Mile Area in Question had More in Common with Ketchikan Than Any Other Adjacent Portion of the Unorganized Borough.⁴⁵

In 1998, the Ketchikan Gateway Borough petitioned for annexation of nearly all of the area within its model boundaries. The exception was the exclusion of 17.9 square miles in and around Hyder and 3.5 square miles in and around Meyers Chuck. The LBC rejected the annexation proposal, in part, because it did not include Meyers Chuck. The Commission expressly concluded that the applicable legal standards, including those set out in the Alaska Constitution, required Meyers Chuck to be within the boundaries of the Ketchikan Gateway Borough.

In its 1999 written decision regarding the annexation proposal, the LBC made the findings and conclusions regarding the omission of Meyers Chuck:

“One of the ways to access the northwestern portion of the territory proposed for annexation is to travel through Meyers Chuck.” (LBC, *Statement of Decision in the Matter of the February 28, 1998 Petition of the Ketchikan Gateway Borough for Annexation Of 5,524 Square Miles*, p. 5, April 16, 1999.)

⁴⁵ As reflected in the quotes below, the LBC stated in 1999 that Meyers Chuck has more in common with Ketchikan than it does with any other “select adjacent portion of the unorganized borough.” The 1999 LBC recognized ties between Meyers Chuck and Prince of Wales Island, but in their deliberations, they never recognized any ties between Meyers Chuck and Wrangell.

“Meyers Chuck appear[s] to be integrated into the transportation and communication system centered in Ketchikan. For example, DCRA reported that there were 249 commercial passenger enplanements in Meyers Chuck during 1996 (equivalent to eight enplanements per resident, which is higher than that found in many communities in Southeast Alaska). According to DCRA, an official from the Alaska Department of Transportation stated that it was reasonable to assume that virtually all of the 249 passengers were destined for Ketchikan. Regarding communications, DCRA reported that approximately 40% of the occupied homes in Meyers Chuck subscribe to the *Ketchikan Daily News*.” (*Id.*)

“Meyers Chuck (located approximately 40 air miles from Ketchikan) may be considered by some to be distant from Ketchikan. However, communities in many other organized boroughs in Alaska are separated by far greater distances.” (*Id.*)

“The . . . communication and exchange standard set out in 19 AAC 10.160(b) is satisfied, albeit minimally. The exclusion of Hyder and Meyers Chuck from the annexation proposal significantly diminishes the extent to which this standard is met.” (*Id.*, p.6.)

“The western boundaries followed various natural waterways (e.g., along the mid-point of Clarence Strait), with the exception of the exclusion of Meyers Chuck.” (*Id.* 7.)

“Consideration of existing and reasonably anticipated transportation patterns in the context of this standard raised the same concerns for the Commission that were noted previously with respect to the standard dealing with the communication and exchange necessary for development of integrated borough government. Here again, it appears that Hyder and Meyers Chuck are key links to portions of the territory proposed for annexation.” (*Id.* 8.)

“The exclusion of Hyder and Meyers Chuck from the annexation proposal precludes the satisfaction of the requirement that the Borough conform generally to natural geography and include all areas necessary for full development of municipal services on an efficient, cost-effective level.” (*Id.*)

“[T]he Borough’s model boundaries also reflect the application of all borough boundary standards and relevant constitutional principles to the pertinent facts in the Borough’s circumstances. In the record, there is insufficient justification for deviation from those model boundaries here. If the Borough’s annexation proposal were approved, the Borough would have little or no incentive to further extend its boundaries to include Hyder and Meyers Chuck.” (*Id.* 9.)

“[T]he territory proposed for annexation has a great deal in common with the Borough. Existing State House Election District 1 conforms closely to the proposed new boundaries of the Borough. However, Election District 1, like the Borough’s model boundaries, includes Hyder and Meyers Chuck. The area

proposed for annexation also conforms substantially to the “Outer Ketchikan Census Subarea” of the “Prince of Wales-Outer Ketchikan Census Area.” Hyder and Meyers Chuck are included in that subarea as well.” (*Id* 11.)

“[T]he territory proposed for annexation includes most of the Cleveland Peninsula. That area is used by the residents of Ketchikan and surrounding communities for subsistence hunting, fishing, and primitive recreation. Meyers Chuck is also located on Cleveland Peninsula.” (*Id.*)

“In 1963, the Legislature determined that the territory proposed for annexation, plus Hyder and Meyers Chuck, was suitable for inclusion within the Borough under the terms of the Mandatory Borough Act.” (*Id* 12.)

“There are strong ties between the Borough and both Hyder and Meyers Chuck. Common ties concerning transportation and communication were addressed previously. Beyond that, the Borough identified four factors that it considered to be of “particular importance” in demonstrating the close ties between it and the territory proposed for annexation. Those factors related to: (1) election districts, (2) recording districts, (3) borough government boundaries as mandated by the 1963 legislature, and (4) model borough boundaries. However, each and every one of those four factors also links the Borough to Meyers Chuck and Hyder. Other common interests linking the Borough to Hyder and Meyers Chuck include natural geography and census sub-area boundaries. Medical care is another area in which there are common interests since both Hyder and Meyers Chuck are within the “Primary Service Area” of the Ketchikan General Hospital.” (*Id.*)

“Given the extreme diversity of the unorganized borough, coupled with the social, cultural, economic, geographic, transportation, and other ties between the Borough and the area proposed for annexation, the territory unquestionably has stronger ties to the Borough than it does to the rest of the unorganized borough. Even if a comparison is made between a select adjacent portion of the unorganized borough (e.g., Prince of Wales Island) versus the Borough, the territory still exhibits stronger ties to the Borough.” (*Id.*) (Emphasis added.⁴⁶)

“While annexation would better satisfy the constitutional mandate for the Borough’s boundaries to encompass maximum common interests than is the case currently, the constitution calls for boundaries to embrace an area of common interests “to the maximum degree” possible. Without Meyers Chuck and Hyder, this standard cannot be met.” (*Id.*)

⁴⁶ Again, it is noteworthy that the 1999 LBC stressed that the area and population of Meyers Chuck had more in common with Ketchikan than it did with any “select adjacent portion of the unorganized borough (e.g., Prince of Wales Island).” It is especially notable that ties between Meyers Chuck and Wrangell were not even reflected in the LBC’s deliberations.

[T]he need for municipal government is not limited to the area proposed for annexation. That area includes Meyers Chuck and Hyder as well. When planning is conducted around those communities, special focus should be given to how activities in the adjacent region will affect those communities. As such, the Borough's annexation proposal significantly undercuts its own ability to effectively address planning needs by excluding Meyers Chuck and Hyder." (*Id* 13.)

"There are no schools in the territory proposed for annexation. However, here again, the Borough undermines its own annexation proposal by excluding Meyers Chuck and Hyder. The State would be left with the responsibility for the education of students in those communities." (*Id.*)

"Because the annexation petition excludes Hyder and Meyers Chuck, the Commission considers the proposal to fail in terms of promoting maximum local self-government." (*Id* 14.)

5) The Area and Population Within the 191-Square Miles Continues to Have the Strong Ties to Ketchikan Cited by the LBC in 1999.

The common ties between the area and people of Meyers Chuck and Ketchikan identified by the LBC in 1999 remain in place today. Examples of these continued ties are provided below.

- Following the 1999 LBC decision, State House Election District boundaries in Alaska were adjusted on the basis of the 2000 federal census in accordance with article VI of the Alaska Constitution and AS 15.10.300. Meyers Chuck and Union Bay continue to be in the same State House election district as the area within the existing boundaries of the KGB (House Election District 1). In contrast, most of the inhabited portions of the proposed Wrangell Borough are in adjoining House District 2.
- Meyers Chuck remains in the Outer Ketchikan Census Subarea. In contrast, the proposed Wrangell Borough lies principally within the Wrangell-Petersburg Census Area.
- The National Forest lands in the vicinity of Meyers Chuck and Union Bay are managed by the Ketchikan Ranger District. The Ketchikan Ranger District headquarters and personnel are based in Ketchikan.
- To the extent that the Federal government develops or improves lands in the Meyers Chuck and Union Bay area, it is likely that the area and people within the boundaries of the existing Ketchikan Gateway Borough that will provide the majority of infrastructure, goods, and services for their improvement.
- Alaska Department of Fish and Game (ADF&G) boundaries link Meyers Chuck and Ketchikan. According to ADF&G data, Game Management Unit 1A is used primarily by Ketchikan residents. For example, 81% of the 523 hunters engaged in deer hunting in Unit 1A listed Ketchikan as their community of residence. In addition, according ADF&G commercial fisheries data, 94% of subsistence salmon and personal use permits (218 total) issued within the area proposed for annexation (principally Yes Bay) were issued to residents of the existing Borough. Hunters

residing in Ketchikan who participated in the survey reported that they hunted in Game Management Units 1A, 1B, 2, 3, 4, and perhaps other areas (“unknown”). Hunters residing in Meyers Chuck who participated in the survey reported that they hunted in both Game Management Units 1A and 1B, as well as Game Management Unit 3 and perhaps other areas (“unknown”). Hunters residing in Wrangell did not report that they hunted in Game Management Units 1A.

- Emergency medical service patient transportation pattern links Meyers Chuck with the Ketchikan General Hospital. DHSS indicated further that Meyers Chuck has three volunteer Emergency Medical Technicians in the summer and one “First-Aider with AED [Automated External Defibrillators]” in the winter. In 2006, Dr. Anthes, a medical doctor in Ketchikan, was listed as the Meyers Chuck EMS Medical Director.
- Meyers Chuck reliably receives radio signals from Ketchikan which carry news and other items of local and regional interest. DCCED’s Community Database lists only two radio stations as serving Meyers Chuck. Those are KTKN-AM and KRBD-FM, both based in Ketchikan. No station based in Wrangell is listed as serving Meyers Chuck.
- Only one of the few households in Meyers Chuck subscribes to the *Ketchikan Daily News*. None subscribes to the *Wrangell Sentinel*.
- The Ketchikan International Airport, which is operated by the Ketchikan Gateway Borough, provides facilities serving residents of Meyers Chuck in traveling to destinations outside of the region. Aviation firms based in Ketchikan provide air transportation from Ketchikan to the area proposed for annexation, including Ketchikan. According to the Ketchikan Gateway Borough, data show that there were 210 regularly scheduled passenger trips, 3,648 pounds of freight, and 13,609 pounds of mail on flights from Ketchikan to Meyers Chuck in 2004. Additionally, the same statistics indicated that there were 88 trips, 335 pounds of freight, and 221 pounds of mail on flights from Meyers Chuck to Ketchikan. DCCED contacted Sunrise Aviation, the only air carrier in Wrangell that has the capacity to serve Meyers Chuck. Other than to state that it does not offer regular passenger service to Meyers Chuck, Sunrise Aviation representatives declined to make any statement regarding the extent, if any, to which Sunrise Aviation serves Meyers Chuck.

6) Current Law Creates a Presumption Against Inclusion of the 191-Square Mile Area in the Proposed Wrangell Borough.

As noted many times, the 191-square mile area common to both the Ketchikan and Wrangell boundary proposals lies exclusively within the model borough boundaries of the Ketchikan Gateway Borough. The provisions of 3 AAC 110.060(b) state, “Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.”

The LBC is barred from including the 191-square mile area in a Wrangell Borough unless the Wrangell petitioners make “a specific and persuasive showing” to the contrary. Stated another way, the Local Boundary Commission lawfully must be wary and skeptical when evaluating whether to include the 191-square mile area in the proposed Wrangell Borough.

DCCED finds no evidence, let alone a “specific and persuasive showing” that the area and people within the 191-square mile area have more in common with Wrangell as contrasted with Ketchikan.

7) In the Ketchikan Gateway Borough’s 1998 annexation proposal that included Meyers Chuck, the City of Wrangell did not object.

The City of Wrangell objected to a 1998 Ketchikan Gateway Borough annexation proposal to extend the Borough’s boundaries to encompass all of the area within its model borough boundaries except for a 3.5-square mile area in and around Meyers Chuck and a 17.9-square mile area in and around Hyder.

The City of Wrangell’s stated objection in 1998 dealt solely with the concern that annexation of territory to the Ketchikan Gateway Borough would reduce National Forest Receipts payments to cities and regional educational attendance areas located in the Tongass National Forest portion of the unorganized borough, including, of course, the City of Wrangell.⁴⁷ See City of Wrangell Resolution No 3-98-717.

It is particularly noteworthy the 1998 Ketchikan annexation proposal included more than 98 percent of the 191-square mile area common to both the pending Wrangell petition and the pending Ketchikan Gateway Borough annexation proposal. That is, 187.5 square miles of the 191 square miles overlapping area was proposed for annexation to the Ketchikan Gateway Borough in 1998. The City of Wrangell did not assert that the area and population in question had greater interests in common with Wrangell compared to Ketchikan.

8) The Alaska Department of Natural Resources Central/Southern Southeast Area Plan, adopted November, 2000, includes Meyers Chuck and Union Bay in the Ketchikan Planning Region (and in the Ketchikan-Cleveland Peninsula Subregion) rather than in the Wrangell Planning Region.

The Petitioner uses DNR’s Map of the Wrangell Planning Region in DNR’s *Central/Southern Southeast Area Plan*⁴⁸ as justification for the boundary of the proposed borough, separating it from the Petersburg Planning Region. However, Meyers Chuck and Union Bay, located on the Cleveland Peninsula, are included in the Ketchikan Planning Region, rather than in the Wrangell Planning Region.

⁴⁷ If the proposed Wrangell borough is formed, it would reduce National Forest Receipts payments to cities and regional educational attendance areas located in the Tongass National Forest portion of the unorganized borough. DCCED estimates that a Wrangell Borough would have received a National Forest Receipts payment of \$958,795 in FY 07 (\$814,976 would have been paid to the borough and \$143,819 would have remained with the US Forest Service for Title II projects). That compares to a FY 07 National Forest Receipts payment of \$725,437 to the City of Wrangell with \$117,454 staying with the USFS for Title II projects.

⁴⁸ Attachment 14 to Petitioner’s Supporting Brief in Exhibit H, referred to on p. 46 of the Petitioner’s Brief.

D. The boundaries of any proposed borough must not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e).

The provisions of 3 AAC 110.060(e) state:

If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping region from the existing organized borough.⁴⁹ The commission will consider and treat that petition for incorporation as also being a detachment petition.

The area within proposed Wrangell Borough is wholly within the unorganized borough. The proposed borough boundaries do not overlap any part of an existing organized borough so this prohibition is adhered to.

E. The boundaries of any proposed borough encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d).

The proposed boundaries for the City and Borough of Wrangell do not contain enclaves, so this requirement is satisfied.

F. The boundaries of any proposed borough must conform generally to natural geography and include all areas necessary for full development of essential municipal services.

The 191 square-mile area in the vicinity of Meyers Chuck and Union Bay is on the Cleveland Peninsula and is part of the Ketchikan Gateway Borough's model boundaries. A body of water – Ernest Sound – separates Etolin Island from the Cleveland Peninsula. Therefore, natural geography excludes Meyers Chuck and Union Bay from the proposed borough. Other than this 191 square-mile area, the petition for the incorporation of the City and Borough of Wrangell – on a scale suitable for borough government – proposes boundaries that conform generally to natural geography. The geographic area of the proposed Wrangell Borough, which comprises an estimated 3,465 square miles, is of a scale suitable for borough government. With the exclusion of Meyers Chuck and Union Bay, the remaining 3,274 miles proposed for incorporation is of a scale suitable for borough government.

Two provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(2) and 3 AAC 110.060(a). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: . . . 2) the [must have] boundaries [that] of the proposed borough or unified municipality

⁴⁹ AS 29.06.040(a) and 3 AAC 110.270 establish standards for detachment. Procedures for detachment are set out in AS 29.06 and 3 AAC 110. Those provisions are not listed here.

conform generally to natural geography and include all areas necessary for full development of municipal services. (AS 29.05.031(a)(2)) (Emphasis, de-emphasis, and clarification added.)

The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;
- (5) natural geographical features and environmental factors; and
- (6) extraterritorial powers of boroughs. (3 AAC 110.060(a)) (De-emphasis added.)

G. The boundaries of any proposed borough must embrace an area and population with common interests to the maximum degree possible as required by article X, section 3 of the Alaska Constitution.

Background Regarding Article X, Section 3 of the Alaska Constitution

The Alaska Supreme Court has characterized Article X, Section 3 as a “constitutional mandate” that each borough embrace an area and population with common interests to the maximum degree possible. Further, the Supreme Court has stated that the LBC must apply the statutory standards for borough incorporation in the context of that key constitutional provision. Specifically, the Court stated:

To avoid conflict with the constitutional mandate that each borough “embrace an area and population with common interests to the maximum degree possible,” the provisions of AS 29.05.100(a) dealing with the rejection, acceptance, and alteration of proposed boroughs must be interpreted to require that the LBC apply the statutory standards for incorporation in the relative sense implicit in the constitutional term “maximum degree possible.” In other words, AS 29.05.100(a) must be construed to mean that, in deciding if the statutory standards for incorporation have been met, the LBC is required to determine whether the boundaries set out in a petition embrace an area and population with common interests to the maximum degree possible.

Petitioners for Incorporation of City and Borough of Yakutat, v. Local Boundary Commission, 900 P.2d 721, 725 (Alaska 1995).

H. The boundaries of any proposed borough must encompass a population that is interrelated and integrated as to its social, cultural, and economic activities; and is also interrelated and integrated as to its social, cultural, and economic characteristics.

Several provisions of law relate to this particular standard. Those consist of art. X, sec. 3 of the Alaska Constitution, AS 29.05.031(a)(1), 3 AAC 110.045(a), 3 AAC 110.045(b), 3 AAC 110.920, and 3 AAC 110.990(5). Those laws state:

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law. (Art. X, sec. 3 of the Alaska Constitution) (Emphasis and de-emphasis added.)

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: (1) the [must have a] population of the area [that] is interrelated and integrated as to its social, cultural, and economic activities. (AS 29.05.031(a)(1)) (Emphasis, de-emphasis, and clarification added.)

The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission may consider relevant factors, including the

- (1) compatibility of urban and rural areas within the proposed borough;
- (2) compatibility of economic lifestyles, and industrial or commercial activities;
- (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) extent and accommodation of spoken language differences throughout the proposed borough. (3 AAC 110.045(a))

Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough. (3 AAC 110.045(b))

[A] 'community' means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920. (3 AAC 110.990(5))

Determination of community. (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the

(1) settlement is inhabited by at least 25 individuals;

(2) inhabitants reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living; and

(3) inhabitants residing permanently at a location are a discrete and identifiable social unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if

(1) public access to or the right to reside at the location of the population is restricted;

(2) the population is adjacent to a community and is dependent upon that community for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence. (3 AAC 110.920)

Wrangell's petition to incorporate 3,465 square miles as the City and Borough of Wrangell, and the Ketchikan Gateway Borough's petition for annexation of a 4,701 square-mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (KGB), both claim the same 191 square-mile area in the vicinity of Meyers Chuck and Union Bay.

Eight reasons listed under section "C" explain why the 191 square-mile area in the vicinity of Meyers Chuck and Union Bay has more in common with Ketchikan than with Wrangell. Based on the evidence in this incorporation proceeding and the pending proceeding for annexation to the Ketchikan Gateway Borough, DCCED concludes that only 95 percent of the area proposed for incorporation as the Wrangell Borough share common interests to the maximum degree possible. Therefore, DCCED concludes that the remaining 191 square-mile area and the population in the vicinity of Meyers Chuck and Union Bay on the Cleveland Peninsula have greater interests in common with Ketchikan as compared to Wrangell. That 191-square mile area is within the Ketchikan model borough boundaries and is currently proposed for annexation to the Ketchikan Gateway Borough.

The remaining 3,274 square miles proposed for borough incorporation embraces an area and population with common interests to the maximum degree possible and, on a scale suitable for borough government, has a

population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities. Educational services have long been provided to the area. Therefore, residents of the proposed Wrangell Borough have shared common interests on a regional scale with respect to educational services.

The transportation and communication network facilitates the administration of education and communication between settlements that comprise the area. Identifiable geographic features are used to describe the boundaries of the area proposed for incorporation. For the most part, the proposed boundaries include whole islands, rather than portions thereof.

Furthermore, most of the services (such as education) and facilities provided by the City of Wrangell are already areawide in nature, both in terms of the contributions of human and financial resources necessary to provide those services and facilities, as well as in terms of the use of or benefit from those services and facilities by residents of the entire region. Wrangell is used as a consumer hub.

The area within the proposed Wrangell Borough lacks multiple bona fide communities as determined under 3 AAC 110.920.⁵⁰ We can overcome the presumption in 3 AAC 110.045(b) that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough through a higher level of proof (“a specific and persuasive showing”) that the proposed Wrangell Borough meets the Community of Interests Standard. In that regard, we find the residents of the proposed borough have strong ties with respect to social, cultural, and economic characteristics and activities, enough to overcome the presumption in 3 AAC 110.045(b). There exists among residents of the proposed City and Borough of Wrangell a compatibility of urban and rural areas, including compatibility of economic lifestyles, and industrial, or commercial activities. There also exists throughout the proposed borough transportation and communication patterns that reflect, on a scale suitable for borough government, a population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities. Lastly, the geographic area of the proposed borough, which comprises an estimated 3,274 square miles (excluding Meyers Chuck and Union Bay), is of a scale suitable for borough government.

Based on the findings above, DCCED concludes that the proposed City and Borough of Wrangell embraces an area and population with common interests to the maximum degree possible and, on a scale suitable for borough government, has a population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities.

While DCCED has concluded here and elsewhere that the proposed City and Borough of Wrangell boundaries satisfy all applicable standards, we express our awareness, however, that each time a new borough is formed from the unorganized borough, it naturally diminishes the

⁵⁰ Commissioner Hicks expressed the conclusion that Whitestone and Healy Lake are both closed communities in the sense that there is not unimpeded public access to or the right to reside there. He indicated further that there is a lack of frequent personal interaction between residents of Whitestone and the immediately adjoining properties. Moreover, he characterized the Whitestone Community Association as a contrivance created for purposes of securing permits for developments of the local landfill.

size of the unorganized borough. There is some degree of concern among us that a future LBC is going to look back at what was done here, and in actions taken by earlier commissions and question whether the Commissioners did not create some economic orphans in the unorganized borough. Anytime a borough is formed, it captures certain resources and may put the adjoining region at a disadvantage. It is fitting in this context to recognize remarks by Senator Gary Wilken of Fairbanks, during the February 27, 2007, meeting of the Senate Community and Regional Affairs Committee:

[The LBC] is the most difficult and most under-appreciated commission that I know of in State government. It is so important that it is in our Constitution, and [the Framers of our Constitution] had the vision that local government is the best government. It has been difficult to move us ahead. Most of us – we’re worried about what’s around the corner. This commission, the Local Boundary Commission, is charged with looking what’s over the horizon. We think about the next election; they’re charged with thinking about the next generation and beyond. That’s really, really difficult especially when you deal with issues that carry a lot of dogma and a lot of angst about change; and that is what we’re talking about – change. Not change for today, but change for the next generation. We’re the only state in the nation with unorganized areas. So, as much as people would like to ignore local government, it does work. It is the bedrock of our system in America, and it will be, over time, the bedrock of our system in Alaska. This commission is charged with some very difficult decisions.

. . . .

It seems to me that we’re at a spot here that we can make our state a bunch of little boroughs – and when we do that we disenfranchise – we don’t bring to the surrounding area, whatever that may be – the benefit of the discussion – of the tension of local government. We’re at the point – and we just passed that first milestone, and we’re heading for Donlin Creek [within the prospective Kuspuk region borough] – perhaps we may be headed for Delta – where we carve out the little enclaves of wealth. And those little wealthy areas are very happy because they’ll have a big tax base and they’ll provide very little, if anything, of local support that comes out of their wallets. In the meantime, the people that are carved out, the people that aren’t considered because we’re thinking what is around the corner and not what’s over the horizon -- those people, twenty years from now or forty years from now, will look back and say, “How come? What happened back there that we’re not a part of that?” And, so, we’re asking these five people to look over that horizon.

Part 4. Whether the Population of the Proposed Borough Is Large and Stable Enough to Support Borough Government

AS 29.05.031(a)(1) and 3 AAC 110.050(a) require that the population of a proposed borough must be large and stable enough to support borough government. Additionally, 3 AAC 110.050(b) creates a presumption that at least 1,000 permanent residents must live in the proposed borough.

According to the State Demographer, the 2006 estimated population of the proposed Wrangell Borough is 2,017 residents. That figure is obviously well above the minimum 1,000 person threshold set out in 3 AAC 110.050(b).

The population of Alaska's 16 organized boroughs ranged from a low of 618 (Yakutat) to a high of 278,241 (Anchorage).

The 2005 mean population of the 16 organized boroughs, (before Skagway became the State's 17 organized borough in 2007) was 36,392. That figure was skewed by the Anchorage borough, which accounted for 47.8 percent of Alaska's organized borough population. Without the Anchorage borough, the 2005 mean population of the remaining 15 organized boroughs was 20,269. The 2005 median population of all 16 organized boroughs was 8,135.

Based on the foregoing, DCCED concludes that the population of the proposed borough is certainly large enough to support borough government.

Based on the population figures for the proposed City and Borough of Wrangell, DCCED concludes that the proposed borough has a population large and stable enough to satisfy the requirements set out in AS 29.05.031(a)(1) and 3 AAC 110.050.

Table 2-3

Area	Petitioner's Estimate	2000 Census	Estimate Used by DCCED
City of Wrangell	2,308	2,308	1,911 (397 or 17.2 percent less than Petitioner's figure and 2000 Census)
Thoms Place	22	22	7 (15 or 68.2 percent less than Petitioner's figure and 2000 Census)
Balance of Census Subarea Tract 3	94	88	88 (the same as the 2000 Census figure)
Meyers Chuck	21	21	11 (10 or 47.6 percent less than Petitioner's figure and 2000 Census)
Total	2,445	2,439	2,017 (428 or 17.5 percent less than the Petitioner's figure; 422 or 17.3 percent less than the 2000 Census figure)

The Petitioner estimates that the proposed Wrangell Borough has a population of 2,445 residents, including 2,308 residents in the City of Wrangell and “an additional 116 persons residing within the remainder of the U.S. Census Bureau’s Wrangell-Petersburg Census Subarea Tract 3.” (Exhibit H, pp. 9 – 10.) The Petitioner states further that Thoms Place, which is included in Tract 3 outside the City of Wrangell, has a population of 22. (Id.)

In the table above, DCCED listed 22 residents of Thoms Place separately in the column for the Petitioner’s estimate, and reduced the Petitioner’s stated estimate for the balance of Tract 3 by the same number (from 116 to 94). DCCED also listed 21 as the Petitioner’s estimate of the population for Meyers Chuck. The Petitioner stated that the Meyers Chuck and Union Bay area combined had a population of “approximately 25 persons.” (Id.) Union Bay is in Tract 3, but Meyers Chuck is in the Outer Ketchikan Census Subarea. The total of the figures listed in the table above for the Petitioner’s estimated population equals the figure stated in the Petition.

The most current population figures indicate that the population of the proposed borough has declined significantly since the 2000 Census. The State Demographer estimates that the 2006 population of the City of Wrangell was 1,911. That represents a drop of 397 or 17.2 percent compared to the Petitioner’s figure and the 2000 Census figure. The State Demographer estimates that the 2006 population of Thoms Place is 7, which represents a loss of 15 or 68.2 percent compared to the 2000 Census. The State Demographer also estimates that the 2006 population of Meyers Chuck is 11. That represents a decline of 10 residents or 47.6 percent compared to the Petitioner’s figure and 2000 Census. The State Demographer does not have a 2006 estimate for the balance of Census Subarea Tract 3. Given the population losses of 17.2 percent or more in all other areas of the proposed borough, it is likely that the population for the remainder of the area also declined. However, since no official figure is available for the remainder of the proposed Borough, DCCED used the 2000 Census figure of 88 for purposes of its analysis in this Preliminary Report. Thus, DCCED’s total estimated population of the proposed Wrangell Borough for 2006 is 2,017. That figure is 428 or 17.5 percent less than the Petitioner’s figure. It is also 422 or 17.3 percent less than the 2000 Census figure.

The map on the following page illustrates the population distribution of the 2000 Census block groups and census blocks in Census Tract 3 of the Wrangell-Petersburg Census Area. Block Group 1 is the area outside the City of Wrangell and Thoms Place CDP boundaries.

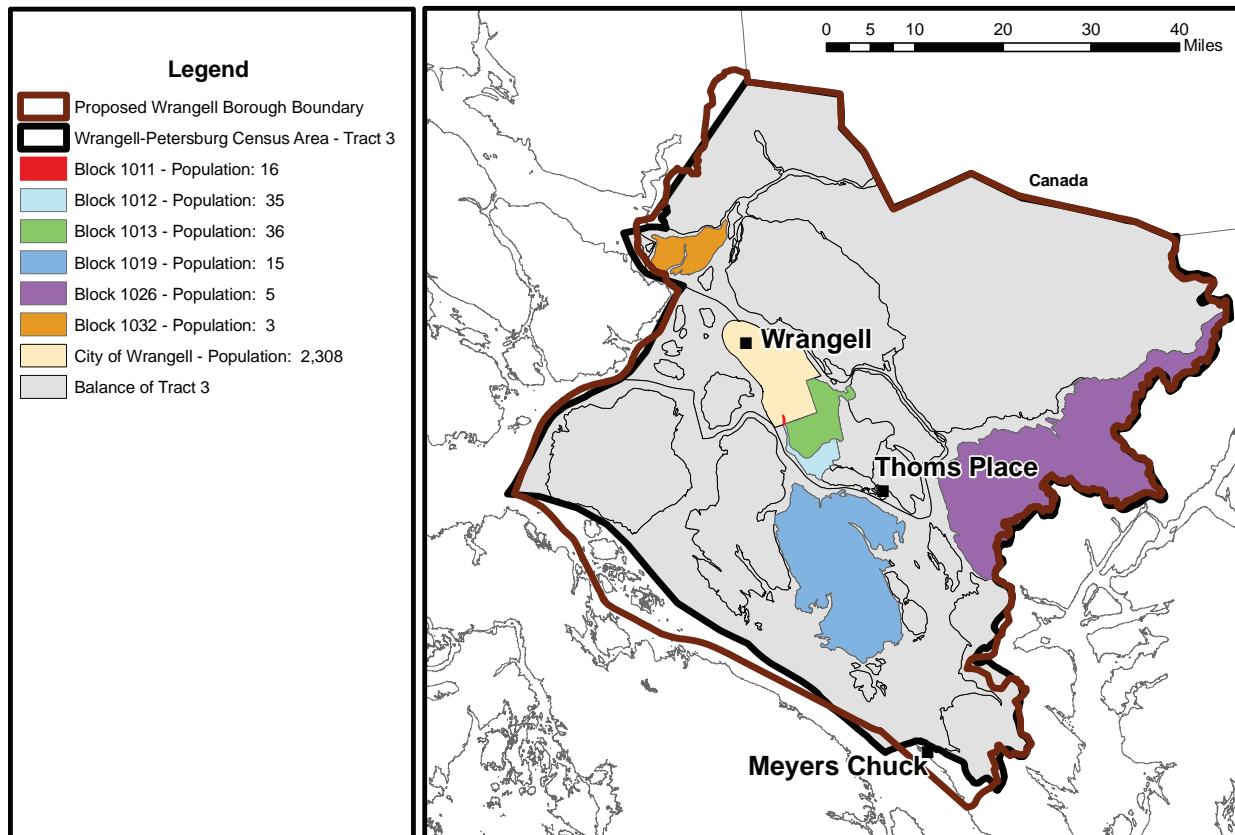
The general geographic description of census blocks is as follows:

Block 1011: The southern boundary is the City of Wrangell boundary; Zimovia Highway is the eastern boundary; Zimovia Strait is the western boundary; and Pat Creek is the northern boundary.

Block 1012: Thom’s Lake Trail is the southern boundary; and then easterly along Vista Thoms Lake Road and connecting to the Zimovia Highway to McCormack Creek Road as the eastern boundary. Zimovia Strait is the western boundary, and the City of Wrangell boundary is the northern boundary.

Block 1013: McCormack Creek Road is the southern boundary and Vista Thoms Lake Road is the eastern boundary. The Zimovia Highway is the western boundary, and the City of Wrangell boundary is the northern boundary.

Wrangell-Petersburg Census Area Tract 3 Census 2000



Block 1019: Olive Cove and surrounding area.

Block 1026: Bradfield Canal is the northern boundary, while Seward Passage forms the western boundary. The Wrangell-Petersburg Census Area boundary is the eastern boundary, with a Point-to-Point (invisible) from the Santa Anna Inlet to the Wrangell-Petersburg Census Area boundary.

The Tyee Lake Hydroelectric Project facility is located in Block 1026 – a large area.

Block 1032: All of Farm Island.

The 2000 Census also reported the following population:

Wrangell-Petersburg Census Area:	6,684
City of Wrangell (Block Groups 2, 3 & 4):	2,308
Thom's Place CDP (Block 1016):	22
Census Tract 3:.....	2,424

There are no 2006 census estimates for the blocks.

According to the census figures, the proposed Wrangell Borough – on a scale suitable for borough government – has a population that is large enough to support borough government. Several provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: (1) the [must have a] population of the area [that] is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government. (AS 29.05.031(a)(1)) (Emphasis, de-emphasis, and clarification added.)

The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission may consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions. (3 AAC 110.050(a)) (De-emphasis added.)

Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough. (3 AAC 110.050(b)) (De-emphasis added.)

DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – has a population that is large enough to support borough government. The boundaries of the proposed Wrangell Borough encompass an estimated 3,465 square miles. DCCED estimates that there were 2,017 residents of the proposed Wrangell Borough in 2006. This number exceeds 1,000 person threshold presumed by 3 AAC 110.050(b) to be a population of sufficient size to support borough government. Moreover, this population figure is greater than the 2005 populations of four of Alaska's sixteen organized boroughs that existed when the petition was filed. The average 2005 population for those six boroughs was 1,667, 82.6 percent of the size of the 2005 population of the proposed Wrangell Borough.

Based on the findings above, DCCED concludes that the proposed Wrangell Borough has a population that is large enough to support borough government.

A proposed borough – on a scale suitable for borough government – is required to have a population that is stable enough to support borough government. Several provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: (1) the [must have a] population of the area [that] is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government. (AS 29.05.031(a)(1)) (Emphasis, de-emphasis, and clarification added.)

The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission may consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions. (3 AAC 110.050(a)) (De-emphasis added.)

Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough. (3 AAC 110.050(b)) (De-emphasis added.)

As the graph of the City of Wrangell's Census population history between 1880 and 2000 below shows, the population steadily climbed. The closing of the Alaska Pulp Corporation Sawmill in late 1994 resulted in a drop in population, since Wrangell's economy is largely based on timber and commercial fishing. However, Silver Bay Logging bought the Alaska Pulp Corporation Sawmill and reopened in April 1998, with 33 employees.

According to a report prepared by Southeast Strategies, "The 1994 sawmill closure in Wrangell resulted in the layoff of 225 workers, or 20% of all wage employment. Wrangell's total real payroll in 2000 remains 29% below the pre-mill closure level."⁵¹ This report attributes the population loss in the Prince of Wales-Outer Ketchikan and Wrangell-Petersburg Census Areas to the decline in the timber harvest and manufacturing industries; a secondary cause is a slowing in the commercial fishing industry. In addition, the report says reductions in State and

⁵¹ "Business Climate in Southeast Alaska Communities," prepared by Southeast Strategies for the Southeast Conference, June 2005.

federal funds available to communities and high fuel prices have curtailed municipal services offered and increased the cost of living in small communities, which has resulted in people moving away.

Economic activity in Southeast Alaska is addressed at p. 7 of the report:

Major economic sectors that bring money into Southeast Alaska from outside the region (basic industries) include commercial fishing, timber, mining, tourism, and some government jobs (mostly State and Federal government). Manufacturing is also considered a basic industry and is made up mostly of fish and timber processing businesses.

The most current population figures indicate that the population of the proposed borough has declined significantly since the 2000 Census. This decline is mirrored in the population loss in the Prince of Wales-Outer Ketchikan and Wrangell-Petersburg Census Areas.

Despite the population loss and the loss of jobs in the area, the economic forecast for the future of the proposed Wrangell Borough is guardedly optimistic. In an August 2007 study of the distressed community status of Alaska communities for the Denali Commission conducted by the Alaska Department of Labor and Workforce Development, Research and Analysis Section, they used employment and earnings information to determine the distressed community status for 2007. Wrangell was not determined to be a distressed community.

According to a population projection, by age and sex, for the years 2007 through 2030, for the Wrangell-Petersburg Census Area which includes most of the proposed City and Borough of Wrangell, the State Demographer projected the rate of decline of the population in that census area. The rate of decline was relatively stable.⁵²

Based on the findings above, it is reasonable to conclude that the size and stability of the population within the proposed City and Borough of Wrangell are sufficient to support the proposed borough. Therefore, in DCCED's view, the standards set out in 3 AAC 110.050(a) and 3 AAC 110.050(b) are satisfied.

Part 5. Whether the Economy of the Proposed Borough Includes the Human and Financial Resources Capable of Providing Municipal Services

AS 29.05.031(a)(3) provides that the LBC may approve the borough incorporation petition only if it determines that the economy of the proposed borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must be capable of providing essential borough services on an efficient, cost-effective level.

⁵² The DOLWD report is at <<http://www.labor.state.ak.us/research/pop/projections/AlaskaPopProj.pdf>>. The average annual percent change was -0.27% for 2006-2010; -0.60% for 2010-2015; -0.72% for 2015-2020; -0.88% for 2020-2025; and -1.01% for 2025-2030.

In applying these standards, the LBC is required to consider a number of factors. Those include the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation. The LBC is also required to consider the economic base; property valuations; land use; existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and personal income of residents of the proposed borough. Moreover, the LBC may consider other relevant factors, including the need for and availability of employable skilled and unskilled persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government. These considerations are discussed in great detail in Part 7 of this report. In Part 7, DCCED concludes that formation of the City and Borough of Wrangell is in the best interests of the State because the economy of the proposed borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must be capable of providing essential borough services on an efficient, cost-effective level. After studying the matter, DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – proposes boundaries that include all areas necessary for full development of essential borough services on an efficient, cost-effective level.

A number of provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(2), 3 AAC 110.060(a), 3 AAC 110.060(d), and 3 AAC 110.970(a) and (b). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: . . . 2) the [must have] boundaries [that] of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services. (AS 29.05.031(a)(2)) (Emphasis, de-emphasis, and clarification added.)

The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;

(5) natural geographical features and environmental factors; and

(6) extraterritorial powers of boroughs. (3 AAC 110.060(a)) (De-emphasis added.)

Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential borough services on an efficient, cost-effective level. (3 AAC 110.060(d))

Determination of essential city or borough services. (a) If a provision of this chapter provides for the identification of essential borough services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the territory; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;⁵³

(3) planning, platting, and land use regulation; and

(4) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory. (3 AAC 110.970(a) and (b))

State law, AS 29.35.150 – 29.35.180, sets out the mandatory powers of organized boroughs:

⁵³ Under AS 14.12.010(2) and AS 29.35.160(a) education is a mandatory areawide borough power and may be determined by the LBC to be an “essential” borough service under § 970. AS 14.12.025 prohibits the creation of a new school district with fewer than 250 students absent a determination from the Commissioner of DEED that a smaller district is in the best interests of the State and the proposed district. Creation of a borough with fewer than 250 students might relate to the standard in § 060(a).

Sec. 29.35.150. Scope of areawide powers. A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 - 29.35.180 on an areawide basis.

Sec. 29.35.160. Education. (a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education and Early Development. However, operation of the military reservation schools by the borough school district may be required by the Department of Education and Early Development under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education and Early Development, operation, management, and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.

(b) This section applies to home rule and general law municipalities.

Sec. 29.35.170. Assessment and collection of taxes. (a) A borough shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.45.

(b) Taxes levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities.

Sec. 29.35.180. Land use regulation. (a) A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40.

(b) A home rule borough shall provide for planning, platting, and land use regulation.

In this proceeding, no evidence regarding land use and ownership patterns; ethnicity and cultures; population density patterns; existing and reasonably anticipated transportation patterns and facilities; natural geographical features and environmental factors; and extraterritorial powers of boroughs suggests that any powers or facilities beyond those set out in AS 29.35.150 – 29.35.180 are “essential borough services” for the area within the proposed Wrangell Borough. No portion of the proposed borough is non-contiguous or contains enclaves.

Based on the findings above, DCCED concludes that the proposed City and Borough of Wrangell – on a scale suitable for borough government – proposes boundaries that include all areas necessary for full development of essential borough services on an efficient, cost-effective level.

The Reasonably Anticipated Functions of the Proposed Borough

According to the Petition, the City of Wrangell currently provides the following to residents: education, planning and zoning, cemetery, swimming pool, parks and recreation, and community buildings including a library, museum and Community Center, and volunteer fire, search and rescue services. Upon incorporation of the City and Borough of Wrangell and the concurrent dissolution of the home-rule City of Wrangell, all services formerly provided by the City to its residents will continue to be provided to areas currently served.

DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – has an economy with the human resources necessary to provide essential borough services on an efficient, cost-effective level. The City of Wrangell has provided services to the region on an areawide basis for many years. The City has successfully operated and managed the cemetery, library, community center, museum, and other community buildings used by all residents of the area. Thus, the City of Wrangell has long demonstrated that it has the human resources necessary to serve the residents of the region. The City of Wrangell provided educational services, planning and zoning, and collected taxes. DCCED has confidence that the City and Borough of Wrangell will continue to provide all the essential services that the City of Wrangell has successfully provided in the past. The City of Wrangell has successfully operated since its incorporation in 1903. This proves that the residents of the region have the expertise and the level of commitment and interest necessary to sustain a borough government. The new borough will collect the proposed taxes and the National Forest Receipts, and will continue to provide essential and non-essential municipal services to residents. Analysis of the civilian workforce and the employable skilled and unskilled persons available to serve the proposed borough in Part 7 of this report indicates that the human resources are adequate to operate the borough. Based on these findings, DCCED concludes that the proposed Wrangell Borough, on a scale suitable for borough government, has an economy with the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level.

Part 6. Whether communications media and transportation facilities allow for the level of communications and exchange necessary to develop an integrated borough government.

A number of provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(4), 3 AAC 110.045(c), and 3 AAC 110.045(d). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: . . . (4) [must have the] land, water, and air transportation facilities [necessary to] allow the communication and exchange necessary for the development of integrated borough government. (AS 29.05.031(a)(4)) (Emphasis, de-emphasis, and clarification added.)

The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission may consider relevant factors, including

- (1) transportation schedules and costs;
- (2) geographical and climatic impediments;
- (3) telephonic and teleconferencing facilities; and
- (4) electronic media for use by the public. (3 AAC 110.045(c))

Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications. (3 AAC 110.045(d))

DCCED and the Petitioner agree that nearly 95 percent of the population of the proposed Wrangell Borough currently resides within the 71-square miles encompassed by the existing boundaries of the City of Wrangell. Moreover, the Petitioner indicates that approximately 40 individuals (1.6 percent of the population of the proposed borough) live immediately outside the boundaries of the City of Wrangell in “Wrangell West,” an area connected to Wrangell by road. Thus, nearly 97 percent of the population of the proposed borough is concentrated in and immediately adjacent to the community of Wrangell. If the Meyers Chuck and Union Bay area were excluded from the Wrangell Borough proposal, it would increase the margin to just over 97 percent.

In addressing this standard, DCCED stresses that in the early 1970s, the Commission and Alaska Supreme Court both found the communications and transportation standard to be met for the North Slope Borough (NSB). At the time, the NSB encompassed approximately 97,121 square miles and was inhabited by 3,384 people. The population density of the North Slope at that time was 1 person per 29 square miles. It is difficult to imagine that any area of the state today is as lacking in transportation and communication facilities as was remote portions of the NSB when it incorporated in 1972. Point Hope, the westernmost community in the NSB, and Kaktovik, the easternmost community in the NSB, are separated by nearly 600 miles. Yet, regarding transportation and communication in the NSB 35 years ago, the Alaska Supreme Court concluded:

We are also satisfied that the transportation standard has been reasonably met. The dispute surrounds the language of AS 07.10.030(4):

The transportation facilities in the area proposed for incorporation shall be of such a unified nature as to facilitate the communication and exchange necessary for the development of integrated local government and a community of interests. Means of transportation may include surface (both water and land) and air. Areas which are accessible to other parts of a proposed organized borough by water or air only may not be included within the organized borough unless access to them is reasonably inexpensive, readily available, and reasonably safe. In considering the sufficiency of means of transportation within a proposed organized borough, existing and planned roads and highways, air transport and landing facilities, boats and ferry systems, and railroads, shall be included.

Regular travel among borough communities is available only by charter aircraft. Surface transportation is limited to dog teams and snowmachines. Even at this stage of development, we agree with the superior court that the Commission could reasonably have found travel facilities adequate to support borough government when present and future capacity is considered in the context of transportation in Alaska generally and compared to the present cost and availability of travel to centers of government which affect the lives of North Slope residents.

Mobil Oil v. Local Boundary Commission, p. 100.

Wrangell has well-developed communications and transportation facilities. According to DCCED's online Community Database,⁵⁴ Wrangell is served by two radio stations KSTK-FM and KRSA-AM. There is also a locally-published newspaper, the *Wrangell Sentinel*. This database says the City of Wrangell is accessible by air and water:

The State-owned 6,000 feet long by 150 feet wide paved lighted runway enables jet service. A seaplane base is adjacent to the runway. Scheduled air taxi services are also available. The marine facilities include a breakwater, deep draft dock, State Ferry terminal, two small boat harbors with 498 slips, and boat launch. Freight arrives by barge, ship, ferry and cargo plane.

With respect to the Meyers Chuck area, DCCED's Community Database states as follows regarding transportation to and from that settlement:

Meyers Chuck is accessible only by float plane or boat. A State-owned seaplane base is available. With the exception of the mail plane, there are no scheduled flights. Ketchikan-based charter services and barge transport are available. A boat dock provides 650 feet of moorage, and the site is a natural sheltered harbor. Residents use skiffs for local travel; a few boardwalks and trails connect homes.

⁵⁴ <http://www.commerce.state.ak.us/dca/commdb/CF_BLOCK.htm>

The Ketchikan Gateway Borough's pending petition for annexation of 4,701 square miles, including Meyers Chuck and Union Bay, offers the following evidence regarding transportation ties between Ketchikan and Meyers Chuck:

The territory proposed for annexation is part of the region's air transportation system based in Ketchikan. The Ketchikan International Airport is located in Ketchikan and provides travel to destinations outside of the region. Float plane companies based out of Ketchikan provide air transportation from Ketchikan to the remote areas of the existing Borough, as well as to the territory to be annexed. Combined air carrier statistics to Meyers Chuck for 2004 (approximately 40 air miles distant) indicate 210 regularly scheduled passenger trips, 3,648 pounds of freight, and 13,609 pounds of mail out-bound and 88 trips, 335 pounds of freight, and 221 pounds of mail in-bound to Ketchikan. The disparity between outbound and in-bound passenger trips to Meyers Chuck most likely results from the use of personal watercraft for at least one of the trip legs between Ketchikan and Meyers Chuck.

Ketchikan Gateway Borough Annexation Petition, p. 63.

DCCED contacted Sunrise Aviation, the only air carrier in Wrangell that might serve Meyers Chuck. Other than to state that it does not have regular passenger service to Meyers Chuck, a representative of Sunrise Aviation declined to make any statement regarding the extent, if any, to which Sunrise Aviation serves Meyers Chuck. (Personal communication, June 5, 2007.)

DCCED also contacted the representatives of the *Ketchikan Daily News* and *Wrangell Sentinel* to determine the number of subscribers in Meyers Chuck. The *Ketchikan Daily News* indicated that there is one subscriber living in the settlement; the *Wrangell Sentinel* stated that no one in Meyers Chuck subscribes to its newspaper. (Personal communications, June 4, 2007.)

It is noted further that DCCED's Community Database lists two radio stations as serving Meyers Chuck. Those are KTKN-AM and KRBD-FM, both based in Ketchikan.

Based on the above findings, DCCED concludes that the area of the proposed Wrangell Borough – on a scale suitable for borough government – has the communications media and the land, water, and air transportation facilities to allow the communication and exchange necessary for the development of integrated borough government. However, the Cleveland Peninsula area encompassing Meyers Chuck and Union Bay has much stronger communications and transportation ties to the greater Ketchikan area compared to Wrangell.

Part 7. Whether the Proposed Borough Serves the Best Interests of the State

A. Introduction

AS 29.05.130(a) provides that the LBC may grant the borough incorporation petition only if the Commission determines that the proposal is in the best interests of the State. The LBC is guided by 3 AAC 110.065 and 3 AAC 110.980 in making the requisite best interests determination. Those provisions call for the LBC to consider whether the proposal promotes the constitutional principles of “maximum local self-government” and “a minimum number of local government units.” The regulations also allow consideration of other relevant factors.

Part 1 of this chapter presents DCCED’s extensive analysis of whether the proposed borough incorporation proposal promotes maximum local self-government. Based on that analysis, DCCED concluded earlier that the proposal does indeed serve that fundamental constitutional principle. In particular, the pending proposal would do so by attaining home-rule status for the unified borough. Currently, only the residents of the City of Wrangell (who comprise 94.7 percent of proposed borough population) exercise the powers of self-government in this home-rule city. Under the proposal, all the residents of the proposed unified borough will have the opportunity to enjoy home-rule status.

In Part 2 of this chapter of the report, DCCED analyzed whether the pending incorporation proposal fosters a minimum number of local government units. DCCED’s conclusion is that the proposal clearly serves that important constitutional principle.

In addition to the two critical constitutional principles, DCCED takes the position that the broad public interest is also served by promoting equity in the delivery of municipal services and also in promoting a governmental structure in which all residents have a voice in the delivery of municipal services to those residents.

The State encourages regions to assume and exercise local self-determination and provide municipal services that are funded and provided at the local level. This is in the best interest of the public statewide and is consistent with the constitutional intent regarding municipal government throughout the unorganized borough.

Based on the foregoing, DCCED concludes that the Wrangell unified home-rule borough proposal serves the best interests of the State. It promotes the constitutional principles favoring maximum local-self government and a minimum number of local government units. Furthermore, it would create a governmental structure in which all residents would have a voice in the delivery of local services. Therefore, the standards set out in AS 29.05.130(a), 3 AAC 110.065, and 3 AAC 110.980 are met by the Petition.

B. The Reasonably Anticipated Expenses of the Proposed Borough

State law requires that all petitions to the LBC include budget projections (3 AAC 110.420) for at least the first three years. In most instances, multi-year projections are necessary to gain a proper perspective of the long-term forecast for the proposal because transition measures can create significant fluctuations during the initial years. Additionally, a new borough is entitled to organization grants from the State during each of the first three years of operation that total \$600,000.

Reproduced below in Table 2-5 are the projected expenditures of the proposed borough during the first three full fiscal years:

Table 2-5: Petitioner's Proposed Expenditure Budget for the First Three Full Fiscal Years⁵⁵

UNIFIED BOROUGH'S BUDGET - EXPENDITURES					
City Activities within General Fund Budget	City FY 2005-2006 Approved Budget	FY 2007 Budget	FY 2008 Budget	FY 2009 Budget	
Finance	\$312,317	\$318,500	\$330,000	\$340,000	
Assessor	\$20,000	\$35,000	\$28,000	\$22,000	Note 7
Administration	\$531,879	\$540,000	\$550,000	\$560,000	
Communication	\$0	\$25,000	\$10,000	\$10,000	Note 8
Fire/Search & Rescue	\$268,563	\$275,000	\$285,000	\$290,000	Note 9
Police	\$681,639	\$689,000	\$715,000	\$730,000	Note 10
Jail Operations	\$371,722	\$392,200	\$408,000	\$420,000	
Public Safety Building	\$158,260	\$159,905	\$162,000	\$165,000	
Public Works	\$154,946	\$161,700	\$177,000	\$190,000	
Building Permits	\$0	\$6,000	\$6,000	\$6,000	Note 11
Streets	\$295,869	\$310,000	\$315,000	\$320,000	
Library	\$199,427	\$207,000	\$212,000	\$220,000	
Museum	\$90,000	\$90,000	\$90,000	\$90,000	
Community Promotion	\$117,320	\$155,000	\$155,000	\$160,000	
Planning & Zoning	\$26,660	\$56,000	\$40,000	\$32,000	Note 12
Parks & Cemetery	\$48,850	\$59,000	\$61,000	\$63,000	
Swimming Pool	\$152,560	\$155,000	\$160,000	\$165,000	
Education	\$1,379,796	\$1,456,201	\$1,452,590	\$1,457,141	Note 13
Capital	\$159,700	\$150,000	\$150,000	\$150,000	
Community Center	\$103,204	\$110,000	\$112,000	\$115,000	
Total	\$5,072,712	\$5,350,506	\$5,418,590	\$5,500,141	
Budget Surplus	\$45,626	\$387,660	\$255,562	\$111,582	

⁵⁵ The Petitioner's Budget, along with the "NOTES," are reproduced in Appendix I.

School funding: For FY 2007, the City of Wrangell's required local contribution under AS 14.17.410(b)(2) was \$592,862. In addition to that figure, the City of Wrangell was permitted under AS 14.17.410(c) to make a further contribution equivalent to a two-mill levy on the full and true value of the taxable real and personal property in the borough as of January 1 of the second preceding fiscal year, or 23 percent of basic need, whichever is greater. The maximum additional contribution allowed under AS 14.17.410(c) for the City of Wrangell in FY 2007 was \$771,098. The sum of the required local contribution (\$592,862) and the maximum additional contribution allowed (\$771,098) is \$1,363,960. According to the Alaska Department of Education, the City of Wrangell budgeted \$801,352. It would appear that the projections in the petitioner's budget reflect the maximum allowed local contribution rather than the actual contribution. For FY 2007, the City of Wrangell's contribution was \$562,608 less than the maximum.

It is noteworthy that the Joint Legislative Education Funding Task Force is currently developing a proposal for increasing funding for school districts. Consequently, any projections based on current funding formulas will likely change significantly in the near future.

C. The Reasonably Anticipated Income of the Proposed Borough

Table 2-5 on the following page, shows the projected revenues of the proposed borough during the first three full fiscal years are set out in Exhibit D-1 of the Petition:

Table 2-5: Petitioner's Proposed Revenue Budget for the First Three Full Fiscal Years

UNIFIED BOROUGH'S BUDGET - REVENUE					
City Dept. Activities Within General Fund Budget Revenues:	City FY 2005-2006 Approved Budget	2007 FY Budget	2008 FY Budget	2009 FY Budget	
Taxes	\$3,235,708	\$3,375,000	\$3,385,000	\$3,395,000	<i>Note 1</i>
Licenses & Permits	\$2,640	\$2,700	\$2,700	\$2,700	
State & Federal	\$147,961	\$60,000	\$60,000	\$60,000	<i>Note 2</i>
PILT - Federal	\$183,448	\$200,000	\$203,000	\$206,045	<i>Note 3</i>
PILT - Other	\$61,052	\$61,000	\$61,000	\$61,000	
Charges/Services	\$343,814	\$345,000	\$345,000	\$350,000	
Fines & Forfeitures	\$131,750	\$132,000	\$135,000	\$140,000	
Sales & Leases	\$111,200	\$112,000	\$113,000	\$114,000	
Timber Receipts	\$579,465	\$825,466	\$844,452	\$862,978	<i>Note 4</i>
Miscellaneous Income	\$71,300	\$75,000	\$75,000	\$75,000	
Grants	\$0	\$300,000	\$200,000	\$100,000	<i>Note 5</i>
Permanent Fund	\$250,000	\$250,000	\$250,000	\$250,000	<i>Note 6</i>
Total Revenues	\$5,118,338	\$5,738,166	\$5,674,152	\$5,616,723	

National Forest Timber Receipts (also known as Title II funds): Fifteen percent of The Title II funds stay with the U.S. Forest Service and are administered by them on behalf of the City. The Cities of Wrangell and Petersburg formed a Resource Advisory Committee (RAC), a fifteen member organization, which selects the projects for the area utilizing the two cities' Title II project funds. At 9.956% of the Tongass National Forest within their proposed borough, the Wrangell Borough would have received a NFR payment of \$958,795 in FY 07; \$814,976 would have been paid to the borough and \$143,819 would have stayed with the USFS for Title II projects. As a city, Wrangell received a FY 07 NFR payment of \$725,437; \$607,983 was paid to the City of Wrangell, and \$117,454 stayed with the USFS for Title II projects.

The \$600,000 in State organizational grants that the new borough would receive is under "Grants" in the Revenue Budget. State law (AS 29.05.190(a)) entitles each newly incorporated borough to three organization grants. The first grant is \$300,000 for the borough's first full or partial fiscal year. The second grant is \$200,000 for the borough's second fiscal year, and the last grant is for \$100,000 for its third fiscal year.

The budget projection above does not include possible future revenue from any future lease or sale of Municipal Entitlement lands. Under AS 29.65.030(a), newly formed municipal governments are given a "general grant land entitlement [of] 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date."

The Petitioner estimates that the newly formed Wrangell Borough will be entitled to 2,424 acres:

Pursuant to completion of the Central/Southern Southeast Area Plan by the State Department of Natural Resources in 2000, it appears that the new borough's total municipal entitlement rights under AS 29.65.030 would approximate 2,424 acres. This will vary somewhat depending upon the level of federal conveyance of state selections which are completed within two years after incorporation of the borough, and upon any conveyances the State has made since the date of the area plan. The State's area plan leaves certain parcels of State lands in classifications eligible for municipal selection on Wrangell Island, Zarembo Island, Etolin Island, on the mainland east of Wrangell and near the head of the Bradfield Canal, and on the Cleveland Peninsula. The basis for the State's selection of many of these lands from the federal government was for community expansion. The borough's land entitlements would be relatively modest in relation to most other boroughs, but would enhance the prospects

for small settlements and private development in a region which has featured a chronic shortage of opportunities for private ownership outside the existing City of Wrangell.

D. The Ability of the Proposed Borough to Generate and Collect Local Revenue

Since its incorporation in 1903, the City of Wrangell has been responsible for the assessment and collection of revenues and fees within its boundaries, such as fees for community services, revenue from sales and leases, and collection of fines and forfeitures. The City has successfully operated and managed the library, museum, swimming pool, parks, cemetery, community center and other community buildings, and has maintained the roads. The City of Wrangell has long demonstrated its capacity to generate and collect local revenue, and to serve the residents of the region. Upon incorporation of the Wrangell unified home-rule Borough and the dissolution of the City of Wrangell, all services formerly provided by the City to the residents of the region will continue to be provided to the areas currently served.

E. The Feasibility and Plausibility of the Anticipated Operating Budget in the Third Fiscal Year of Borough Incorporation

Most of the projected revenue of the proposed consolidated borough is from sales and property taxes.

The taxes in Year Three will be \$3,395,000, which is 60 percent of the year's total revenues. Total revenues for Year Three are projected to be \$5,616,723. A summary of those projected revenues is provided in Table 2-5.

Expenditures in Year Three are projected to total \$5,505,141. Revenues are projected to be \$5,616,723. The difference between those two figures represents an overall projected surplus of \$111,582 for the third full year of operation of the City and Borough of Wrangell. The projected cumulative surplus for Year One through Year Three will be \$754,804.

Since the revenues exceed the expenditures resulting in a surplus of funds available for operation of the borough, not only in the third full fiscal year of operation but in the proceeding years, DCCED concludes that the proposed budget and the City and Borough of Wrangell incorporation is fiscally viable.

F. The Economic Base of the Proposed Borough

Table 2-6 presents 2000 Census data regarding the occupations of employed civilians at least 16 years of age within the proposed Wrangell Borough area. Information is compiled for the Wrangell-Petersburg Census Area (of which the proposed borough comprises 32 percent of the population), and by localities in the proposed borough for which census data was available. The localities include the City of Wrangell, Thoms Place CDP⁵⁶, and Meyers Chuck CDP.

At the time of the 2000 Census, the employed civilian workforce 16 years old and over in the Wrangell-Petersburg Census Area was 3,031 (61.5 percent of the census area population of 4,928 of those 16 and over). For comparison, the employed civilian workforce 16 years old and over in Alaska was 281,532 or 61.4 percent of the State's population of 458,054. Table 2-6 presents 2000 Census data regarding the specific industries in which those workers were employed. Data for the affected localities and the entire state is also provided for comparison.

Table 2-6. Occupations of Employed Civilian Population 16+ Years Old in 2000 in Proposed Wrangell Borough, Compared to Wrangell-Petersburg Census Area and State of Alaska (2000 Census Data).

Industry	Wrangell - Petersburg Census Area	City of Wrangell	Thoms Place CDP	Meyers Chuck CDP	Alaska State
Agriculture, Forestry, fishing and hunting, and mining	544 (17.9%)	176 (16.3%)	0 (0.0%)	0 (0.0%)	13,774 (4.9%)
Construction	222 (7.3%)	98 (9.1%)	0 (0.0%)	0 (0.0%)	20,534 (7.3%)
Manufacturing	234 (7.7%)	78 (7.2%)	0 (0.0%)	0 (0.0%)	9,220 (3.3%)
Wholesale trade	17 (0.6%)	7 (0.6%)	0 (0.0%)	0 (0.0%)	7,215 (2.6%)
Retail Trade	285 (9.4%)	89 8.2%	0 (0.0%)	0 (0.0%)	32,638 (11.6%)
Transportation and warehousing , and utilities	217 (7.2%)	77 (7.1%)	0 (0.0%)	0 (0.0%)	25,043 (8.9%)
Information	89 (2.9%)	27 (2.5%)	0 (0.0%)	0 (0.0%)	7,652 (2.7%)
Finance, insurance, real estate, and rental and leasing	54 (1.8%)	23 (2.1%)	0 (0.0%)	0 (0.0%)	12,934 (4.6%)

⁵⁶ CDP stands for Census Designated Place. CDPs are statistical areas defined by the U.S. Census Bureau as "closely settled, named, unincorporated communities that generally contain a mixture of residential, commercial, and retail areas similar to those found in incorporated places of similar sizes." The Census Bureau notes further that it works with local participants to delineate boundaries for CDPs. By defining CDPs, the Census Bureau can tabulate and disseminate data for localities that otherwise would not be identified as places in the decennial census data products. See <<http://www.census.gov/geo/www/psapage.html#CDP>>.

Professional, scientific, management, administrative, and waste management services	96 (3.2%)	51 (4.7%)	0 (0.0%)	3 (100%)	21,322 (7.6%)
Educational, health and social services	597 (19.7%)	238 (22.1%)	0 (0.0%)	0 (0.0%)	61,165 (21.7%)
Arts, entertainment, recreation, accommodation and food services	225 (7.4%)	69 (6.4%)	0 (0.0%)	0 (0.0%)	4,099 (8.6%)
Other services (except public administration)	162 (5.3%)	38 (3.5%)	0 (0.0%)	0 (0.0%)	15,866 (5.6%)
Public administration	289 (9.5%)	108 (10.0%)	0 (0.0%)	0 (0.0%)	30,070 (10.7%)

The City of Wrangell was incorporated in 1903.⁵⁷ By 1916, fishing and forest products had become the primary industries; four canneries and a cold storage plant were constructed by the late 1920's. In the 1930s, cold packing of crab and shrimp was occurring. Abundant spruce and hemlock resources have helped to expand the lumber and wood products industry. The Alaska Pulp Corporation sawmill, the City's largest employer, closed in 1994; the sawmill was sold to Silver Bay Logging and reopened in April 1998 with 33 employees.

The City of Wrangell's economy is based on commercial fishing and timber from the Tongass National Forest. Fishing and fish processing are an important segment of the economy. Two hundred fifty residents hold commercial fishing permits. Dive fisheries are also under development – 60 divers harvest sea urchins, sea cucumbers and geoducks. Although the City of Wrangell offers a deep-water port, they cater to the smaller cruise ships. According to the Petition, Wrangell has a deep-water port facility, a barge loading facility, and an airport; it also has a part-time U.S. Customs agent to handle international trade. Marine facilities include a breakwater, deep-draft dock, State Ferry terminal, two small boat harbors with 498 slips, and a boat launch. Freight arrives by barge, ship, ferry and cargo plane. The State-owned paved, lighted runway (6,000 feet long by 150 feet wide) enables jet service.

The tourism industry is growing in the City of Wrangell for sport fishing, hunting and sightseeing. Sport fishing on the Stikine River attracts visitors. Four hotels/motels and 10 bed-and-breakfasts operate in Wrangell.

G. Formation of the proposed Wrangell Borough is in the best interests of the State

Two provisions of law relate to this particular standard. Those consist of AS 29.05.100(a) and 3 AAC 110.065. Those laws state:

⁵⁷ In 1960, the City of Wrangell adopted a home-rule charter.

After providing public notice of each proposed amendment or condition and an opportunity for public comment, the Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, 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, it may accept the petition. Otherwise it shall reject the petition. (AS 29.05.100(a)) (De-emphasis added.)

In determining whether incorporation of a borough is in the best interests of the state under AS 29.05.100(a), the commission may consider relevant factors, including whether incorporation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units;
- (3) will relieve the state government of the responsibility of providing local services; and
- (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution. (3 AAC 110.065)

DCCED finds that formation of the proposed Wrangell Borough is in the best interests of the State. As reflected in the findings and conclusion set out in Part I of this report, formation of the proposed Wrangell Borough would promote maximum local self-government. Formation of the Wrangell Borough would create a structure to permit governance and decision making at the local level. As stated in Part 2 of this report, formation of the proposed Wrangell Borough would also comport with the minimum number of local governments constraint in our Constitution. Incorporation of the Wrangell Borough will relieve the State of Alaska of the responsibility of providing platting outside the current boundaries of the City of Wrangell. In addition, all of the area within the proposed borough that lies outside the boundaries of the City of Wrangell will become subject to the mandatory 4-mill required local contribution provisions for schools found in AS 14.17.410(b)(2). There is no evidence that creation of the City and Borough of Wrangell is reasonably likely to expose the State of Alaska to unusual and substantial risks as the prospective successor to the borough, in the event of the borough's dissolution. Based on these findings, DCCED concludes that formation of the proposed Wrangell Borough is in the best interests of the State.

H. Property Valuations in the Proposed Wrangell Borough

The Petitioner estimates the value of taxable property in the proposed borough as follows:

Table 2-7			
Type of Taxable Property	City of Wrangell	Remainder of Proposed Borough	Total
Real Property	\$105,569,663	\$14,400,000	\$119,969,663
Personal Property	\$33,652,000	\$1,008,000	\$34,660,000
Total	\$139,221,663	\$15,408,000	\$154,629,663

The Petitioner's estimate of the value of taxable property in the City of Wrangell comprises 90 percent of the value of taxable property in proposed borough. Formal assessed value figures do not exist for the area of the proposed borough outside the territory within the boundaries of the City of Wrangell.

The following table compares the assessed value of real and personal property within the corporate boundaries of the City of Wrangell to the State Assessor's determination of the full and true value of taxable property within the same area during each of the past five years.

Table 2-8. Comparison of Assessed Value to Full Value of Taxable Property within the City of Wrangell 2002 – 2006		
Year	Assessed Value (change from previous year stated in parentheses)	Full and True Value (change from previous year stated in parentheses)
2002	\$100,826,691 (increase of \$651,661 or 0.7 percent)	\$148,965,100 (decrease of \$17,573,700 or 10.6 percent)
2003	\$100,285,213 (decrease of \$541,478 or 0.5 percent)	\$146,188,500 (decrease of \$- \$2,776,600 or 1.9 percent)
2004	\$102,173,797 (increase of \$1,888,584 or 1.9 percent)	\$148,303,900 (increase of \$2,115,400 or 1.4 percent)
2005	\$105,569,663 (increase of \$3,395,866 or 3.3 percent)	\$148,401,600 (increase of \$97,700 or 0.1 percent)
2006	\$106,840,737 (increase of \$1,271,074 or 1.2 percent)	\$143,112,000 (decrease of \$5,289,600 or 3.6 percent)
Sources: <i>Alaska Taxable 2006 - 2001</i>		

The assessed values shown in the preceding tables, of course, reflect only the value of taxable property. Excluded from the figures is the value of property that is exempt from taxation under State law (AS 29.45.030). Also excluded is the value of property that the City of Wrangell, in its discretion, has exempted from taxation as allowed by AS 29.45.050.

Given the broad discretion among municipalities in terms of the optional property tax exemptions allowed under AS 29.45.050, DCCED is required by AS 14.17.510 and AS 29.60.030 to determine the "full and true value" of property in all organized boroughs and some cities.

Those determinations provide for uniform comparisons that are utilized in funding calculations under Alaska's education foundation formula. The State Assessor describes the full value determination as follows:

In brief, the Full Value Determination (FVD) is the sum total of the full and true value established for every piece of taxable real and personal property within a municipality's boundary regardless of any optional exemption which may have been enacted by local ordinance. AS 29.45.110 specifies that the full and true value is the "estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with the prevailing general price levels." This section also requires the assessor to assess property at its full and true value as of January 1 of the assessment year.

Alaska Taxable 2006, pp. 7 – 8 (January 2007).

As noted above, the State Assessor reported the 2006 assessed value of taxable property in the City of Wrangell at \$106,840,737 and the full value at \$143,112,000. The full value figure is \$36,271,263 (33.9 percent) greater than the assessed value.⁵⁸

The table below compares the 2006 full and true value of taxable property among all 16 organized boroughs and the City of Wrangell. In per capita terms, the 2006 full value of taxable property in the City of Wrangell was \$72,498 per resident. Comparable data for boroughs ranged from a high of \$1,502,630 per resident in the North Slope Borough to \$33,033 per resident in the Lake and Peninsula Borough. The average for all boroughs was \$105,505 per resident. The median figure is \$88,601. The figure for the City of Wrangell is \$16,103 (18.2 percent) less than the median.

Table 2-9. 2006 Full Value Figures for All Organized Boroughs in Alaska and the City of Wrangell (ranked in descending order of per capita value)			
Borough	2006 Full Value Determination	Population	Per Capita Full Value
North Slope Borough	\$10,695,169,950	6,894	\$1,551,374
Bristol Bay Borough	\$157,644,400	1,073	\$146,919
City and Borough of Juneau	\$4,249,188,100	31,193	\$136,222
Haines Borough	\$272,988,900	2,207	\$123,692
Kenai Peninsula Borough	\$6,172,932,290	51,224	\$120,509
Denali Borough	\$197,526,000	1,823	\$108,352
City and Borough of Sitka	\$945,701,100	8,947	\$105,700

⁵⁸ The assessed value listed in *Alaska Taxable 2006* is different from the figure provided by the KGB. The disparity is presumed to be the result of inclusion of a supplemental tax roll in the figure from the KGB.

Municipality of Anchorage	\$28,833,782,720	278,241	\$103,629
Matanuska-Susitna Borough	\$7,507,998,500	74,041	\$101,403
Ketchikan Gateway Borough	\$1,255,171,900	13,125	\$95,632
City and Borough of Yakutat	\$53,120,600	619	\$85,817
Kodiak Island Borough	\$1,134,159,100	13,638	\$83,162
Fairbanks North Star Borough	\$7,267,077,780	87,650	\$82,910
City of Wrangell	\$143,112,000	1,974	\$72,498
Northwest Arctic Borough	\$385,637,200	7,323	\$52,661
Aleutians East Borough	\$101,343,287	2,659	\$38,113
Lake and Peninsula Borough	\$55,133,500	1,620	\$34,033
Total	\$69,284,575,327	582,277	\$118,989
Source: <i>Alaska Taxable 2006</i> , DCCED (January 2007).			

In terms of 2006 per capita full and true value of taxable property, the City of Wrangell ranks below thirteen of the sixteen organized boroughs in existence last year. It is notable that it ranks behind every organized borough that levies a property tax. (Neither the Northwest Arctic Borough, the Aleutians East Borough, nor the Lake and Peninsula Borough levies property taxes.) In fact, the City of Wrangell's per capita full and true value of taxable property is \$10,412 (12.6 percent) the lowest ranked borough that levies property taxes.

I. Land Use in the Proposed Borough

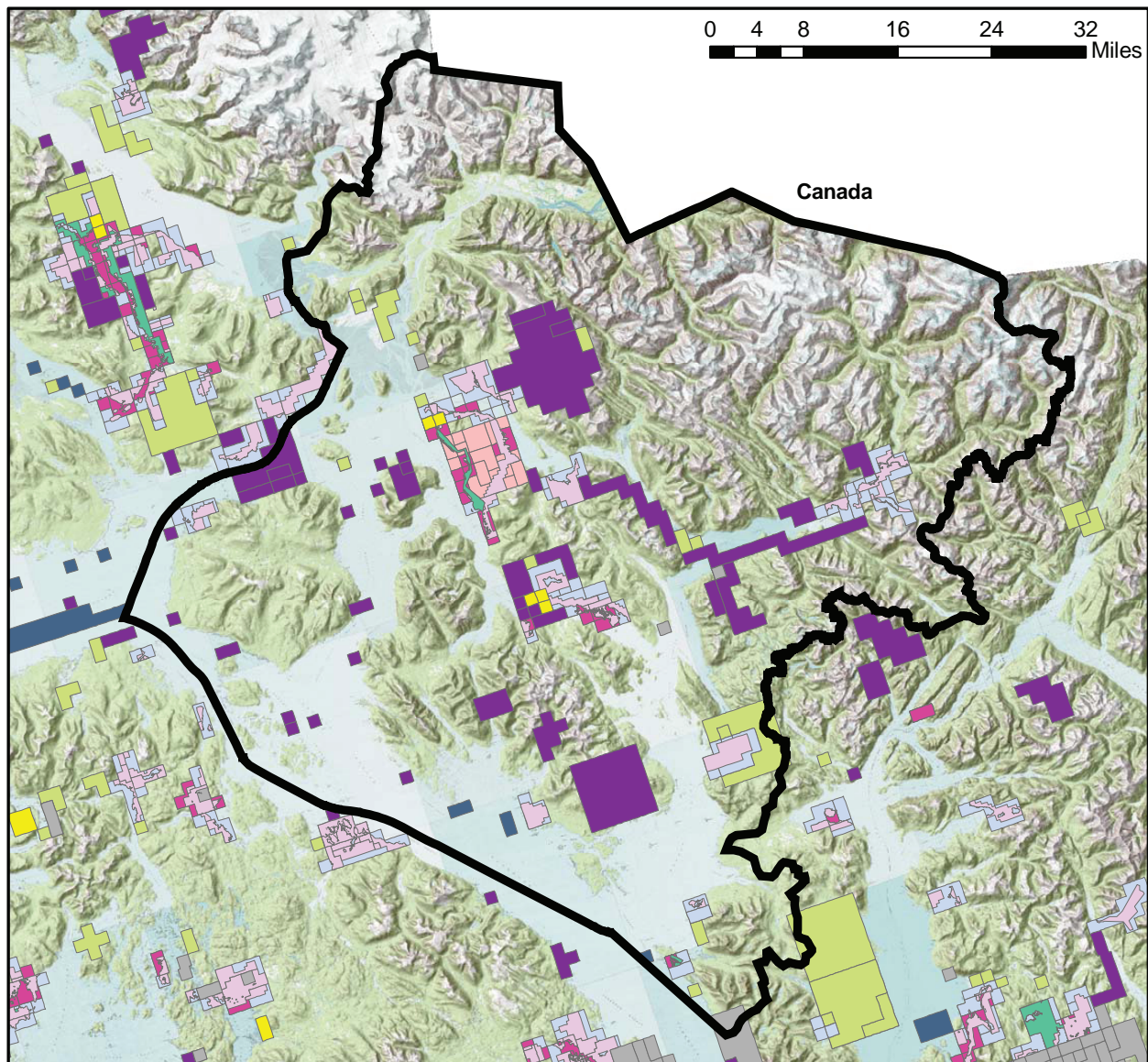
The proposed borough boundaries includes all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. The region's land ownership patterns are illustrated in the land ownership map on the following page

The State and federal governments are the largest landowners in the region. Most of the existing roads in the proposed borough, including the Zimovia Highway and numerous logging roads, are located on Wrangell Island, the island in the proposed borough with the greatest population. In order to develop recreation lands or to extract the natural resources of the area, which includes timber and possibly minerals, there will need to be access construction.

Most of the information below regarding land use, forestry, recreation, and fish and wildlife has been extracted from the Central/Southern Southeast Area Plan for State lands, adopted in November 2000, pages 3-169 to 3-231 concerning the Wrangell Planning Region; and the maps and text concerning Meyers Chuck and Union Bay in the Ketchikan Planning Region on pages 3-241 to 3-243, 3-276, and 3-299-3-301. This plan for State lands was developed by the Alaska Department of Natural Resources, Division of Mining, Land & Water, Resource Assessment and Development Section.

Maps and subdivision plats from the Central/Southern Southeast Area Plan are reproduced in Appendices G and J. Note that the land ownership maps in the area plan, except for state upland tracts, only depict generated land status current to 1997. Consult the land records of the Forest Service, borough and cities, and Native corporations to identify precise land

Land Ownership



Legend

Wrangell Borough Proposed Boundary	CIRI Selected, Interim Conveyed, or Patented
Native Allotments, Selected or Patented	State Selected, Tentatively Approved, or Patented Land
Mental Health Trust Land	BLM Vacant, Unappropriated, and Unreserved Lands
ANCSA Claims Selected, Interim Conveyed, or Patented	Private Land, Selected or Patented
DNR Tentatively Approved or Patented	Federal Withdrawal
State Land Sales	

ownership boundaries and current land status. Land status information for State area plans, except for state tracts, is derived from the Land Status layer of the Tongass Land and Resource Management Plan Geographic Information System. Alaska Department of Natural Resources land records were used to depict state upland tracts.

Note that in the area plan maps, and in the Land Ownership map on the previous page, if there is only some land within a section that is State owned or State selected, the entire section is portrayed as State owned.

The Wrangell Planning Region includes the area north from Eastern Passage to Ernest Sound in the south; and from Clarence Strait in the west to the Canadian border on the east. The planning area includes the islands of Wrangell, Zarembo, Etolin and Woronkofski. It also contains areas of the adjacent mainland, including the Stikine River coastal tide flats and the Bradfield Canal area. The majority of state tracts are located on Wrangell Island, with minimal holdings on Zarembo and Etolin Island and somewhat larger areas near Crittenden Creek, Mill Creek and Bradfield Canal on the mainland. State tideland parcels are extensive throughout the Wrangell planning areas, reflecting the extensive coastlines along the mainland and around the offshore islands, and the unique habitat and presence of fish and marine mammals in these areas.

State uplands within this region are located primarily within Wrangell Island, with concentrations near the Wrangell community, southeast in Pat's Creek drainage, and in the southwestern part of the island at Thoms Place and Thoms Lake. The distribution of these tracts, according to principle geographic areas, is given in the table below.

Geographic Area Acreage	
Zarembo Island	1,679 acres
Bradfield Canal	5,783 acres
Wrangell	17,801.8 acres
Etolin	465.5 acres
Mainland	4,385.7 acres

State tideland units are primarily associated with the coastal tidelands of the Stikine River and at the head of various bays. The Stikine River area is particularly significant, functioning as a regionally important waterfowl concentration on the Pacific Flyway, as a transportation corridor to the interior, and as an important harvest and materials extraction area.

There is a total of 30,115 acres of state upland tracts in the Wrangell Planning Region. Of this total, approximately 22,995 acres are in Patent or Tentatively Approved for Patent status, with the remaining acreage (7,120 acres) in State Selected status. In addition, there is a total of 430,733 acres of tidelands and submerged lands. Of this, there are approximately 76,486 acres in the 57 tideland tracts identified in the Wrangell Planning Region.

Physical Features

The Wrangell planning region is part of the physiographic region of both the Boundary Ranges and the Coastal Foothills. Most areas, with the exception of the state tracts at the terminus of the Bradfield Canal, are located in the Coastal Foothills. The state upland parcels can be generalized into four principal areas: North/Central Wrangell Island, Wrangell Island South, Mainland, Bradfield Canal, and mainland Mill and Crittenden Creeks.

North/Central Wrangell Island. Within this area, there is State land in areas near the coast and the interior drainage of Pat's Creek. Areas near the coast are characterized by moderately sloping coastal plains. The interior areas are steeply sloped except for the floodplain and other adjacent areas to Pat's Creek. Uplands contain a mixed hemlock and spruce forest, except for some even-age regeneration areas in the Pat's Creek drainage. The flatter areas, particularly within the Pat's Creek drainage, contain wetlands, which are mostly saturated spruce bog and sphagnum bog.

Wrangell Island South. In this area, state land occupies coastal areas and the interior drainage of Thomas Lake and Creek. Areas adjacent to the coast are moderately steep to gently sloping coastal plains. The Thoms Place Subdivision occupies portions of this coastal plain. Interior areas are dominated by the Thoms Lake and Creek drainage, with terrain tending to be gently sloped near the creek but more steeply sloped away from this area. This area includes mostly dry uplands covered by a mixed spruce and hemlock forest.

Mainland, Bradfield Canal. This area consists of two sub-parts: the Bradfield River floodplain and the other steeply sloped mountainous areas adjacent to it. The latter are physiographically part of the Border Ranges, a mountainous area with steeply sloped valley walls. The floodplain of Bradfield River is extensive, consisting of the numerous braided channels formed by the river. Within the floodplain of the river, there are extensive wetland areas consisting of emerging, forested, and shrub wetland types. The steeply sloped upland areas are dry and are covered by a mixture of hemlock and spruce forest.

Mainland, Mill and Crittenden Creeks. This area consists of gently rolling coastal plains with areas of steep slope within the interior of both parcels as well as areas of fairly level floodplains adjacent to Crittenden Creek. The uplands are covered by a mixture of spruce and hemlock forest. The flatter areas, especially those within floodplains, are covered by a mosaic of dry land, saturated spruce bog, and sphagnum bog.

Uses and Resources

Uses

Uplands. State upland tracts in the Wrangell Planning Region receive varying levels of use, with the more remote tracts primarily being used for dispersed and marine oriented recreation. The range of current uses on state land includes dispersed and marine recreation, settlement areas, and timber harvest areas. There is a fairly heavy use of the Thoms Lake parcels and the Mill Creek/Virginia Lake tracts on the mainland. Recreational activities in these areas include camping, hiking, sport fishing, and other recreational uses. Other tracts receiving fairly heavy use include those in the Pat's Creek drainage in the central part of Wrangell Island, and Earl

West Cove. In these areas, fishing, hiking, and off-road vehicular uses are common. Settlement areas within the planning region are situated at Thoms Place, Olive Cove, and scattered areas along Eastern Passage. The remaining principal use of state land involves timber harvest. Most of the timber harvest has been conducted by the Forest Service, particularly along Pat's Creek drainage, and within Earl West Cove and the Bradfield Canal area. There was a State timber harvest in the Pat's Creek drainage area prior to 2000.

Tidelands. A variety of sites throughout the region are used for subsistence harvesting, involving the gathering of invertebrates and intertidal gathering, as well as salmon and finfish harvest. Harvest areas are scattered throughout the planning area and include portions of Zarembo Island, areas near Thoms Place on Wrangell Island, and Woronkofski Island.

Resources: State upland tracts include a variety of resources, including recreation, settlement, timber harvest, and habitat. Areas of recreation and settlement occur at the areas described earlier in this report under "Uses of State Land". Additional areas appropriate for future settlement exist at St. John's Harbor on Zarembo Island, adjacent to Olive Cove on Etolin Island, and north of the existing Thoms Place Subdivision along Zimovia Strait on Wrangell Island. Commercial forest resources exist in the areas of previous timber harvest, but also at Crittenden Creek on the mainland adjacent to Thoms Lake and the Thoms Creek drainage on Wrangell Island, and on Zarembo Island. Mature commercial forest areas total 23,015 acres with some 3,250 acres having been previously harvested, representing 14% of the total. Most of the large tracts, especially those adjacent to the coast or tracts that have significant anadromous streams, are likely to support deer, some moose, and black and brown bear concentrations. Particularly heavy concentrations of these resources are found at the Thoms Lake and Thoms Creek drainage, Earl West Cove, and Virginia Creek on the mainland.

MANAGEMENT CONSTRAINTS AND CONSIDERATIONS

Few State resource or management plans affect the Wrangell Planning Region. Although there are no habitat management plans by the Alaska Department of Fish and Game, DNR has prepared a site specific plan for the Pat's Creek drainage. Land use development is guided by the city comprehensive plan and zoning ordinance within the corporate limits of the City of Wrangell. The city's coastal zone plan manages coastal resources within this area.

Tongass Land Resource Management Plan designations of "Timber Production" about the St. Johns Harbor tract on Zarembo Island and portions of the Crittendon Creek parcel on the mainland. Most other State lands are adjoined by the "Scenic Resources" prescription. This prescription is particularly common in the Pat's Creek drainage on Wrangell Island and adjacent to the Mill Creek tract on the mainland. The areas of Thoms Place and Thoms Lake are abutted by the "Old Growth Habitat" prescription.

MANAGEMENT OF STATE LANDS

State lands are intended for multiple uses, including both dispersed and marine oriented recreation, timber harvest, habitat protection, and settlement. Some areas that are appropriate for eventual intensive use (such as settlement) are not recommended for development during the 20 year planning period, however. Most state upland tracts, particularly those of significant

size and in remote locations, provide for and are recommended for recreation. Among the large tracts, the Pat's Creek drainage, Earl West Cove, Mill and Crittendon Creeks, and the Thoms Lake/Creek areas are important for recreational use. There is particularly heavy use of the Mill Creek/Virginia Lake and Thoms Lake/Creek areas by Wrangell residents. Commercial timber harvest is recommended in large tracts with less intensive recreation use, and in areas not containing significant sensitive habitats. These areas are usually remote from the City of Wrangell, and are designated General Use (Gu). The General Use designation allows for a variety of uses, including potential timber harvest. Included among the areas where commercial timber harvest is recommended for consideration are the Pat's Creek drainage, Eastern Passage, Crittenden Creek, the Bradfield Canal, and Zarembo Island. Timber harvest to support subdivision development is considered appropriate and is recommended.

Several areas are identified within the Wrangell Planning Region for future settlement. There are few potential sites with the requisite water access, appropriate terrain, and safe anchorages. Areas meeting these criteria and recommended for future settlement include the St. John's Harbor area at Zarembo Island, the Olive Creek drainage on Etolin Island, and the area north of the Thoms Place Subdivision along the Zimovia Strait, Pat's Creek drainage, and the area of state land adjoining Eastern Passage on Wrangell Island. Although settlement is appropriate at Olive Cove, it is not recommended that a land disposal occur there during the 2000-2020 planning period.

Maps from the Central/Southern Southeast Area Plan -- annotated with the use designations in the table below -- are included in Appendix J. Acreage associated with these designations are as follows:

Designations Acreage

Uplands

- Gu General Use23,302 acres
- Ha Habitat7,121 acres
- Hv Harvest2,215 acres
- Ma Materials0 acres
- Pr Public Facilities – Retain4,191 acres
- Pt Public Facilities – Transfer0 acres
- Rd Recreation – Developed0 acres
- Ru Recreation – Undeveloped5,975 acres
- S Settlement5,824 acres
- Sc Settlement – Commercial4 acres

Tidelands

- Gu General Use354,247 acres
- Ha Habitat69,614 acres
- Hv Harvest73,017 acres
- Ru Recreation – Undeveloped29,670 acres
- Sd Shoreline Development4,896 acres
- Wd Waterfront Development150 acres

Municipal Entitlement Lands: A new borough is entitled to 10% of the vacant, unreserved and unappropriated state lands within its boundaries under AS 29.65.030. The Petitioner estimated the new borough would be entitled as much as 2,424 acres of vacant, unappropriated, unreserved State land. In other words, the State would transfer as much as 2,424 acres to the proposed Deltana Borough as its general grant land entitlement.

University Land Settlement: The 2005 University Lands Bill (Chapter 8, FSSLA 2005) Contains Provisions that concern the Wrangell Borough Proposal and the prospective Petersburg Borough proposal. In relevant part, Section 3 of that law provides:

Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled 'University of Alaska Land Grant List 2005,' dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009, that includes Wrangell or Petersburg. If a borough is not formed before July 1, 2009, land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (2) Parcel Number SD.1001, Favor Peak; (3) Parcel Number CS.TL.1001, Three Lake Road; (4) Parcel Number SD.1001, Read Island; (5) Parcel Number SD.1001, Whitney Island; (6) Parcel Number CS.EW.1001, Earl West Cove; (7) Parcel Number CS.OV.1001, Olive Cove; and (8) Parcel Number SD.1001, Thoms Place.

Officials from the City of Petersburg have expressed their intent to pursue borough formation.

J. Personal Income of Residents of the Proposed Borough

The U.S. Department of Commerce Bureau of Economic Analysis gathers personal income data. The Alaska Department of Labor characterizes personal income as "a good measure of economic wellbeing because it includes income generated through work and investments, as well as transfer payments (essentially government payments)." (*Alaska Economic Trends*, p. 4, Alaska Department of Labor and Workforce Development, November 2005.) The Bureau of Economic Analysis' formal definition of *personal income* is:

[T]he income received by all persons from all sources. Personal income is the sum of net earnings by place of residence, rental income of persons, personal dividend income, personal interest income, and personal current transfer receipts. Net earnings is earnings by place of work (the sum of wage and salary disbursements (payrolls), supplements to wages and salaries, and proprietors' income) less contributions for government social insurance, plus an adjustment to convert earnings by place of work to a place-of-residence basis. Personal income is measured before the deduction of personal income taxes and other personal taxes and is reported in current dollars (no adjustment is made for price changes).

Table 2-10. Personal Income in 1999 (reported in 2000 Census)

	State of Alaska	Wrangell-Petersburg Census Area	City of Wrangell
Personal Per Capita Income	\$22,660	\$23,494	\$21,851
Median Household Income	\$51,571	\$46,434	\$43,250
Median Family Income	\$59,039	\$54,046	\$54,167
Persons in Poverty	57,602	525	206
Percent Below Federal Poverty Level	9.4%	7.9%	9.0 %

K. Existing and Reasonably Anticipated Industrial, Commercial, and Resource Development for the Proposed Borough

Table 2-11 shows the classification (e.g., private wage and salary, and government) of the civilian workers in the proposed Wrangell Borough at the time of the last census. These figures are based on a sample and are subject to sampling variability; 23% of all households in Wrangell were sampled in the 2000 Census. Data for the entire State is also provided for comparison. Notice that 34% of the Total Employed were government workers, according to the 2000 Census. This means there is a large pool of experienced government employees who may choose employment with the new borough.

Table 2-11. Class of Worker of Employed Civilian Population 16+ Years Old in Proposed Wrangell Borough, Compared to State of Alaska (2000 Census Data)

Employed Civilian Population Number (Percentage of Population 16 Years and Over)				
Classification	City of Wrangell	Thoms Place CDP	Meyers Chuck CDP	Alaska State
Total Employed	1,079 (100%)	0	3 (100%)	281,532 (100%)
Private wage and salary workers	515 (47.7%)	0	0	182,840 (64.9%)
Government workers	368 (34.1%)	0	0	75,330 (26.8%)
Self-employed workers in own, not incorporated, business	196 (18.2%)	0	3 (100%)	22,520 (8.0%)
Unpaid family workers	0	0	0	842 (0.3%)

L. The Need for and Availability of Employable Skilled and Unskilled Persons to Serve the Proposed Borough

Table 2-12 compares 2000 census data regarding educational attainment of the proposed Wrangell Borough population and the population of the entire state (25 years of age and older). The data shows that a higher percentage of residents completed or graduated from high school, while a lower percentage received a Bachelor's degree or higher.

TABLE 2-12
EDUCATIONAL ATTAINMENT OF POPULATION 25+ YEARS OLD
IN PROPOSED BOROUGH COMPARED TO ALASKA
2000 Census Data

Educational Attainment	Population 25+ Years Old (Percentage)				
	Wrangell- Petersburg Census Area	City of Wrangell	Meyers Chuck CDP	Thoms Place CDP	Alaska State
Population 25+ years old	4,359 (100%)	1,549 (100%)	13 (100%)	29 (100%)	379,556 (100%)
Less than 9th grade	127 (2.9%)	53 (3.4%)	0	4 (13.8%)	15,663 (4.1%)
9th to 12th grade, no diploma	491 (11.3%)	222 (14.3%)	0	0	28,619 (7.5%)
High school graduate (includes equivalency)	1,589 (36.5%)	541 (34.9%)	8 (61.5%)	15 (51.7%)	105,812 (27.9%)
Some college, no degree	1,196 (27.4%)	429 (27.7%)	0	0	108,442 (28.6%)
Associate degree	246 (5.6%)	92 (5.9%)	0	0	27,213 (7.2%)
Bachelor's degree	511 (11.7%)	153 (9.9%)	5 (38.5%)	4 (13.8%)	61,196 (16.1%)
Graduate or professional degree	199 (4.6%)	59 (3.8%)	0	6 (20.7%)	32,611 (8.6%)
Percent high school graduate or higher	85.8%	82.2%	100%	82.6%	88.3%
Percent bachelor's degree or higher	16.3%	13.7%	38.5%	34.5%	24.7%

M. The Reasonably Predictable Level of Commitment and Interest of the Population in Sustaining a Borough Government

The City of Wrangell, the only local government in the area, has successfully operated since 1903 when they were incorporated. The City has provided educational services for many years and has served residents throughout the proposed borough. The City owns the Wrangell Hospital which is operated by municipal employees and is administered by a 5-member board. The City owns 4 harbors. It is evident that residents of the region have the level of commitment and interest necessary to sustain a borough government.

N. Conclusion

The foregoing analysis of the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation reflect a fiscally viable proposal. The economic base, property valuations, land use, existing and reasonably anticipated development, and personal income are evidence of an economy that is fully capable of supporting borough government. Lastly, the availability of employable persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government reflect positively on the region. Accordingly, Commerce concludes that the standards set out in AS 29.05.031(a)(3) and 3 AAC 110.055 regarding the human and financial resources are fully satisfied by the Petition.

Part 8. Whether the Transition Plan Included in the Petition is Complete and Otherwise Complies with the Requirements of Law

The provisions of 3 AAC 110.900 require the Petitioner to reasonably demonstrate through a transition plan, the capability of the proposed borough to serve the area, implement consolidation in a timely manner, and do so without loss in value of municipal assets or credit.

The petition presented a 3-page transition plan (Exhibit E of the Petition) whose provisions also formed the basis of the home-rule charter (Exhibit I of the Petition).

According to Section 18.08 of the Home Rule Charter of the City and Borough of Wrangell, “The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.”

After incorporation, the Charter of the proposed City and Borough of Wrangell would become the organic law of the borough. A charter is the equivalent of a municipal constitution, and is a legal requirement for a new borough.

The Petitioner was required to develop the transition plan in consultation with officials of the City of Wrangell and other relevant entities. According to the Petition's Transition Plan, Exhibit E:

Transitional measures will be relatively simple, because, in most cases, the services supplied, respectively, to the service area and areawide, correspond closely to services already being provided by the City of Wrangell to these areas.

Education services will be minimally affected, because the City of Wrangell schools have historically educated between five and ten students who resided outside the city limits of Wrangell, in the "Wrangell West" area past the southern boundary of the city limits. These students have been previously counted in the average daily membership (ADM) of the Wrangell City School District for purposes of formula funding, and this will continue to be the case. Currently, no correspondence study students from outside the City of Wrangell pursue their studies through the Wrangell City school correspondence program. Petitioner is unaware of any students in the proposed borough but outside the existing city who are enrolled in a correspondence school course with either the Southeast Alaska Island REAA, the state's correspondence program, or any other school's correspondence program.

Taxation by the City and Borough of Wrangell inside the existing City of Wrangell will continue without interruption. Depending upon the timing of certification of incorporation, it may be necessary to delay property taxation of areas outside the existing city until assessment may be completed. The intention is to bring all areas into the same assessment-taxation cycle as soon as possible. This is dependent upon when actual incorporation is approved, in relation to the assessment-taxation cycle. At the latest, this will occur sometime in the first calendar year following incorporation. Sales taxes will not be implemented in the area outside the existing City of Wrangell until no more than 6 months following incorporation, to permit adequate time for borough officials to inform retailers and sellers in that area of their responsibilities in collection of sales taxes, and in familiarizing them with the reporting forms.

The City and Borough of Wrangell will immediately undertake planning and zoning in the areas outside the current city. Areas outside the existing city will initially be placed in a "holding" district, in which uses shall be unrestricted until the area is otherwise zoned.

Because nearly all territory within the proposed service area of the City and Borough of Wrangell is already within the existing City of Wrangell, the borough will undertake to immediately extend service area functions to the limits of the service area.

As set out in Section 13 of this petition, the facilities of the City of Wrangell will be transferred to the proposed borough, along with the bonded indebtedness associated with such facilities. In order to provide for orderly transition

from the City of Wrangell to the City and Borough of Wrangell, the City and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the City under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.

This plan was developed in consultation with officials of the City of Wrangell and the Southeast Alaska REAA. Susan Sciabbarrasi, Superintendent of the Wrangell School District and Jim Nygaard, Superintendent of the Southeast Island REAA, were contacted to discuss the proposed petition for incorporation of the CBW and its potential impact upon educational funding. Those students residing in the REAA but located in the area of the proposed borough are already attending Wrangell schools and being counted in Wrangell's ADM rather than the REAA. There are no students residing within the existing City who take correspondence studies from the REAA. The few students residing within the City who take correspondence courses through Craig's correspondence studies are already being counted in Craig's ADM. There are no REAA school sites within the area proposed for incorporation.

The transition plan demonstrates to DCCED's satisfaction that the proposed borough would have the capacity to extend essential borough services in the shortest practicable time after the effective date of incorporation. Thus, the requirement set out in 3 AAC 110.900(a) is satisfied.

Further, the transition plan includes a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by the City of Wrangell. Thus, the provisions of 3 AAC 110.900(b) are satisfied.

Lastly, the transition plan includes a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of City of Wrangell. Therefore, the requirements of 3 AAC 110.900(c) are met.

The provisions of 3 AAC 110.900(d) allow the LBC to require the City to execute an agreement for the assumption of powers, duties, rights, and functions and for the transfer and integration of assets and liabilities. DCCED considers such unnecessary in this case, particularly given provisions in the Alaska Statutes regarding incorporation and the provisions in the Charter of the proposed City and Borough of Wrangell.

Part 9. Whether the Proposed Borough Incorporation Has a Racially Discriminatory Purpose, Would Make Minority Voters Worse Off, or Would Deny Civil or Political Rights in Violation of the Law

Under federal law (42 U.S.C. Section 19; 28 C.F.R. Part 51) and State law (3 AAC 110.630) incorporation of municipal governments (borough incorporation) is subject to the federal Voting Rights Act. The Voting Rights Act requires demonstration to federal authorities that municipal

boundary changes do not have a racially discriminatory purpose or will not make minority voters worse off than they were prior to incorporation. Additionally, State law (3 AAC 110.910) provides that, “A petition will not be approved by the [local boundary] commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.”

The federal Voting Rights Act was enacted in 1965. Standards were established to determine which jurisdictions nationwide would be required to preclear changes in voting rights and practices under Section 5 of the Act. If the U.S. Justice Department determined that a state or political subdivision maintained a “test or device”⁵⁹ and if the Census Bureau determined that less than 50 percent of the voting-aged residents of the jurisdiction were registered to vote or voted in the 1964 presidential election, the state or political subdivision was covered by the Act. At that time, Alaska had low voter registration and turnout. The U.S. Justice Department had also determined that Alaska had maintained a literacy test, which was considered a prohibited test or device. Therefore, at the outset, Alaska was among the jurisdictions that were required to comply with the preclearance provisions of Section 5 of the Voting Rights Act. However, as expressly authorized by the Voting Right Act, Alaska immediately filed a lawsuit asserting that the State had not applied a test or device with the prohibited discriminatory purpose or effect. The Justice Department concurred with the State’s position and Alaska was allowed to withdraw from the preclearance requirements. The federal Voting Rights Act was amended in 1970, at which time Alaska was once more made subject to the preclearance requirements. However, with the concurrence of the Justice Department, Alaska again withdrew from the requirement to preclear changes affecting voting. In 1975, the Voting Rights Act was amended a third time. The amendments expanded the definition of “test or device” to apply to a jurisdiction that conducted elections only in English if five percent or more of the population were members of a single language minority. Because Alaska conducted most aspects of its elections in English and because all Alaska Natives were considered to be members of a single language minority, Alaska and all of its local governments were once again required to preclear all changes affecting voting.

The 1975 amendment was retroactive to cover any changes made after November 1, 1972. Alaska and its political subdivisions have since remained subject to the Section 5 Voting Rights Act requirements. All municipal incorporations in Alaska are subject to review under the Voting Rights Act.

According to Table 2-13 15.4 percent (361/2351) percent of the population in the City of Wrangell and the two CDPs within the proposed Wrangell Borough were Alaska Native or American Indian in 2000. Additional study of the census data reveals that 23.6 percent (555/2351) of the population in the proposed Wrangell Borough were Alaska Native or American Indian alone or in combination with one or more races.

⁵⁹ “Test or device” was defined as “any requirement that a person as a prerequisite for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement of his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.”

Table 2-13. U.S. Census 2000 Population by Race

Census Designated Place (CDP) or City	One Race	White	Alaska Native or American Indian*	Black	Asian	Native Hawaiian and Other Pacific Islander	Other Race	2 or more Races*
City of Wrangell	2,083	1,696	358	3	15	3	8	225
	90.3%	73.5%	15.5%	0.1%	0.6%	0.1%	0.3%	9.7%
Thoms Place CDP	22	19	3	0	0	0	0	0
	100.0%	86.4%	13.6%	0.0%	0.0%	0.0%	0.0%	0.0%
Meyers Chuck CDP	19	19	0	0	0	0	0	2
	90.5%	90.5%	0.0%	0.0%	0.0%	0.0%	0.0%	9.5%

Census Designated Place or City	Alaska Native and American Indian alone or in combination with one or more races	Percent Alaska Native and American Indian alone or in combination with one or more races
City of Wrangell	550	23.8%
Thoms Place CDP	3	13.6%
Meyers Chuck CDP	2	9.5%

The Petitioner states that in accordance with 3 AAC 110.910, incorporation of the proposed borough will not deny any person the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. No evidence has been presented in this proceeding to indicate that proposed incorporation of the Wrangell Borough will have the purpose or effect of discriminating based on race, color, creed, sex, or national origin. Moreover, no evidence has been presented to suggest that proposed incorporation of the Wrangell Borough will have the purpose or effect of discriminating against a language minority group. Therefore, DCCED concludes that formation of the proposed Wrangell Borough will not have the effect of denying any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

Chapter 3 - Summary of Conclusions and Recommendation

This brief chapter provides a succinct overview of the conclusions reached by DCCED in Chapter 2 based on previously presented analysis. It also presents DCCED's preliminary recommendation to the LBC regarding the Petition.

A. Summary of Conclusions

The following summarizes the fundamental conclusions reached by DCCED in the previous chapter.

- The incorporation proposal would create a home-rule borough. The framers of Alaska's Constitution considered home-rule to be the highest form of self-government. Thus, the incorporation proposal promotes the "maximum local self-government" principle in article X, section 1 of the Alaska Constitution.
- The proposal also promotes maximum local self-government in that it will extend borough government to an estimated 3,465 square miles and 2,017 residents. Of that, 71 square miles and 1,911 residents are already within the home-rule City of Wrangell.
- Upon incorporation of the City and Borough of Wrangell, the home-rule City of Wrangell will be dissolved. The Wrangell Borough incorporation proposal promotes maximum local self-government with a minimum of local government units by creating one local government to provide basic municipal services in the area, including education, planning, land use regulation, platting, taxation and collection of taxes, volunteer search and rescue services, police, borough hospital, boat harbor, cemetery, museum, public safety building, Community Center, library, incarceration facilities, economic development planning, and parks and recreation. Most of these services were previously provided by two separate government entities: the City of Wrangell, and in the case of platting outside the boundaries of the City of Wrangell, the State of Alaska. The new borough will also collect the proposed taxes and the National Forest Receipts.
- Article X, section 3 of Alaska's Constitution mandates that each borough embrace an area and population with common interests to the maximum degree possible. Additionally, AS 29.05.031(a) provides that the population of a proposed borough must be "interrelated and integrated as to its social, cultural, and economic activities" and that "land, water, and air transportation facilities allow the communication and exchange necessary for development of integrated borough government." Moreover, 3 AAC 110.045 requires that a proposed borough embrace a community of interests.
- Wrangell's petition to incorporate 3,465 square miles as the City and Borough of Wrangell, and the Ketchikan Gateway Borough's petition for annexation of a 4,701 square-mile portion of the area within the model boundaries of the Ketchikan

Gateway Borough (KGB), both claim the same 191 square-mile area in the vicinity of Meyers Chuck and Union Bay. Based on the evidence in this incorporation proceeding and the pending proceeding for annexation to the Ketchikan Gateway Borough, DCCED concludes that only 95 percent of the area proposed for incorporation as the Wrangell Borough share common interests to the maximum degree possible. DCCED concludes that the remaining 191 square-mile area and the population in the vicinity of Meyers Chuck and Union Bay on the Cleveland Peninsula have greater interests in common with Ketchikan as compared to Wrangell. That 191-square mile area is within the Ketchikan model borough boundaries and is currently proposed for annexation to the Ketchikan Gateway Borough.

- The existing population of the proposed borough meets the size and stability requirements for borough incorporation.
- The borough incorporation proposal is fiscally viable. The Wrangell area economy is capable of supporting the proposed borough. Wrangell incorporated as a city government in 1903 and adopted a home-rule charter in 1960. City government has provided services and represented the entire area, not just what is within the city limits; services provided to the community on an areawide basis for the past several years include parks and recreation, boat harbor, Community Center, library, museum, and volunteer search and rescue services. (The City of Wrangell provides a facility, equipment and training for Search and Rescues services by the Wrangell Volunteer Fire Department.) Additionally, the City of Wrangell has provided educational services for several years to residents of the proposed borough. Accordingly, the standards regarding the human and financial resources are fully satisfied by the borough incorporation Petition.
- The communications media and the land, air, and water transportation facilities in the proposed borough are well developed and integrated. The standards regarding such are fully satisfied except with regard to the 191-square mile area noted above.
- Borough incorporation is in the best interests of the State, not only because it promotes maximum local self-government and a minimum of local government units, but because it also provides residents throughout the proposed borough with an equal voice in the operation of areawide services. Additionally, borough incorporation promotes taxpayer equity in that all residents and property owners throughout the City and Borough of Wrangell will shoulder an equal fiscal burden for areawide services.
- The Petition provides a plan for suitable transition to a unified home-rule borough.
- Borough incorporation would not violate any provision of the federal Voting Rights Act or other laws concerning civil and political rights.
- The boundaries of the proposed borough include a 191 square-mile area that is part of the Ketchikan Gateway Borough model boundaries.

Thus, Commerce concludes that Petition satisfies all legal standards applicable to borough incorporation, except with respect to the 191-square mile area noted above. Those applicable legal requirements include article X, sections 1 and 3, Constitution of the State of Alaska; AS 29.05.031; AS 29.05.100; 3 AAC 110.045 - 3 AAC 110.065; 3 AAC 110.900 - 3 AAC 110.990; and provisions of the federal Voting Rights Act.

B. Recommendations

It is DCCED's conclusion that the Petition meets all applicable legal standards (with the exception of the 191-square mile area noted above). Therefore, DCCED recommends that the LBC amend the Petition to exclude the 191-square-mile area around Meyers Chuck and Union Bay; this area is within the model boundaries of the Ketchikan Gateway Borough and otherwise has stronger ties to Ketchikan. A petition for annexation of a 4,701 square-mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (KGB) – including Meyers Chuck and Union Bay -- was filed by the KGB in February 2006. DCCED concludes that this 191 square-mile territory, part of the Cleveland Peninsula and within the KGB model boundaries, has more in common with the KGB than it does with the proposed City and Borough of Wrangell. Those boundaries were set by the LBC in 1991 using the legal borough boundary standards and constitutional principles established in law. This is consistent with DCCED's conclusion in its *Preliminary Report to the Local Boundary Commission Regarding the Petition for Annexation of Approximately 4,701 Square Miles to the Ketchikan Gateway Borough*, issued June 30, 2007.

There are strong ties between the Ketchikan Gateway Borough and Meyers Chuck regarding transportation and communication, election districts, recording districts, borough government boundaries as mandated by the 1963 legislature, and the model borough boundaries. Natural geography and census sub-area boundaries are common interests linking the KGB to Meyers Chuck. Since Meyers Chuck is within the Primary Service Area of the Ketchikan General Hospital, medical care is another common interest between the KGB and Meyers Chuck. Moreover, Meyers Chuck and Union Bay are within the "Ketchikan Planning Region" of DNR's *Central/Southern Southeast Area Plan*. That is particularly important because the Wrangell Petitioner justifies the exclusion of Petersburg from its borough proposal, in part, by placing great weight on the fact that Wrangell and Petersburg are in separate planning regions in the same *Central/Southern Southeast Area Plan*.

DCCED notes that if borough incorporation occurs and the home-rule City of Wrangell dissolves, the Charter, found in Appendix D, will become the organic law of the borough. In other words, the Charter will serve as the equivalent of a local government constitution for the City and Borough of Wrangell.

The fiscal viability of the prospective borough is reasonably assured. DCCED concludes that incorporation of the Wrangell Borough would serve the best interests of the state. DCCED also concludes that the Wrangell unified home-rule borough incorporation proposal meets the requirements of State law. Therefore, DCCED recommends the LBC approve the City and Borough of Wrangell Incorporation Petition with an amendment to exclude the 191 square-mile territory in the vicinity of Meyers Chuck and Union Bay that is the subject of a competing Petition for Annexation by the Ketchikan Gateway Borough.

Appendix A

Standards Applicable to the Wrangell Borough Incorporation

Applicable Standards Under the Constitution of the State of Alaska

Article X, Section 1. Purpose and Construction. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

. . . .

Article X, Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Applicable Standards Under the Alaska Statutes

AS 29.05.100. Decision. (a) The Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, 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, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act).

. . . .

AS 29.05.031. Incorporation of a borough or unified municipality. (a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Applicable Standards Under the Regulations

3 AAC 110.045. Community of interests. (a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission may consider relevant factors, including the

(1) compatibility of urban and rural areas within the proposed borough;

(2) compatibility of economic lifestyles, and industrial or commercial activities;

(3) existence throughout the proposed borough of customary and simple transportation and communication patterns; and

(4) extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission may consider relevant factors, including

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities; and

(4) electronic media for use by the public.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications.

3 AAC 110.050. Population. (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission may consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough.

3 AAC 110.055. Resources. The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission

- (1) will consider
 - (A) the reasonably anticipated functions of the proposed borough;
 - (B) the reasonably anticipated expenses of the proposed borough;
 - (C) the ability of the proposed borough to generate and collect local revenue, and the reasonably anticipated income of the proposed borough;
 - (D) the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation;
 - (E) the economic base of the proposed borough;
 - (F) property valuations for the proposed borough;
 - (G) land use for the proposed borough;

(H) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and

(I) personal income of residents of the proposed borough; and

(2) may consider other relevant factors, including

(A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough; and

(B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

3 AAC 110.060. Boundaries. (a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

(1) land use and ownership patterns;

(2) ethnicity and cultures;

(3) population density patterns;

(4) existing and reasonably anticipated transportation patterns and facilities;

(5) natural geographical features and environmental factors; and

(6) extraterritorial powers of boroughs.

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of education and early development, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential borough services on an efficient, cost-effective level.

(e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for

detachment of the overlapping region from the existing organized borough. The commission will consider and treat that petition for incorporation as also being a detachment petition.

3 AAC 110.065. Best interests of state. In determining whether incorporation of a borough is in the best interests of the state under AS 29.05.100(a), the commission may consider relevant factors, including whether incorporation

(1) promotes maximum local self-government;

(2) promotes a minimum number of local government units;

(3) will relieve the state government of the responsibility of providing local services; and

(4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution.

....

3 AAC 110.900. Transition. (a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after city reclassification, detachment, or dissolution.

(b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, and other appropriate entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city and unorganized borough service area, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included in the area proposed for the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after

the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included in the area of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

3 AAC 110.910. Statement of non-discrimination. A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

3 AAC 110.920. Determination of community. (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the

(1) settlement is inhabited by at least 25 individuals;

(2) inhabitants reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living; and

(3) inhabitants residing permanently at a location are a discrete and identifiable social unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if

(1) public access to or the right to reside at the location of the population is restricted;

(2) the population is adjacent to a community and is dependent upon that community for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

3 AAC 110.970. Determination of essential city or borough services. (a) If a provision of this chapter provides for the identification of essential borough services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the territory; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;

(3) planning, platting, and land use regulation; and

(4) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory.

(c) If a provision of this chapter provides for the identification of essential city services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the community; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(d) The commission may determine essential city services to include

(1) levying taxes;

(2) for a city in the unorganized borough, assessing and collecting taxes;

(3) for a first class or home rule city in the unorganized borough, providing primary and secondary education in the city;

(4) public safety protection;

(5) planning, platting, and land use regulation; and

(6) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

3 AAC 110.980. Determination of best interests of the state. If a provision of AS 29 or this chapter requires the commission to determine whether a proposed municipal boundary change or other commission action is in the best interests of the state, the commission will make that determination on a case-by-case basis, in accordance with applicable provisions of the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, and this chapter, and based on a review of

- (1) the broad policy benefit to the public statewide; and
- (2) whether the municipal government boundaries that are developed serve
 - (A) the balanced interests of citizens in the area proposed for change;
 - (B) affected local governments; and
 - (C) other public interests that the commission considers relevant.

Applicable Provisions Under the Federal Voting Rights Act

Federal law (42 U.S.C. § 1973) subjects municipal consolidations in Alaska to review under the federal Voting Rights Act. This federal requirement ensures that changes in voting rights, practices, and procedures (including those brought about by consolidation) will not result in “*a denial or abridgement of the right of any citizen of the United States to vote on account of race or color*” or because a citizen is a “*member of a language minority group.*” (42 U.S.C. § 1973)

The aspects of the federal Voting Rights Act applicable to the pending consolidation are set out in regulations of the U.S. Department of Justice at 28 C.F.R. Part 51 Subpart F. These include the following:

§ 51.52 Basic standard.

(a) *Surrogate for the court.* Section 5 provides for submission of a voting change to the Attorney General as an alternative to the seeking of a declaratory judgment from the U.S. District Court for the District of Columbia. Therefore, the Attorney General shall make the same determination that would be made by the court in an action for a declaratory judgment under section 5: Whether the submitted change has the purpose or will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The burden of proof is on a submitting authority when it submits a change to the Attorney General for preclearance, as it would

be if the proposed change were the subject of a declaratory judgment action in the U.S. District Court for the District of Columbia. See *South Carolina v. Katzenbach*, 383 U.S. 301, 328, 335 (1966).

(b) *No objection*. If the Attorney General determines that the submitted change does not have the prohibited purpose or effect, no objection shall be interposed to the change.

(c) *Objection*. An objection shall be interposed to a submitted change if the Attorney General is unable to determine that the change is free of discriminatory purpose and effect. This includes those situations where the evidence as to the purpose or effect of the change is conflicting and the Attorney General is unable to determine that the change is free of discriminatory purpose and effect.

§ 51.53 Information considered.

The Attorney General shall base a determination on a review of material presented by the submitting authority, relevant information provided by individuals or groups, and the results of any investigation conducted by the Department of Justice.

§ 51.54 Discriminatory effect.

(a) *Retrogression*. A change affecting voting is considered to have a discriminatory effect under Section 5 if it will lead to a retrogression in the position of members of a racial or language minority group (i.e., will make members of such a group worse off than they had been before the change) with respect to their opportunity to exercise the electoral franchise effectively. See *Beer v. United States*, 425 U.S. 130, 140-42 (1976).

(b) *Benchmark*. (1) In determining whether a submitted change is retrogressive the Attorney General will normally compare the submitted change to the voting practice or procedure in effect at the time of the submission. If the existing practice or procedure upon submission was not in effect on the jurisdiction's applicable date for coverage (specified in the Appendix) and is not otherwise legally enforceable under section 5, it cannot serve as a benchmark, and, except as provided in subparagraph (b)(4) of this section, the comparison shall be with the last legally enforceable practice or procedure used by the jurisdiction.

(2) The Attorney General will make the comparison based on the conditions existing at the time of the submission.

(3) The implementation and use of an unprecleared voting change subject to section 5 review under § 51.18(a) does not operate to make that unprecleared change a benchmark for any subsequent change submitted by the jurisdiction. See § 51.18(c).

(4) Where at the time of submission of a change for section 5 review there exists no other lawful practice or procedure for use as a benchmark (e.g., where a newly incorporated college district selects a method of election) the Attorney General's

preclearance determination will necessarily center on whether the submitted change was designed or adopted for the purpose of discriminating against members of racial or language minority groups.

§ 51.55 Consistency with constitutional and statutory requirements.

(a) *Consideration in general.* In making a determination the Attorney General will consider whether the change is free of discriminatory purpose and retrogressive effect in light of, and with particular attention being given to, the requirements of the 14th, 15th, and 24th amendments to the Constitution, 42 U.S.C. 1971(a) and (b), sections 2, 4(a), 4(f)(2), 4(f)(4), 201, 203(c), and 208 of the Act, and other constitutional and statutory provisions designed to safeguard the right to vote from denial or abridgment on account of race, color, or membership in a language minority group.

(b) *Section 2.* Preclearance under section 5 of a voting change will not preclude any legal action under section 2 by the Attorney General if implementation of the change demonstrates that such action is appropriate.

§ 51.56 Guidance from the courts.

In making determinations the Attorney General will be guided by the relevant decisions of the Supreme Court of the United States and of other Federal courts.

§ 51.57 Relevant factors.

Among the factors the Attorney General will consider in making determinations with respect to the submitted changes affecting voting are the following:

(a) The extent to which a reasonable and legitimate justification for the change exists.

(b) The extent to which the jurisdiction followed objective guidelines and fair and conventional procedures in adopting the change.

(c) The extent to which the jurisdiction afforded members of racial and language minority groups an opportunity to participate in the decision to make the change.

(d) The extent to which the jurisdiction took the concerns of members of racial and language minority groups into account in making the change.

§ 51.58 Representation.

(a) *Introduction.* This section and the sections that follow set forth factors--in addition to those set forth above--that the Attorney General considers in reviewing redistrictings (see § 51.59), changes in electoral systems (see § 51.60), and annexations (see § 51.61).

(b) *Background factors.* In making determinations with respect to these changes involving voting practices and procedures, the Attorney General will consider as important background information the following factors:

(1) The extent to which minorities have been denied an equal opportunity to participate meaningfully in the political process in the jurisdiction.

(2) The extent to which minorities have been denied an equal opportunity to influence elections and the decisionmaking of elected officials in the jurisdiction.

(3) The extent to which voting in the jurisdiction is racially polarized and political activities are racially segregated.

(4) The extent to which the voter registration and election participation of minority voters have been adversely affected by present or past discrimination.

§ 51.59 Redistrictings.

In determining whether a submitted redistricting plan has the prohibited purpose or effect the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which malapportioned districts deny or abridge the right to vote of minority citizens.

(b) The extent to which minority voting strength is reduced by the proposed redistricting.

(c) The extent to which minority concentrations are fragmented among different districts.

(d) The extent to which minorities are overconcentrated in one or more districts.

(e) The extent to which available alternative plans satisfying the jurisdiction's legitimate governmental interests were considered.

(f) The extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries.

(g) The extent to which the plan is inconsistent with the jurisdiction's stated redistricting standards.

§ 51.60 Changes in electoral systems.

In making determinations with respect to changes in electoral systems (e.g., changes to or from the use of at-large elections, changes in the size of elected bodies) the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which minority voting strength is reduced by the proposed change.

(b) The extent to which minority concentrations are submerged into larger electoral units.

(c) The extent to which available alternative systems satisfying the jurisdiction's legitimate governmental interests were considered.

Appendix B

It's Time to Fully Implement the Local Government Provisions of Our Constitution.

By Arliss Sturgulewski and Victor Fischer

January 2005

On the eve of the 50th anniversary of Alaska's Constitutional Convention and the beginning of our 46th year of statehood, it is fitting to reflect on how we have implemented our Constitution. For the most part, it seems we have done quite well, with one major exception – fully implementing the local government article.

Framers of Alaska's Constitution provided for a system of boroughs. Boroughs were a new concept, envisioned to provide self-government and public services on an areawide basis. Since statehood, 16 boroughs have been organized in regions as diverse as Anchorage, Kodiak Island, and the North Slope. Half were organized by legislative mandate, while the others formed voluntarily. Organized areas encompass about forty percent of Alaska.

The Constitution requires that the entire state be divided into boroughs – organized or unorganized. Each was to encompass a large, natural region reflecting social, cultural, economic, geographic, and other characteristics. But rather than dividing the state into boroughs, the 1961 legislature simply grouped all non-organized areas into a one unorganized borough, which forms a meaningless glob that stretches from one end of Alaska to the other. Subsequent legislatures have shirked their responsibility to make the system work.

“Thirty years ago, the late Eben Hopson . . . stated: ‘If I were governor, organization of regional borough government would become one of my primary goals.’ Wise words.”



Constitutional provision for unorganized boroughs was made to allow for transition to organized status, and to recognize that some regions might lack the fiscal and administrative capacity to operate boroughs. In either case, the State was to provide services in unorganized boroughs, use them as regional planning units, and allow for maximum local participation and responsibility. It is time for the State to initiate establishment of unorganized boroughs, as required by Alaska's Constitution.

A number of unorganized areas have the capacity to operate boroughs, but their residents have not initiated action to do so. There are serious disincentives to incorporation as a borough.

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They include mandates to pay a portion of school operations, inadequate money for organizational planning, lack of assessment data, and concern over school district consolidation.

There are many public policy reasons to promote borough formation. Boroughs provide (1) maximum local self-government, (2) a legal framework for regional services, (3) stable administrative capacity, (4) local responsibility and control over local affairs, (5) accountability to the public, (6) increased local and private land ownership, (7) greater control over education and ability to supplement state school funding, (8) consolidation of school districts, (9) the means for regional alcohol control, (10) ability to promote economic development, (11) a proper role for State government, and (12) greater taxpayer equity.

Boroughs are Alaska's vehicle for regional self-rule. They have proven effective both when they cover urban areas and when they encompass exclusively rural populations. Today, seven out of every eight Alaskans live in organized boroughs, as do two-thirds of all Alaska Natives. Many reside in boroughs where citizens have adopted home rule charters, exercising the ultimate level of self-government.

Action is way overdue to divide this amorphous mass into regional units that make sense. Some years ago, after thorough study and extensive hearings, the Alaska Local Boundary Commission divided the state into "model boroughs." In accordance with the Constitution, the models encompass large, natural regions and reflect social, cultural, economic, geographic and other characteristics.

The time has come to create a series of organized and unorganized boroughs in the rest of the state as set out in the Constitution.

Both State and local leadership will be required to carry out the Constitution's stated purpose "to provide for maximum local self-government". The effort of creating boroughs will be worthwhile, for it will give the people of local communities a real voice in how government touches their lives, as well as pursuing the general public interest.

Thirty years ago, the late Eben Hopson – territorial legislator, State senator, and first mayor of the North Slope Borough – stated: "If I were governor, organization of regional borough government would become one of my primary goals." Wise words.

Arliss Sturgulewski is a Republican, and Victor Fischer is a Democrat. Both have expertise in matters of local government; both have distinguished records in terms of public service at the local and state levels, including the Alaska State Senate. Victor Fischer was a delegate to Alaska's Constitutional Convention, where he served as Secretary of the Local Government Committee.

Appendix C

The Alaska Local Boundary Commission

I. Constitutional Foundation of the Commission.

The framers of Alaska's Constitution adopted the principle that, "unless a grave need existed, no agency, department, commission, or other body should be specified in the constitution."^{C-1} Thus, by mandating the establishment of the Local Boundary Commission (LBC or Commission) in article X, section 12 of the Constitution,^{C-2} the framers recognized that a "grave need" existed when it came to the establishment and alteration of municipal governments. The LBC is one of only five State boards or commissions established in the Constitution, among a current total of approximately 120 active boards and commissions.^{C-3}

The Alaska Supreme Court characterized the framers' purpose in creating the LBC as follows:

An examination of the relevant minutes of [the Local Government Committee of the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee: "... lies in placing the process at a level where area-wide or state-wide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively."

Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540, 543 (Alaska 1962).

^{C-1} Victor Fischer, Alaska's Constitutional Convention, p. 124.

^{C-2} Article X, section 12 states,

A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the Legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

^{C-3} The other four are the Commission on Judicial Conduct, the Judicial Council, the University of Alaska Board of Regents, and the (legislative) Redistricting Board.

II. Duties and Functions of the LBC.

The LBC acts on proposals for different types of municipal boundary changes.

These are:

- incorporation of municipalities;^{C-4}
- annexation to municipalities;
- detachment from municipalities;
- merger of municipalities;
- consolidation of municipalities;
- dissolution of municipalities; and
- reclassification of city governments.

In addition to the above, the LBC has a continuing obligation under statutory law to:

- make studies of local government boundary problems;
- adopt regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution; and
- make recommendations to the Legislature concerning boundary changes under article X, section 12 of Alaska's Constitution.

The Alaska Supreme Court has stated that the above three Commission duties are mandatory. (*United States Smelt. R. & M. Co. v. Local Bound. Com'n*, 489 P.2d 140 (Alaska 1971).)

Further, the LBC is routinely assigned duties by the Legislature. For example, in February 2003, the LBC produced the 216-page report entitled *Unorganized Areas of Alaska That Meet Borough Incorporation Standards*. That report was prepared in response to the directive in Section 3 Chapter 53 SLA 2002. In February 2004, the LBC and Department of Education and Early Development published a 330-page joint report entitled *School Consolidation: Public Policy*



The LBC at a recent hearing

^{C-4} The term “municipalities” includes both city governments and borough governments.

Considerations and a Review of Opportunities for Consolidation. That report was prepared in response to the duty assigned in Section 1 Chapter 83 SLA 2003. The 2004 Legislature called for “a Local Boundary Commission project to consider options for forming a separate local government, independent of the Municipality of Anchorage, for the community of Eagle River” (Section 48 Chapter 159 SLA 2004).

III. Nature of Proceedings.

Boards and commissions frequently are classified as quasi-legislative, quasi-executive, or quasi-judicial, based on their functions within the separation-of-powers scheme of the Constitution. The LBC has attributes of all three.

A. Quasi-Executive.

Article X, section 12 of the Alaska Constitution provides that the LBC, “shall be established by law in the *executive branch* of the state government.” (Emphasis added.) Members of the LBC are appointed by and serve at the pleasure of the Governor. The duty of the LBC under AS 44.33.812(a)(1) to “make studies of local government boundary problems” is one example of the quasi-executive nature of the LBC.

B. Quasi-Legislative.

In 1974, 1976, and 1993, the Alaska Supreme Court stated that the Alaska Constitution delegates legislative authority to the LBC to make fundamental public policy decisions; thus conferring quasi-legislative status upon the LBC. Specifically, the Court stated:

[T]he Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of *delegated legislative authority* to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission’s reading of the standards and its evaluation of the evidence.

Mobil Oil Corp. v. Local Boundary Com’n, 518 P.2d 92, 98-99 (Alaska 1974) (emphasis added). See also *Moore v. State*, 553 P.2d 8, n. 20 at 36 (Alaska 1976) and *Valleys Borough Support Committee v. Local Boundary Com’n*, 863 P.2d 232, 234 (Alaska 1993).

In addition to exercising quasi-legislative powers in making boundary determinations, the LBC carries out a quasi-legislative duty under AS 44.33.812(a)(2) when it adopts “regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution.”

C. Quasi-Judicial.

Although it is part of the executive branch and exercises delegated legislative authority, the LBC also has a quasi-judicial nature. In particular, the LBC has a mandate to hold hearings, follow due process in conducting hearings and ruling on petitions, and apply pertinent standards in the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code to facts when making decisions.

D. Hearings and Decisions.

In *U.S. Smelting, supra*, the Alaska Supreme Court found that due process requirements apply in Commission proceedings.^{C-5} The Court stated it was the administrative action of the Commission, rather than legislative action, that it was reviewing in the case.

Among other things, due process in Commission proceedings means that adequate notice be given, that a fair and impartial hearing be conducted, and that a reasoned decision on the merits of the petition be set out in writing. Notice requirements are set out in statute (AS 44.33.818) and in numerous sections of the Commission's regulations (e.g., 3 AAC 110.450, 3 AAC 110.520, 3 AAC 110.550).

A fair and impartial hearing^{C-6} entails having the opportunity to present and examine evidence and having that evidence judged by impartial, unbiased fact finders. To some extent, the State's ethics laws (AS 39.52.110 - 39.52.950; 9 AAC 52.010 - 9 AAC 52.180) and the Commission's regulations at 3 AAC 110.800 address ethics requirements for Commissioner conduct. However, the Court also reviews fair-hearing issues to determine whether a fact finder has shown bias such as a prejudgment of the facts or issues or a personal bias for or against an issue or a participant in the proceeding.

^{C-5} The Court addressed judicial review of LBC decisions to determine whether applicable rules of law and procedure were followed. The Court stated:

[The *Murkowski*] test delineates the contours of judicial review employed by us in the case at bar in reaching the conclusion that the [LBC] failed to comply with the mandate of [AS 44.33.812(a)] that it develop standards for the changing of the local boundary lines. Without doubt there are questions of public policy to be determined in annexation proceedings which are beyond the province of the court. Examples are the desirability of annexation, as expressed in published standards. Judicial techniques are not well adapted to resolving these questions. In that sense, these may be described as political questions," beyond the compass of judicial review. **But other . . . issues, such as whether statutory notice requirements were followed, are readily decided by traditional judicial techniques. *Murkowski* clearly permits this latter type of review.**

U.S. Smelting, at 143 (emphasis added).

^{C-6} In many instances, a fair hearing also entails the right to cross-examine adverse witness. However, the Department of Law has advised that there is no right to cross-examine witnesses in LBC proceedings. Furthermore, in the Commission's 2006 – 2007 comprehensive review of its regulations, the Commission rejected a conceptual proposal to allow cross-examination.

Due process in Commission proceedings also entails a written, well-reasoned decision^{C-7} based on the facts in the record and the application of pertinent boundary-change standards. Procedural requirements for Commission decisions are set out 3 AAC 110.570. Commission decisions dealing with the different types of municipal boundary changes that come before it are subject to appeal^{C-8} under the Administrative Procedure Act (at AS 44.62.560 - 44.62.570). Commission decisions must be written so that the Court can determine if there is a reasonable basis of support for the LBC's reading of the standards and its evaluation of the evidence.^{C-9}



LBC at a recent hearing

Assuming compliance with due process and jurisdictional limitations, a Commission decision is typically reviewed for abuse of discretion,^{C-10} which occurs if the LBC has not proceeded in the manner required by law, if its decision is not supported by the evidence, or if the Commission has not properly interpreted applicable standards.

^{C-7} In *Mobil Oil*, the Alaska Supreme Court stated that commission decisions do not have to contain formal findings of fact and conclusions of law. The court stated that as long as the Commission's decisions reflected a reasonable basis for its interpretation of applicable legal standards, the Court would sustain the decision (assuming, of course, compliance with due process of law, *U.S. Smelting*).

^{C-8} AS 29.04.040; 29.05.100, 29.06.040, 29.06.130, 29.06.500.

^{C-9} See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if it has a reasonable basis; *Lake and Peninsula Borough v. Local Boundary Commission*, 885 P.2d 1059, 1062 (Alaska 1994); *Mobil Oil* at 97-8. Where an agency action involves formulation of a fundamental policy the appropriate standard on review is whether the agency action has a reasonable basis; when the LBC exercises delegated legislative authority to reach basic policy decisions; acceptance of the incorporation petition should be affirmed if court perceives in the record a reasonable basis of support for the LBC's reading of the standards and its evaluation of the evidence; *Rose v. Commercial Fisheries Entry Commission*, 647 P.2d 154, 161 (Alaska 1982) (review of agency's exercise of its discretionary authority is made under the reasonable basis standard) cited in *Stosh's I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1183 nn. 7 and 8 (Alaska 2000); see also *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175-76 (Alaska 1986).

^{C-10} In interpreting AS 44.62.570, the Alaska Supreme Court has recognized at least four principal standards of review of administrative decisions: "These are the 'substantial evidence test' for questions of fact; the 'reasonable basis test' for questions of law involving agency expertise; the 'substitution of judgment test' for questions of law where no expertise is involved; and the 'reasonable and not arbitrary test' for review of administrative regulations." *Jager v. State*, 537 P.2d 1100 (Alaska 1975).

IV. Limitations on Direct Communications with the LBC.

As noted above, when the LBC acts on a petition for a municipal boundary change, it does so in a quasi-judicial capacity. LBC proceedings regarding incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution must be conducted in a manner that upholds the rights to due process and equal protection. Ensuring that communications with the LBC are conducted openly and publicly preserves rights to due process and equal protection. To regulate communications on pending petitions, the LBC adopted 3 AAC 110.500(b) which expressly prohibits private (*ex parte*) contact between the LBC and any individual, other than its staff, except during a public meeting called to address a municipal boundary proposal. The limitation takes effect upon the filing of a petition and remains in place through the last date available for the Commission to reconsider a decision. If a decision of the LBC is appealed to the court, the limitation on *ex parte* contact is extended throughout the appeal in the event the court requires additional consideration by the LBC.

In that regard, all communications with the Commission must be submitted through staff to the Commission. The LBC Staff may be contacted at the following address, telephone number, facsimile number, or e-mail address:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Telephone: (907) 269-4501
Fax: (907) 269-4539
E-mail: LBC@alaska.gov

A. LBC Membership.

The LBC is an autonomous commission. The Governor appoints members of the LBC for five-year overlapping terms (AS 44.33.810). Notwithstanding the prescribed length of their terms, however, members of the LBC serve at the pleasure of the Governor (AS 39.05.060(d)).

The LBC is comprised of five members. One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state at-large and serves as Chair of the LBC.

State law provides that LBC members must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership." (AS 39.05.060.)

LBC members receive no pay for their service. However, they are entitled to reimbursement of travel expenses and per diem authorized for members of boards and commissions under AS 39.20.180.

The following is a biographical summary of the current members of the LBC.



Kermit L. Ketchum, Chair, At-Large Appointment. On June 25, Governor Palin appointed Kermit L. Ketchum as Chair of the LBC, effective July 1, 2007. Commissioner Ketchum succeeds Darroll Hargraves, who retired effective June 30, 2007. Commissioner Ketchum is a resident of the greater Wasilla area in the Matanuska-Susitna Borough. He received his bachelor's degree in business administration and has undertaken graduate studies in computer science. Commissioner Ketchum served 21 years in the U.S. Air Force, retiring from that career in 1976. He subsequently worked for the University of Alaska, Matanuska-Susitna

College from 1976 to 1997, and was an Associate Professor in Computer Science at the College from 1987 to 1997.



Georgianna Zimmerle, First Judicial District. Commissioner Zimmerle is a life-long resident of Ketchikan.^{C-11} She earned an Associate of Arts degree from the University of Alaska in May 1985. Commissioner Zimmerle was appointed to the LBC on March 25, 2003, and was reappointed to her second term in January 2006. An Alaska Native, Commissioner Zimmerle is a Tlingit of the Raven moiety and her Indian name is JEEX-GA-TEET'. She is also Haida from her paternal family. Commissioner Zimmerle worked for the Ketchikan Gateway Borough for 27 years, serving five years as the Borough Manager and 22 years in the Borough Clerk's Office. Commissioner Zimmerle served as the General Manager of Ketchikan Indian Community for 2½ years. She is currently retired and working part-time for Tongass Federal Credit Union. Her current term on the LBC ends January 31, 2011.

^{C-11} Commissioner Zimmerle lives within the corporate boundaries of both the City of Ketchikan and the Ketchikan Gateway Borough. The City of Ketchikan was incorporated in 1900. Sixty years later, voters adopted a home-rule charter for the City of Ketchikan, making it one of the first home-rule local governments in the newly formed State of Alaska. DCCED's 2006 certified population for the City of Ketchikan is 7,622. The Ketchikan Gateway Borough was incorporated in September 1963 under the Mandatory Borough Act. It is a second-class borough. The 2006 population of the Ketchikan Gateway Borough, as certified by DCCED, is 13,174.



Robert Harcharek, Second Judicial District. Commissioner Harcharek, a resident of Barrow,^{C-12} was appointed to the LBC on July 18, 2002 by then-Governor Knowles. Governor Murkowski reappointed him to the LBC on March 24, 2004. In April 2007, his fellow commissioners elected him Vice-Chair of the Commission. Commissioner Harcharek has lived and worked on the North Slope for more than 25 years. He has been a member of the Barrow City Council since 1993. He has also been a member of the North Slope Borough School Board. He is currently the Community and Capital Improvement Projects (CIP) Planner for the recently created North Slope Borough Department of Public

Works. Commissioner Harcharek earned a Ph.D. in International and Development Education from the University of Pittsburgh in 1977. He has served as North Slope Borough Senior Planner and Social Science Researcher, CIP and Economic Development Planner, Community Affairs Coordinator for the North Slope Borough Department of Public Safety, Director of the North Slope Higher Education Center, Socio-cultural Scientist for the North Slope Borough Department of Wildlife Management, Director of Technical Assistance for Upkeagvik Inupiat Corporation, and Dean of the Inupiat University of the Arctic. Commissioner Harcharek served for three years as a Peace Corps volunteer in Thailand and was also a Fulbright-Hays Professor of Multicultural Development in Thailand. He is a member of numerous boards of directors, including the Alaska Association of School Boards and the Alaska School Activities Association. His current term on the LBC ends January 31, 2009.



Lynn Chrystal, Third Judicial District. Lynn Chrystal, a resident of Valdez,^{C-13} serves from the Third Judicial District. Governor Palin appointed him to the Commission on March 27, 2007. Commissioner Chrystal is a former Mayor and member of the City Council of the City of Valdez. He has lived in Valdez for the past 32 years. Commissioner Chrystal retired in 2002 from the federal government after 4 years in the Air Force and 36 years with the National Weather Service. He has worked in Tin City, Barrow, Yakutat, and Valdez. He has served on the boards of several civic groups and other

organizations including the Resource Development Council, Pioneers of Alaska, and Copper Valley Electric Cooperative. Commissioner Chrystal is retired, but teaches on a substitute basis at Valdez schools. His current term on the LBC ends January 31, 2012.

^{C-12} Commissioner Harcharek lives within the corporate boundaries of both the City of Barrow and the North Slope Borough. The City of Barrow, incorporated in 1958, is a first-class city. DCCED's 2006 certified population for the City of Barrow is 4,065. The North Slope Borough was incorporated in 1972. DCCED's 2006 certified population for the North Slope Borough is 6,807.

^{C-13} Commissioner Chrystal lives within the corporate boundaries of the City of Valdez, a city in the unorganized borough. The City of Valdez, incorporated in 1901, became a home-rule city in 1961. DCCED's 2006 certified population of the City of Valdez is 4,353.

Lavell Wilson, Fourth Judicial District. Lavell Wilson, a resident of Tok,^{C-14} serves from the Fourth Judicial District. Governor Palin appointed him to the Commission on June 4, 2007. Commissioner Wilson is a former member of the State House of Representatives, serving the area outside of the Fairbanks North Star Borough in the Eighth State Legislature. He moved to Alaska in 1949 and has lived in the Northway/Tok area since that time. Commissioner Wilson attended college at the University of Alaska Fairbanks and Brigham Young University. Commissioner Wilson worked as a licensed aircraft mechanic, commercial pilot, and flight instructor for 40 Mile Air from 1981- 1995, retiring as the company's chief pilot and office manager. Mr. Wilson became a licensed big game guide in 1963. He has also worked as a surveyor, teamster, and construction laborer, retiring from the Operating Engineer's Local 302 in Fairbanks. As a member of Local 302, he worked for 12 years on the U.S. Air Force's White Alice system, the ballistic missile defense site at Clear, and the radar site at Cape Newenham. He has also taught a course at the University of Alaska for the past few years on the history of the Upper Tanana Valley. His current term on the LBC ends January 31, 2010.

V. Staff to the Commission.

The Alaska Department of Commerce, Community, and Economic Development (DCCED), Division of Community Advocacy (DCA) provides staff to the Commission pursuant to AS 44.33.020(a)(4).^{C-15} The following sections address the role of DCCED/DCA.

A. Constitutional Origin of the Local Government Agency.

As noted in the preceding discussion regarding the background of the LBC, the framers of Alaska's Constitution followed a principle that no specific agency, department, board, or commission would be named in the Constitution "unless a grave need existed." In addition to the previously noted five boards and commissions named in the Constitution, the framers provided for only one State agency or department – the local government agency mandated by article X, section 14 to advise and assist local governments.^{C-16} It is worth noting that of the six boards, commissions, and agencies mandated by Alaska's Constitution, two deal with the judicial branch, one deals with the legislative branch, one deals with the University of Alaska, and the remaining two – the LBC and the local government agency – deal with local governments. The constitutional standing granted to the LBC and the local government agency reflects the framers' conviction that successful implementation of the local government principles laid out in the Constitution was dependent, in part, upon those two entities.

^{C-14} Commissioner Wilson lives in Tok, an unincorporated community in the unorganized borough. The State Demographer estimates that the population of Tok was 1,347 in 2006. (Note: Elsewhere in this appendix, population figures are listed as DCCED certified figures. DCCED does not certify population figures for unincorporated communities.)

^{C-15} AS 44.33.020(a)(4) provides that DCCED shall "serve as staff for the Local Boundary Commission."

^{C-16} Article X, Section 14 states, "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law."

The framers recognized that deviation from the constitutional framework for local government would have significant detrimental impacts upon the constitutional policy of maximum local self-government. Further, they recognized that the failure to properly implement the constitutional principles would result in disorder and inefficiency in terms of local service delivery.

In its capacity as staff to the LBC, DCCED is required to investigate each boundary-change proposal and to make recommendations regarding such to the LBC.^{C-17} As previously noted, LBC decisions must have a reasonable basis (i.e., a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding). Accordingly, DCCED adopts the same standard for itself in developing recommendations regarding matters pending before the LBC. That is, the LBC Staff is committed to developing its recommendations to the LBC based on a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding. The LBC Staff takes the view that due process is best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal.

DCCED's Commissioner, DCCED's Deputy Commissioners, and the Director of DCA provide policy direction concerning recommendations to the LBC.

The recommendations of LBC Staff are not binding on the LBC. As noted previously, the LBC is an autonomous commission. While the Commission is not obligated to follow the recommendations of the LBC Staff, it has, nonetheless, historically considered DCCED's analyses and recommendations to be critical components of the evidence in municipal boundary proceedings. Of course, the LBC considers the entire record when it renders a decision.

The LBC Staff also delivers technical assistance to municipalities, residents of areas subject to impacts from existing or potential petitions for creation or alteration of municipal governments, petitioners, respondents, agencies, and others.

Types of assistance provided by the LBC Staff include:

- conducting feasibility and policy analysis of proposals for city reclassification and incorporation, annexation, detachment, merger, consolidation, and dissolution of cities and boroughs;
- writing reports regarding the analyses of petitions for such boundary changes;
- responding to legislative and other governmental inquiries relating to issues on municipal government;
- conducting informational meetings;
- providing technical support during Commission hearings and other meetings;
- drafting decisional statements of the LBC;

^{C-17} AS 29.04.040, 29.05.080, 29.06.110, and 29.06.450 and 3 AAC 110.530.

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- implementing decisions of the LBC;
 - preparing and overseeing appeals of Commission decisions, in coordination with agency counsel from the Department of Law;
 - drafting annual reports of the Commission as directed;
 - preparing Commission ethics reports for the LBC Chairman;
 - certifying municipal boundary changes;
 - maintaining incorporation and boundary records for each of Alaska's 162 municipal governments;
 - coordinating, scheduling, and overseeing public meetings and hearings for the LBC, including arranging travel and accommodations for Commissioners and staff;
 - developing orientation materials and providing training for new LBC members;
 - maintaining and preserving LBC records in accordance with the public records laws of the State;
 - developing and updating forms and related materials for use in municipal incorporation, alteration, dissolution, and reclassification;
 - at direction of the Commission, proposing amendments to Commission regulations and completing the regulations amendment and adoption process under the Administrative Procedure Act (AS 44.62) as necessary; and
 - at direction of the Commission, proposing amendments to Commission bylaws and completing the amendment and adoption process as necessary.

Appendix D

Proposed Wrangell Borough Charter

HOME RULE CHARTER OF THE CITY AND BOROUGH OF WRANGELL

PREAMBLE

We the people of the Wrangell Borough area, exercising the powers of home rule granted by the Constitution of the State of Alaska, in order to provide for more efficient, adequate and economical government, hereby establish this Charter.

ARTICLE I NAME, FORM AND BOUNDARIES

Section 1.01 Name of Borough.

The Borough shall be a municipal corporation known as the "City and Borough of Wrangell." Whenever it deems it in the public interest to do so, the Borough may use the name Wrangell Borough or Wrangell Home Rule Borough.

Section 1.02 Form of Government.

(A) **Home rule.** The Borough government is a home rule borough established by the voters.

(B) **Form.** The Borough shall operate as an Assembly-Manager form of government.

Section 1.03 Boundaries and Borough Seat.

(A) **Boundaries.** The boundaries of the Borough shall include all areas within the Borough on the date of ratification of this Charter, as is more fully detailed in the map annexed to the petition for Borough incorporation. The boundaries may be altered in the manner provided by law.

(B) **Borough Seat.** The Borough Seat shall be at Wrangell, Alaska.

ARTICLE II POWERS

Section 2.01 Powers.

The Borough may exercise all powers of home rule not prohibited by law or this Charter.

Section 2.02 Construction.

The powers of the Borough shall be liberally construed. The enumeration of a particular power in this Charter shall not be construed as exclusive or limiting the powers of the Borough.

Section 2.03 Intergovernmental Participation.

The Borough may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the State of Alaska, the United States, or any agency or instrumentality of these governments.

**ARTICLE III
THE ASSEMBLY****Section 3.01 Powers.**

The legislative power of the Borough shall be in the Assembly. Except as otherwise provided by law or this Charter, the Assembly shall exercise all powers of the Borough and shall provide for the performance of all duties and obligations of the Borough.

Section 3.02 Composition.

The Borough Assembly shall be composed of seven members, which shall consist of the Mayor, who serves as an ex officio Assembly member, and six other Assembly members. Hereinafter, the term "Assembly member" includes the Mayor.

Section 3.03 Qualifications.

(A) Only a qualified voter of the Borough, who has been a resident of the Borough for at least one year immediately preceding his election, shall be qualified for elective borough office.

(B) An Assembly member who ceases to be a resident of the Borough shall immediately forfeit his or her office.

(C) No Assembly member may hold any other compensated Borough office or employment, or elected partisan political office, while serving on the Assembly, unless otherwise provided by ordinance.

Section 3.04 Election and Term of Assembly Members.

(A) Unless otherwise provided by ordinance, all Assembly members shall be elected at large to individually designated Borough seats, known as Mayor, Seat A, Seat B, Seat C, Seat D, Seat E and Seat F. Each candidate for Assembly shall file for a specific designated seat and no candidate may file for more than one designated seat in any election. The Assembly may, by ordinance, change Assembly composition and form of representation.

(B) Except for the first Assembly elected, the term of office of an assembly member is three years and until a successor qualifies.

Section 3.05 Vacancies and forfeiture of office.

(A) If a vacancy occurs on the Assembly, the remaining members shall appoint a qualified person to fill the vacancy within 30 days. The person appointed shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term.

(B) Notwithstanding (A) of this section, if the Assembly membership is reduced by vacancies to fewer than the number required to constitute a quorum, the remaining members shall, within seven days, appoint a number of qualified persons sufficient to constitute a quorum.

(C) The office of an elected Borough official shall become vacant upon death, resignation, removal from office in any manner authorized by law or by this Charter, and by forfeiture of office.

(D) The Assembly shall declare that an Assembly member has forfeited his office by a declaration of forfeiture. The Assembly member affected shall not vote upon the declaration. The grounds for forfeiture of an Assembly position are:

(1) failure to comply with all qualifications prescribed by this Charter for an Assembly member;

(2) knowing and willful violation of any express prohibition of this Charter;

(3) failure to qualify and take office within thirty days after his or her election or appointment;

(4) physical absence from the Borough for a ninety day period, unless excused by the Assembly;

(5) failure to attend more than one-half of all meetings of the Assembly, regular and special, held within a period of four consecutive months, without being excused by the Assembly;

(6) resignation and acceptance of that resignation;

(7) physical or mental inability to perform the duties of office as determined by the Assembly;

(8) removal from office;

(9) conviction of a felony, or conviction of an offense involving moral turpitude or a violation of the oath of office;

(10) death.

Section 3.06 Organization and Rules of the Assembly.

(A) The Assembly shall determine by ordinance its own rules and order of business, including provisions for reasonable notice to all Assembly members of regular or special meetings.

(B) The Assembly shall maintain a journal of its proceedings as a public record.

(C) A majority of the total membership of the Assembly members constitutes a quorum. An Assembly member disqualified from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum, any number less than a quorum may recess or adjourn the meeting to a later time or date.

Section 3.07 Meetings.

(A) The Assembly shall hold at least one regular meeting every month at such time and place as it may prescribe, unless otherwise provided by ordinance. The Mayor, the Borough Manager or any two Assembly members may call a special meeting. The Assembly by ordinance shall establish procedures for calling special and/or emergency meetings.

(B) All meetings of the Assembly shall be held in public. The Assembly shall adopt by ordinance procedures for reasonable public notice of all meetings, and at each such meeting the public shall have reasonable opportunity to be heard. An executive session, from which the public is excluded, may be held in accordance with, and to discuss only those matters permitted by, Alaska Statutes. The general matter for consideration in executive session shall be expressed in the motion calling for the executive session.

(C) Actions of the Assembly are adopted by a majority of the total membership of the body.

Section 3.08 Mayor and Vice Mayor.

(A) The Mayor shall be recognized as the head of the Borough government for all ceremonial purposes and executes official documents upon the authorization and direction of the Assembly. He shall preside at meetings of the Assembly and shall certify the passage of all ordinances and resolutions passed. As ex officio Assembly member, he shall have all powers, rights, privileges, duties and responsibilities of Assembly members, including the

power to vote. The Mayor shall have no veto power, nor may he strike or reduce appropriation items.

(B) The Assembly shall elect a Vice Mayor from its membership at the first Assembly meeting following certification of the regular election. Should the seat of Mayor become vacant, or the existing Mayor be disabled, absent or otherwise unable to act, the Vice Mayor shall serve until the Mayor resumes his official duties or until a new Mayor is appointed or elected.

Section 3.09 Officers.

The Assembly shall appoint a Borough Manager, a Borough Clerk and a Borough Attorney, who shall serve at the pleasure of the Assembly.

ARTICLE IV LEGISLATION

Section 4.01 Introduction and Enactment of Ordinances.

(A) **Introduction.** An ordinance may be presented for consideration by an Assembly member at a regular or special meeting of the Assembly. Upon presentation, an ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. An ordinance shall be introduced in writing in the form required by Assembly rule.

(B) **Notice and Hearing.** After introduction, the Assembly shall cause the Borough Clerk to publish a notice containing the text or a summary of the ordinance, the time and place for a public hearing, and where copies of the ordinance are available. The public hearing of an ordinance shall be held five or more days following publication of the notice. The term "publish" means appearing at least once in a newspaper of general circulation within the Borough or, if the Assembly deems publication in such a newspaper impracticable or impossible, posted in at least five public places within the Borough.

(C) **Enactment.** A majority vote of the total membership of the Assembly is required to pass an ordinance. An ordinance takes effect upon adoption or at a later date specified in the ordinance. Ordinances shall be attested by the Borough Clerk and by the Mayor.

Section 4.02 Actions Requiring an Ordinance.

The Assembly shall use an ordinance to take action when required to do so by Alaska Statutes or this Charter.

Section 4.03 Emergency Ordinances.

(A) An emergency ordinance is an ordinance which in the judgment of the Assembly is necessary for the immediate preservation of the public peace, health or safety. An emergency ordinance may be introduced and adopted at the same meeting.

(B) An emergency ordinance shall contain a finding that an emergency exists and shall state the facts constituting the emergency.

(C) An emergency ordinance is adopted upon the affirmative vote of all Assembly members present or five members of the Assembly, whichever is less.

Section 4.04 Adoption by Reference.

The Assembly may adopt by reference a standard code of regulations or a portion of the Alaska Statutes. The matter adopted by reference shall be made available to the public in the office of the Borough Clerk.

Section 4.05 Codification.

The Assembly shall provide for indexing and codification of all permanent ordinances adopted by the Assembly.

ARTICLE V BOROUGH MANAGER, BOROUGH CLERK, BOROUGH ATTORNEY AND BOROUGH ADMINISTRATION

Section 5.01 Borough Manager.

(A) **Appointment.** There shall be a Borough Manager. He shall be appointed by the Assembly. The Manager serves at the pleasure of the Assembly.

(B) **Qualifications.** The Manager shall be appointed on the basis of executive and administrative qualifications, and other qualifications as the Assembly shall determine. No Assembly member may be appointed Borough Manager or Acting Borough Manager during the term for which he was elected or within two years after the expiration of his term.

(C) **Removal.** The Assembly may suspend or remove the Borough Manager at any time.

Section 5.02 Powers and Duties of the Borough Manager.

The Borough Manager shall:

(A) Except as otherwise provided by this Charter or by ordinance, appoint, supervise, discipline and remove all Borough employees and administrative officers except the Borough Clerk or the Borough Attorney, subject to such personnel regulations and rules as the Assembly may adopt;

(B) prepare the annual budget and capital improvement program for the consideration of the Assembly;

(C) execute the budget and capital improvement program as adopted;

(D) report to the Assembly at the end of each fiscal year on the finances and administrative activities of the Borough;

(E) keep the Assembly fully advised on the financial condition and needs of the Borough;

(F) perform such other duties and powers specified by the Assembly.

Section 5.03 Acting Borough Manager.

If the Borough Manager is absent from the Borough or is unable to perform his duties, if the Assembly suspends the Borough Manager, or if there is a vacancy in the office of Borough Manager, the Assembly may appoint an Acting Borough Manager to serve until the Borough Manager returns, until his disability or suspension ceases, or until another Borough Manager is appointed.

Section 5.04 Borough Clerk.

(A) There shall be a Borough Clerk, who shall be appointed by, and serve at the pleasure of, the Assembly.

(B) The Borough Clerk shall serve as clerical officer of the Assembly, keep the journal of the proceedings of the Assembly, serve as custodian of the Seal of the Borough and of such documents of the Borough as specified by the Assembly, and perform such other duties as may be assigned.

Section 5.05 Borough Attorney.

There shall be a Borough Attorney, who shall be appointed by, and serve at the pleasure of, the Assembly.

Section 5.06 Administrative Departments and Offices.

The Assembly by ordinance shall adopt provisions regarding the establishment, function and responsibility of Borough administrative departments and offices.

Section 5.07 Personnel Policies.

The Assembly by ordinance may adopt provisions for a personnel system, including but not limited to the methods of hiring and removal of Borough officers and employees, the evaluation of employees, and rules of practice and procedure governing personnel administrative proceedings.

Section 5.08 Boards and Commissions.

Boards and Commissions may be established by the Assembly by ordinance which shall prescribe their authority, purpose, function, rules and procedures, terms of office, method of selection of members, and conduct of meetings.

Section 5.09 Wrangell Port Commission.

(A) **Composition.** There shall be a Wrangell Port Commission, which shall be composed of five members elected at large at regular borough elections. The Assembly shall prescribe by ordinance its authority, purpose, function, rules and procedures, and conduct of meetings.

(B) **Qualifications.** A candidate for Port Commission shall be a qualified voter of the Borough, who has been a resident of the Borough for at least one year immediately preceding his election.

(C) **Terms.** The term of office of Port Commission members shall be three years.

**ARTICLE VI
ELECTIONS****Section 6.01 Administration.**

(A) The Assembly by ordinance shall establish procedures for regular and special borough elections, including provisions for absentee voting.

(B) All borough elections shall be nonpartisan and no party designation shall be placed on the ballot.

Section 6.02 Regular Elections.

A regular election shall be held annually on the first Tuesday in October, unless otherwise specified by ordinance.

Section 6.03 Special Elections.

The Assembly, by ordinance or resolution, may call special elections and submit questions to voters. At least twenty days notice shall be given of a special election.

Section 6.04 Notice.

Not more than five weeks and not less than three weeks before an election, the clerk shall publish a summary of every ordinance, charter amendment, and other question which is to be submitted to the voters for approval at that election. In the case of a special election, such publication shall occur as soon as practicable after such notice.

Section 6.05 Nominations.

A person who seeks to become a candidate for an elected borough office shall execute and file a declaration of candidacy. The procedures and forms of declarations of candidacy for the Assembly, including the Mayor, the School Board, and the Port Commission shall be established by the Assembly.

Section 6.06 Qualifications of Voters.

To vote in any borough election, a person must be qualified to vote in Alaska state elections under A.S. 15.15.010, have been a resident of the Borough for 30 days immediately preceding the election, is registered to vote in Alaska State elections at a residence address within the Borough at least 30 days before the election in which the person seeks to vote, and is not disqualified under Article V of the Alaska state constitution.

Section 6.07 Determination of Election Results.

(A) In a borough election, the top vote getting candidate for a seat on the Assembly, including the Mayor, the School Board, or the Port Commission shall be declared elected.

(B) In case of a tie vote, the Assembly shall determine the successful candidate by lot.

**ARTICLE VII
INITIATIVE, REFERENDUM AND RECALL**

Section 7.01 Initiative and Referendum.

The powers and rights of initiative and referendum are reserved to the people of the Borough, except the powers do not extend to matters restricted by Article XI, section 7 of the Alaska state constitution. The Assembly, by ordinance, may establish procedures and regulations for initiative and referendum not inconsistent with this Charter.

Section 7.02 Application for Petition.

An initiative or referendum is proposed by filing an application with the Borough clerk containing the ordinance or resolution to be initiated or the ordinance or resolution to be challenged by referendum and the address to which all correspondence relating to the petition may be sent. An application must be signed by at least ten voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within 14 days, the Borough Clerk shall certify the application if he finds that it is in proper form, and for an initiative petition, that the matter:

- (1) is not restricted by Section 7.01 of this Chapter;
- (2) includes only a single subject;
- (3) relates to a legislative rather than to an administrative matter; and
- (4) would be enforceable as a matter of law.

Section 7.03 Contents of Petition.

(A) Within two weeks after certification of an application for an initiative or referendum petition, a petition shall be prepared by the Borough clerk. Each copy of the petition shall contain:

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be challenged by referendum;
- (2) the complete ordinance or resolution sought to be initiated or challenged by referendum as submitted by the sponsor;
- (3) the date on which the petition was issued by the Borough Clerk;

(4) notice that signatures must be secured within thirty days after the date the petition is issued;

(5) spaces for each signature, the printed name of each signor, the date each signature is affixed, and the residence and mailing addresses of each signor;

(6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(7) a space for indicating the total number of signatures on the petition.

(B) If a petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(C) Copies of the petition shall be provided to each sponsor by the Borough Clerk.

Section 7.04 Signature Requirement.

(A) The petition shall be signed by the number of qualified Borough voters equal to at least 25% of the votes cast in the Borough at the last regular election held before the date the petition was issued. Signatures shall be in ink or indelible pencil and shall be secured within thirty days after the petition is issued. Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible resident address shall be rejected.

(B) A petition signor may withdraw his or her signature on written application to the Borough Clerk at any time before certification of the petition.

Section 7.05 Sufficiency of Petition.

(A) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within ten days after the date the petition is filed, the Borough Clerk shall:

(1) certify on the petition whether it is sufficient;
or

(2) if the petition is insufficient, identify the insufficiency and notify the sponsors at the address provided by certified mail.

(B) A petition that is insufficient may be supplemented with additional signatures obtained and filed within ten days after the date on which the petition was rejected.

(C) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (B) of this section. Within ten days after supplemental filing, the clerk shall certify on the petition whether it is now sufficient. If it is still insufficient, the petition is rejected and filed as a public record.

Section 7.06 Initiative Election.

(A) When an initiative petition has been determined sufficient, the Borough Clerk shall immediately submit it to the Assembly. If the Assembly fails to adopt the proposed initiative measure without any change in substance within forty five days after the date the petition was determined sufficient, it shall submit the proposed initiative to the voters of the Borough. If the Assembly adopts substantially the same measure, the petition is void and the matter initiated may not be placed before the voters.

(B) The election on a proposed initiative shall be held no later than seventy five nor sooner than forty five days from the last date on which the Assembly action may be completed on the proposed initiative. If no regular election occurs within this period, the Assembly shall hold a special election. The notice of election shall contain at least a summary of the proposed initiative and the initiative may be summarized on the ballot.

(C) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

Section 7.07 Referendum Election.

(A) When a referendum petition has been determined sufficient, the Borough Clerk immediately shall submit it to the Assembly. If the Assembly fails to repeal the ordinance or resolution challenged in the referendum petition measure within forty five days after the date the petition was determined sufficient, it shall submit the proposed referred measure to the voters of the Borough. If the Assembly repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(B) The election on the referred matter shall be held no later than seventy five nor sooner than forty five days from the last date on which the Assembly action may be completed on the proposed referred measure. If no regular election occurs within this

period, the Assembly shall hold a special election. The notice of election shall contain at least a summary of the referred matter on the ballot and it may be summarized on the ballot.

(C) If a majority vote favors the repeal of the ordinance or resolution challenged in the petition, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

Section 7.08 Effect.

(A) The effect of an ordinance or resolution may not be modified or negated within two years after its effective date if adopted by an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

(B) If an ordinance or resolution is repealed in a referendum election or by the Assembly after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the Assembly for a period of two years.

(C) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than two years after the election results are certified.

Section 7.09 Suspension.

Filing of a referendum petition suspends the ordinance or resolution only if the petition is filed and certified as sufficient within ninety days after the effective date of the ordinance or resolution. The suspension terminates upon certification of a majority vote against repeal.

Section 7.10 Recall.

The Assembly may provide, by ordinance, procedures regarding recall.

ARTICLE VIII FINANCE

Section 8.01 Fiscal Year.

The fiscal year of the Borough shall begin on the first day of July and end on the last day of June of the following year, unless otherwise provided by the Assembly by ordinance.

Section 8.02 Submission of Budget and Capital Improvements Program.

(A) The Borough Manager shall prepare and submit to the Assembly a proposed budget and a capital improvements program for the following fiscal year.

(B) Upon submission, the budget, any budget message, and the capital improvements program shall be a public record in the office of the Borough Clerk and shall be open to public inspection.

(C) The Assembly may provide for procedures regarding submission, preparation and adoption of the budget.

Section 8.03 Scope of Budget.

The budget shall be a complete and balanced financial plan for all operations of the borough, showing all reserves, estimated revenues from all sources, and the proposed expenditures for all purposes in the upcoming fiscal year. The total of such proposed expenditures shall not exceed the total of such anticipated revenues, including reserves.

Section 8.04 Scope of Capital Improvements Program.

The capital improvements program shall be a plan for capital improvements proposed for the following five years, together with the estimated cost of each improvement and the proposed method of financing.

Section 8.05 Hearing.

(A) The Assembly shall hold a public hearing on the proposed budget. Notice and publication of the hearing shall be performed in accordance with Section 4.01(B) of this Charter. All interested persons shall be given reasonable opportunity to be heard at the hearing. The hearing may be continued or adjourned to a later date or dates.

(B) After the conclusion of the public hearing, the Assembly may insert, eliminate, increase or decrease items in the budget, and otherwise amend it.

Section 8.06 Adoption of Budget.

The Assembly shall, by ordinance, adopt the budget no later than June 27. Upon adoption, the budget shall be the appropriations that govern spending by the Borough.

Section 8.07 Supplemental and Emergency Appropriation.

(A) If during any fiscal year there are available revenues received from sources not anticipated in the budget estimates, the Assembly, by ordinance, may make supplemental appropriations for the year up to the amount of the additional revenues.

(B) The Assembly, by ordinance, may make emergency appropriations. The ordinance shall state and describe the emergency. The Assembly may also make emergency appropriations in the event that a budget has not been timely adopted under Section 8.06 of this Charter.

Section 8.08 Reducing and Transferring Appropriations.

(A) Unless provided otherwise by ordinance, the Borough Manager may transfer all or part of an unencumbered balance to another classification within a department or office.

(B) The Assembly may transfer all or part of an unencumbered balance to another classification within a department or office or from one department or office to another.

(C) If during the fiscal year it appears that revenues available will be insufficient to meet the amount appropriated, the Assembly may reduce any appropriation. No appropriation may be reduced by more than the amount of the unencumbered balance.

Section 8.09 Lapse of Appropriations.

Every unencumbered surplus of the general fund or a service area shall lapse at the close of the fiscal year to the general fund or service area, respectively. An appropriation for capital improvement, or to meet requirements of federal or state grants, shall not lapse until its purpose has been accomplished or abandoned.

Section 8.10 Administration of the Budget.

(A) Except in the case of unappropriated funds, no payment may be made and no obligation incurred against the Borough except in accordance with appropriations duly made.

(B) The Assembly shall prescribe the provisions and methods of disbursement of borough funds.

Section 8.11 Investment.

The Assembly shall regulate the investment of borough funds.

Section 8.12 Audit.

The Assembly shall provide for an annual independent audit of the accounts of the Borough. The audit shall be made by a certified public accountant designated by the Assembly.

Section 8.13 Sales and Purchases.

The Assembly by ordinance shall establish procedures for the sales of borough property and the purchasing of goods and services.

**ARTICLE IX
TAXATION****Section 9.01 Taxing Authority.**

The Assembly shall be the taxing authority in the Borough.

Section 9.02 Kinds of Taxes.

The Assembly by ordinance may levy any tax or fee not prohibited by law or this Charter.

Section 9.03 Sales Tax Ratification.

The Assembly may provide, by ordinance, that a new sales or use tax, or an increase in the rate of levy of a sales or use tax, does not take effect until ratified by a majority of Borough voters at an election.

Section 9.04 Tax Procedures.

(A) The Assembly by ordinance shall prescribe the procedures for tax assessment, levy, and collection.

(B) Property taxes, with collection charges, penalties, and interest, are a first lien upon the property.

(C) The Assembly by ordinance may provide that a sales or use tax, together with collection charges, penalties, and interest, are a lien upon real and/or personal property.

(D) No lien authorized by this Charter or by law precludes the Borough from exercising any other lawful remedy for the collection of taxes.

ARTICLE X BORROWING

Section 10.01 Authority.

The Borough may borrow money and issue such evidence thereof, herein called obligations, as the Assembly may determine necessary.

Section 10.02 General obligations of the Borough.

(A) The Borough may issue negotiable or nonnegotiable general obligation bonds. No general obligation bond debt may be incurred by the Borough unless authorized by the Assembly and ratified by a majority vote of those in the Borough voting on the question, except that general obligation refunding bonds may be issued without an election.

(B) Before holding a general obligation bond issue election, the Assembly shall have published a notice at least twenty days prior to the date of the election. The notice shall contain

(1) the current total general obligation bonded indebtedness, including authorized but unsold bonds of the Borough;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed value of property in the Borough.

Section 10.03 Revenue Bonds.

The Borough may issue negotiable or nonnegotiable revenue bonds for all purposes not otherwise prohibited by law. An election is not required to authorize the issuance and sale of revenue bonds or revenue refunding bonds, unless otherwise provided by ordinance.

Section 10.04 Bond Anticipation Borrowing.

The Borough may borrow money in anticipation of the sale of general obligation and revenue bonds if (1) the general obligation bonds to be sold have been authorized by the Assembly and ratified by a majority vote at an election or (2) the revenue bonds to be sold have been authorized by the Assembly. An election is not required to authorized the issuance of bond anticipation notes.

Section 10.05 Borrowing in anticipation of revenue.

The Borough may borrow money to meet appropriations for any fiscal year in anticipation of collection of the revenue for that year, but all debt so contracted shall be paid before the end of the next fiscal year. The Assembly may authorize the issuance of negotiable or nonnegotiable revenue anticipation notes as evidence of the borrowing. An election is not required to authorize the issuance of revenue anticipation notes.

Section 10.06 Form and Manner of Sale.

The Assembly by ordinance shall provide for the form and manner of sale of bonds and notes.

Section 10.07 Actions Challenging the Validity of Obligations.

(A) Minor errors in the notice published under section 10.02(B) of this Charter shall not invalidate any subsequent election.

(B) No action challenging the validity of any obligation may be maintained unless instituted within thirty days from the effective date of certification of the results of the election ratifying the issuance of such obligation or thirty days from the effective date of the ordinance or resolution authorizing the issuance of such obligation when ratification is not required.

Section 10.08 Proceeds From Issue of Obligations.

Proceeds derived from the issue of obligations shall be used solely for the purpose for which the obligations were issued, except that whenever any proceeds of an issue remain unexpended and unencumbered for the purpose for which issued, the Assembly may authorize the use of such proceeds for the retirement of such issue. If such issue has been fully retired, then the proceeds may be used for the retirement of other bonds or obligations of the Borough. If there are no other bonds or obligations of the Borough, then the proceeds may be used for any other capital improvement of the Borough. If no such capital improvement exists, then the proceeds may be used for any purpose determined by the Assembly.

ARTICLE XI LOCAL IMPROVEMENT DISTRICTS

Section 11.01 Purpose and Establishment.

(A) Local Improvement Districts may be established in a limited and determinable area to confer the special benefit of any Borough improvement. All or any part of the costs of the improvement may be paid out of the proceeds of special assessments levied against the benefited property.

(B) The Assembly shall prescribe by ordinance the procedures for establishing a local improvement district and for levying special assessments on benefited property to finance all or a part of the costs of the improvement.

(C) The Assembly shall prescribe by ordinance the method of apportioning and assessing the cost of improvements upon the real property benefited.

Section 11.02 All Real Property Shall Be Assessed.

All real property in the improvement district, whether or not exempt from general property taxation, shall be assessed for local improvements unless specifically exempted by ordinance.

Section 11.03 Protest.

If protest as to the necessity for any local improvement is made within the time allowed by ordinance by the owners of benefited property which will bear at least fifty percent of the estimated cost of the improvement, the improvement shall not proceed until the protests have been reduced so that the property of those still protesting shall not bear fifty percent of the said estimated cost of the improvement, except upon approval of a majority vote of the total membership of the Assembly.

Section 11.04 Limitation on Actions.

No special assessment procedure shall be contested by any action at law or in equity unless commenced within sixty days after the confirmation of the special assessment roll. If no such action is commenced, the procedure for such local improvement shall be conclusively presumed to have been regular and complete.

Section 11.05 Lien.

A special assessment, together with interest, penalty and collection charges, is a lien on the property assessed second in

priority only to property taxes and prior special assessments. The lien shall be enforceable in the same manner as a lien for borough property taxes.

ARTICLE XII UTILITIES

Section 12.01 Operating Standards.

Each Borough utility shall be operated in a business-like manner.

Section 12.02 Management.

Borough utilities may be operated and administered by the Assembly or by one or more utility boards. The Assembly shall prescribe by ordinance the rules and procedures for the convenient management, operation, regulation, and use of Borough utilities.

Section 12.03 Accounting.

(A) Unless otherwise provided by ordinance, a Borough utility shall be operated from a fund or funds separate from the general fund and an accounting system for each such fund shall be established within the general accounting system of the Borough and shall be so established and maintained as to reflect the financial condition of the utility and its income and expense. A balance sheet and profit and loss statement for each such fund shall be produced at the direction of the Assembly.

(B) Unless otherwise provided by ordinance, none of the income, resources or property of a utility shall be placed in the general fund or used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received in return. Nothing in this provision prohibits payment into the general fund by a utility of an amount in lieu of taxes reasonably estimated to be the amount which said utility would pay in taxes if it were privately owned.

ARTICLE XIII EDUCATION

Section 13.01 Public School System.

The system of public schools for the Borough shall be operated by a School Board in accordance with Alaska statutes, Borough Code and other applicable law.

Section 13.02 School Board Membership.

(A) **Composition.** The School Board shall be composed of five members elected at large at regular Borough elections, provided that the Assembly may by ordinance, concurred in by the School Board, provide for a school board of seven members.

(B) **Qualifications.** A candidate for School Board shall be a resident qualified to vote in the Borough.

(C) **Terms.** The term of office of School Board members shall be three years.

Section 13.03 School Board Vacancies.

(A) If a vacancy occurs on the School Board, the remaining members shall appoint a qualified person to fill the vacancy within 30 days. The person appointed shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term. If less than 30 days remain in the term when a vacancy occurs, the vacancy shall not be filled.

(B) Notwithstanding (A) of this section, if the School Board membership is reduced by vacancies to fewer than the number required to constitute a quorum, the remaining members shall, within seven days, appoint a number of qualified persons sufficient to constitute a quorum.

Section 13.04 Powers of the School Board.

The School Board has the powers provided by Alaska Statute and Borough code to carry out its duties, including formulating policy for the operation of the schools, appointing and providing for suspension and removal of school personnel including the superintendent, serving as a board of personnel appeals, and generally supervising school system fiscal affairs including the preparation and submission of the annual budget.

Section 13.05 Public Meetings.

The Board shall conduct public meetings at least once a month, except for the month of July.

Section 13.06 Capital Improvements.

The School Board shall make recommendations to the Assembly concerning the necessity for school construction and other capital improvements, site selection, employment of architects and buildings plans. Decisions by the Assembly on these matters shall be final.

**ARTICLE XIV
PLANNING, PLATTING AND LAND USE REGULATION**

Section 14.01 Planning, Platting and Land Use Regulation.

The Assembly shall by ordinance establish procedures for planning, platting and land use regulation within the Borough.

**ARTICLE XV
SERVICE AREAS**

Section 15.01 Service Areas.

(A) Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that already provided on an areawide basis.

(B) The Assembly may by ordinance prescribe procedures for the establishment and administration of service areas.

(C) The Assembly may by ordinance may establish, alter, consolidate or abolish service areas. The Assembly, by ordinance, may add or eliminate services to a service area.

(D) The Assembly may by ordinance levy taxes, make assessments, receive state funds, and otherwise generate income to pay the costs of services provided.

**ARTICLE XVI
CHARTER AMENDMENT**

Section 16.01 Proposal.

Amendments to this Charter may be proposed by

(1) initiative petition in accordance with Article VII of this Charter;

(2) ordinance or resolution of the Assembly; or

(3) report of a charter commission created by the Assembly or by initiative petition.

Section 16.02 Election.

(A) Proposed amendments shall be submitted to the qualified voters of the Borough. An election shall be held not less than sixty days after adoption of the ordinance, issuance of the

final report of the charter commission, or certification of the initiative petition.

(B) If the proposed amendment is approved by a majority of the voters, it becomes effective at the time set in the amendment; or, if no time is set, thirty days after certification of the results of the election.

(C) If more than one amendment is proposed, each amendment shall be submitted to the voters as a separate question except those which are so interrelated that they should be approved or rejected together.

Section 16.03 New Charter.

A new charter may be proposed and approved in the same manner as an amendment.

ARTICLE XVII GENERAL PROVISIONS

Section 17.01 Conflict of Interest.

(A) A member of the Assembly shall declare a substantial financial interest a member has in an official action and asked to be excused from a vote on the matter. The Mayor shall rule on a request by a member of the Assembly to be excused from a vote. The decision of the Mayor on a request by a member of the Assembly to be excused from a vote may be overridden by the majority vote of the Assembly.

(B) A Borough employee or official, other than a member of the Assembly, may not participate in an official action in which the employee or official has a substantial financial interest.

(C) The Assembly by ordinance may prescribe additional and further rules regarding conflicts of interest and may adopt procedures regarding nepotism.

Section 17.02 Separability.

(A) If a court of competent jurisdiction should hold any section or part of this Charter invalid, such holding shall not affect the remainder of this Charter nor the context in which such section or part so held invalid may appear, except to the extent that another part of the Charter may be inseparably connected in meaning and effect with that section or part.

(B) If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the state constitution

or law renders a part of this Charter invalid or inapplicable, the Assembly by ordinance may take such appropriate action as will enable the Borough government to function properly.

Section 17.03 Oath of Office.

(A) Every officer of the Borough, before entering upon the duties of his office, shall take and subscribe to the following oath or affirmation: I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully perform my duties as _____ to the best of my ability.

(B) The oath or affirmation shall be filed and kept in the Borough Clerk's office.

(C) All officers authorized by federal or state law, the Mayor, the Borough Manager, the Borough Clerk, the heads of all administrative departments, a municipal judge, and such other officers as the Assembly may authorize, may administer oaths and affirmations.

Section 17.04 Official Bonds.

The Borough Manager, and such other officers and employees as the Assembly may designate, before entering upon their duties, shall be bonded, by individual and/or group bonds, for the faithful performance of their respective duties, payable to the Borough, in such form and in such amounts as the Assembly may prescribe, with a surety company authorized to operate within the State of Alaska. The Borough shall pay the premiums on such bonds.

Section 17.05 Continued Office.

Every officer who is elected or appointed for a term ending in a definite time shall continue to serve until his successor qualifies and takes office, except in the case of death, resignation or termination by law or this Charter.

Section 17.06 Records to be Public.

All records of the Borough shall be public except as otherwise provided by Alaska statutes, Borough code or other applicable law. Records shall be available at the Borough offices for inspection and for distribution at such price as the Assembly may direct.

Section 17.07 Public Meetings.

(A) Except as provided for in this Charter, all meetings of the Assembly, the School Board, and other boards and commissions shall be held in public. The Assembly by ordinance shall adopt procedures for reasonable public notice of all meetings. At each such meeting the public shall have reasonable opportunity to be heard.

(B) An executive session may be held to discuss only matters permitted by Alaska Statutes. The general matter for consideration in executive session shall be expressed in the motion calling for the session.

Section 17.08 Interpretation.

(A) Titles and subtitles are for identification and ease of reference only and shall not be construed as interpretations of Charter provisions.

(B) Personal pronouns used in this Charter shall be construed as including either sex.

Section 17.09 Adverse Possession.

The Borough may not be divested of title to real property by adverse possession.

Section 17.10 Dedication of Borough Property.

Dedication of streets, rights of way, easements, or other areas for public use by the Assembly may not be construed to require the Borough to maintain, improve, or provide for Borough services in the area dedicated and the dedication does not impose any liability on the Borough for the condition of the area dedicated.

**ARTICLE XVIII
TRANSITIONAL PROVISIONS****Section 18.01 Effective Date.**

This Charter shall be effective immediately upon ratification.

Section 18.02 Composition of Assembly upon Adoption of this Charter.

The initial Borough Assembly shall be elected as set forth in A.S. 29.05.110 and .120 and Section 3.04 of this Charter.

Section 18.03 Organization of Assembly.

The Assembly shall organize and carry out its duties as provided in this Charter.

Section 18.04 Composition of School Board Upon Adoption of this Charter.

The initial Borough School Board shall be elected as set forth in A.S. 29.05.110 and .120. Those elected at that election shall draw lots as follows: two one-year terms, two two-year terms and one three-year term.

Section 18.05 Composition of Port Commission Upon Adoption of this Charter.

The initial Borough Port Commission shall be elected as set forth in A.S. 29.05.110 and .120. Those elected at that election shall draw lots as follows: two one-year terms, two two-year terms and one three-year term.

Section 18.06 Continuation of Employment.

All employees of the City of Wrangell, except elected officials, shall continue in employment until the Assembly or the Borough Manager, as the case may be, provides otherwise. Like salaries and benefits shall continue unless and until provision is made to the contrary.

Section 18.07 Prior Law.

All ordinances, resolutions, regulations, orders and rules of the City of Wrangell, including the consumer sales tax of seven percent (7%), shall continue in full force and effect and extend to the entire Borough, insofar as they are not inconsistent with this Charter, until they are repealed or amended.

Section 18.08 City of Wrangell.

The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.

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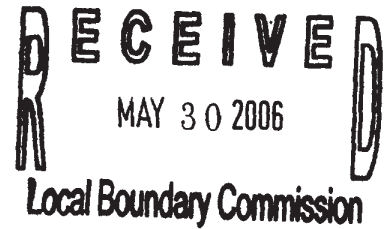
Appendix E

Public Comments Regarding Petition

The LBC received 33 written comments regarding the Wrangell borough petition.

1. Robert Meyer
2. Catherine and Steve Peavey
3. Catherine and Steve Peavey (second, longer letter)
4. John Church
5. Debbie Johnson
6. Cliff Hall
7. Dave and Maggie Grantham
8. Bruce Jones, City Manager, City of Petersburg
9. Valery McCandless, Serving as Mayor of the City of Wrangell
10. Vince and Cherri Langley
11. Dan Higgins and Carol Brown
12. Robert Hunley
13. Lynn Koland, District Ranger, U.S. Forest Service
14. Laurene Rogers
15. Ernie Christian
16. Marcy Garrison
17. Terri Henson
18. Jillian Privett
19. Janell Privett
20. Ketchikan Gateway Borough
21. Marni Privett
22. Cheryl Meyer
23. Olga Norris
24. William and Janell Privett
25. Peter Rice
26. Samuel Privett
27. Augie Schultz
28. C.L. Snoddy
29. Wilma Stokes-Leslie
30. John Taylor
31. Shane Legg-Privett
32. Cathryn Vanderzicht
33. Rebecca Welte and Greg Rice

Robert M. Meyer
#6 Beach Path
Meyers Chuck, AK 99903
rmmeyer@att.net



May 20, 2006

Local Boundary Commission Staff
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Re: Petition by the City of Wrangell to incorporate the city and borough and establish new corporate boundaries.

Dear Sirs:

You have on file several letters from me concerning the incorporation of Meyers Chuck into a regional borough.

Rather than restating all my comments to date, let me simply summarize:

1. Meyers Chuck, like many remote small villages does not easily fit the criteria for establishing borough boundaries, see previous correspondence.
2. Socially, the residents of Meyers Chuck have more in common with residents of Wrangell rather than residents of Ketchikan. Therefore, if Meyers Chuck is to be included in a borough, most residents would rather be associated with Wrangell than Ketchikan. At least, Wrangell representatives have been willing to talk with and negotiate with residents of Meyers Chuck.
3. Clarence Strait is a natural impediment to easy transportation to and from Ketchikan.

Not mentioned in the Wrangell petition for obvious reasons, how will does this petition sit with the invisioned Wrangell/Petersburg Borough?

I have attached copies of my recent letters concerning incorporation of Meyers Chuck into the Ketchikan Borough for your perusal.

Thank you for the opportunity to comment on the Wrangell Petition.

Sincerely,


Robert M. Meyer

Attachment 1

Robert & Marjorie Meyer
#6 Beach Path
Meyers Chuck, AK 99903
rmmeyer@att.net

January 17, 2005

Dan Bockhorst
Local Boundary Commission
550 West 7th Ave., Suite 1770
Anchorage, AK 99501-3510

Re: Annexation of Meyers Chuck

Dear Mr. Blockhorst:

Its mid winter, the Legislature is in session and rumors of annexation are circulating once again. This year, there is a new twist, community members have been contacted by representatives of **the Wrangell Borough concerning the possible annexation of our village into their borough.** This letter is in response to their initial contact.

In the early 1980's, I was asked by a staff member of the Department of Community and Regional Affairs (we shared the same office building at the time) to draft an unofficial white paper on the **incorporation of Meyers Chuck into one of the local boroughs (Wrangell, Prince of Whales, when formed, or Ketchikan).**

Based on my analysis, I concluded that in terms of economics and demographics, the Village of Meyers Chuck had more in common with Wrangell and Prince of Whales Island communities **than it did with the city of Ketchikan.** In terms of services, transportation, etc, the village relied more on Ketchikan than on Prince of Whales Island communities or Wrangell. However, **Clarence Strait presented a major impediment to simple and efficient transportation and communications.**

Today, the economic and demographic differences between the Village of Meyers Chuck and the City of Ketchikan are greater than they were 20 years ago. Our community has evolved from a **fishing community to a summer community.** Also, **during the past 20 years, improvements in the transportation and communication infrastructure, Prince of Whales Island communities and Wrangell have become the primary support centers for our village.** Clarence Strait remains a major transportation impediment for those traveling to Ketchikan or across the Straits to Thorne Bay on Prince of Whales Island.

Therefore, if our village is to be annexed by a borough it should either be included into a Prince of Whales Island Borough, when formed, or into the Wrangell Borough.

However, **annexation of Meyers Chuck into any of the existing or planned boroughs does not appear to meet standards laid out in "Article 4 Standards for Annexation to Boroughs".** For example, under 3 AAC 110.160 Community of interests: Meyers Chuck lies some 35 miles up Clarence Strait from Ketchikan, 9 miles across Clarence Strait and over 50 miles from Wrangell

preventing simple transportation options. 3 AAC 110.170 Population: Currently, the winter population of Meyers Chuck is less than 10 and in the summer ranges from 35 to 50, this does not seem enough to support annexation into a borough. 3 AAC 110.180 Resources: Meyers Chuck has evolved from a fishing community to a summer community, therefore, economic activities are very limited as is the tax base. Regionally¹, potential economic activities include logging and mining on the Cleveland Peninsula, primarily US Forest Service lands. 3 AAC 110.190 Boundaries: The Village of Meyers Chuck is located on the north eastern tip of the Cleveland Peninsula and is therefore geographically isolated from Ketchikan (35 miles away) and Wrangell (50 miles away) and Prince of Whales Island (9 miles away, Thorne Bay is the closest community on the Island). Therefore, establishing rational boundaries will tax the cartographer's imagination.

As a private citizen, I am concerned about tax "Quid pro quo" i.e. what benefits if any, will accrue to local property owners for taxes paid. Because the population of Ketchikan is so much larger and so dissimilar from that of Meyers Chuck, I doubt that our voices will be heard and consequently, they will not be able to meet our needs. Therefore, taxes will greatly exceed any benefits accruing to the village. Since Meyers Chuck is more similar to the villages on Prince of Whales Island and to Wrangell, I feel that they will be more responsive to our needs and tax rates will be more closely related to services provided.

Thank you for your consideration.

Sincerely,

Marjorie Meyer

Robert Meyer

cc: Casey Peavy, Meyers Chuck

1. In my opinion, this is the crux of annexation discussions and has nothing to do with the village of Meyers Chuck. The drive is to secure any revenues coming from potential logging and mining activities on the Cleveland Peninsula and not to provide governance for the residence of Meyers Chuck. Resources are at the core of any annexation discussions. Proponents of annexation appear to believe that potential logging and mining activities on the Cleveland Peninsula have the promise of producing revenues. However, the reality of these wishes must await actual proposed projects and future project specific economic analyses. Now, its all wishful thinking. Also, if these activities do occur, they will probably occur on US Forest Service lands any revenues will accrue to the State regardless to where the boundaries are drawn.

Further, I doubt that either of the two existing Boroughs wants the liability of providing governance for the residence of Meyers Chuck.

Attachment 2

Robert M. Meyer
#6 Beach Path
Meyers Chuck, AK 99903
rmmeyer@att.net

January 10, 2006

Honorable Mayor
Ketchikan Gateway Borough
334 Front Street, Ketchikan, AK 99901

Dear Mayor:

As a small business owner, fisherman, a resident of Meyers Chuck and a signatory of the partition objecting to the proposed annexation of Meyers Chuck by the Ketchikan Borough, I am forwarding you my comments on the boroughs proposal to annex the Village of Meyers Chuck.

In my opinion, the force driving the proposal to expand a borough boundaries has nothing to do with the village of Meyers Chuck. It is driven exclusively by the Borough's wish to collect taxes from future economic development on nearby forest service lands. The Borough wants the funds without having to provide any services to support future development or for Meyers Chuck residents. The proposal is a rationalization for the annexation of noncontiguous lands and as such, does not provide an analysis of the costs and benefits to local residents or the state.

Your proposal to extend the Borough's its boundaries to include the communities of Hyder (delayed) and Meyers Chuck violates one of the basic tenets of our form of government, that ours is a government of and for the people. Your proposal violates this basic tenet, the people of Meyers Chuck have not been included in the planning process. Therefore, by definition, what the Borough is offering is not government by the people. Further, by failing to consult with the residents of Meyers Chuck during your planning process, you are violating the second part of above mentioned tenet, that government is for the people. Your proposal offers nothing positive for our community. Your proposal offers only land and sales taxes and the loss of our polling station with out any off setting services. The notion of tax "quid pro quo" is missing.

In addition to violating our tenets of governance, your proposal makes little economic sense. The expressed reason for expanding the borough's boundaries is to capture rents from possible future timber and mining activities. These rents are currently collected by the US Forest Service and returned to the state and local governments impacted by said activities. For the most part, rents are based on net profits and royalties, therefore, borough taxes would be deducted from net profits and therefore available for distribution would decrease. As a result, the net amount of revenues accruing to the borough would be little changed.

The proposal's model boundary was based on information almost half a century old and inspite of your claim otherwise, the boundary is no longer valid. For one thing, Ketchikan is no longer the service center for all of Southern Southeast Alaska. Changes in the region's transportation,

communication and economic infrastructure has changed over the past 40 years. Currently, freight, dry goods and perishables, are for the most part, obtained from businesses located on Prince of Wales Island. Sales taxes from the purchase of goods and services in Ketchikan offset the borough's cost of providing these goods and services.

While operating our fish buying station in Meyers Chuck, our fish were delivered into Petersburg and not Ketchikan. Clarence Strait is clearly a major impediment to the movement of freight and services between Meyers Chuck and Ketchikan.

The assertion that the borough would provide education services for our community is laughable. We have been there before. Years ago, the residents of Meyers Chuck tried to persuade the Southeast Island School District (SISD) not to build a school in Meyers Chuck. We tried to explain to the District that there were not enough children and young families residing in Meyers Chuck to keep the school open. And, sure enough, except for the first two years, District employees had to import students to keep the school open. The imported students left the community as soon as the official student count was taken.

Meyers Chuck still does not have the number of year round young families or families with children to justify opening a school. Given the current economic trends, the communities demographics are not expected to change.

I also question the socioeconomic data contained in your proposal. Meyers Chuck, it is primarily a retirement and a summer Community. In spite of what your consultant alleges, residents of Meyers Chuck are not wealthy and for the most part are living on retirement incomes. Based on personal knowledge, your consultants average income for the community and therefore projected tax receipts is greatly overstated.

The proposed boundary changes will serve as a disincentive to future development. The proposal will add an additional layer of government that developers will have to cope with and there by increase the cost of their project with out providing any benefits.

In sort, your proposal will provide no benefits to the people of the State, the Borough, Meyers Chuck or potential developers.

Further, I doubt that the Borough has examined the potential costs of providing an additional layer of governance for the residence of Meyers Chuck. It seems only reasonable that if we are to begin paying borough taxes then we will begin demanding services beyond the non-existent library and educational services identified in the proposal.

Thank you for the opportunity to comment on your proposal to irrationally extend the borough's boundaries.

Sincerely

Robert M. Meyer

To Whom it may concern;

My husband & I have lived in Meyers Chuck, for 45 years on Lot 39 - We raised 2 wonderful boys there.

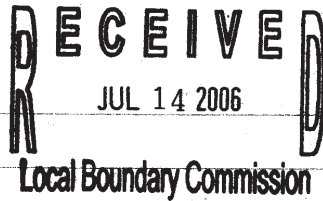
Living in Meyers Chuck isn't an easy way of life, in the winter the waterline from the lake freezes, we have to supply our own oil for our generators, carry our own propane for refrigeration & cook stoves. We cut & pack our own beach wood for the heaters. Let me tell you it isn't an easy way to live. Why do we live here?? Because we love it!! We commercial fish in the summer to be able to enjoy it & afford it. I used to fish with my husband but now I stay home. I'm the Postmaster here - We receive mail once a week.

I recently took a trip to Wrangell on the new ferry 'Stikine' from Coffman Cove on Prince of Wales Island. Visited the former Postmaster of Meyers Chuck, Marion Glantz & her husband who retired there, they love Wrangell & say it's the best! Also visit another friend Penny Jantowski who lives in the Pioneer Home in Wrangell.

I shopped at the local Hardware store.
'Sentry', which handles everything you can
engineer. My husband even buys his fishing
gear there! Also stopped at 'City Market'
(and visited Ben) another great place to shop!

Wrangell is our choice of Boroughs they
don't act like Bullies like the KGB.
Isn't that what life is all about
- choices - If you listen to the people
of Meyers Chuck you will know how
true. All year, because it is a
100% choice!!

Catherine Peasey
Steve Peasey



July 8th 2006

To Whom it may concern;

My husband & I have lived in Meyers Chuck for 45 years on Lot 39 - We raised 2 wonderful boys there.

Living in Meyers Chuck isn't an easy way of life, in the winter the waterline from the lake freezes, we have to supply our own oil for our generators, carry our own propane for refrigeration & cook stoves. We cut & pack our own beach wood for the heaters. Let me tell you it isn't an easy way to live. Why do we live here?? Because we love it!! We commercial fish in the summer to be able to enjoy it & afford it. I used to fish with my husband but now I stay home. I'm the Postmaster here. We receive mail once a week.

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I shopped at the local Hardware store 'Sentry', which handles everything you can imagine. My husband even buys his fishing gear there! Also stopped at 'City Market' (and visited Ben) another great place to shop!

Wrangell is our choice of Boroughs they don't act like Bullies like the A.G.B. Isn't that what life is all about - choices - If you listen to the people of Meyer's Creek you will know how we ALL feel, because it is a 100% choice!!

Catherine Pearson
Steve Pearson

We have also had repair work done on our outboard motor at Buiness Bros. in Wrangell.

We also have monthly visits from the M.V. 'CHRISTIAN', for our devotion in the community.

Subject: proposed Wrangell Borough

From: jlc3@pocketmail.com

Date: Sat, 08 Jul 2006 10:38:06 -0700

To: lbc@commerce.state.ak.us

Dear LBC staff,

My name is John Church and I am a resident of the Thoms Place subdivision on Wrangell Island. I would like to go on record as opposing the proposed Wrangell Borough. After 30 years of observing Wrangell city government, it is clear to me that this small town does not have the human resources and money to competently and successfully administer an area of the size they want to annex. I don't believe a city and borough should be contiguous, especially not when the city involved is so small and financially stressed. I don't think they will be able to provide any significant services at all to Thoms Place. If this region must be boroughized, it would be better to combine several towns into 1 borough, so each town would share the costs and only have to come up with a couple capable assembly persons.

Sincerely, John Church

Box 801

Wrangell, AK 99929

Sent via PocketMail
Email Anywhere
www.pocketmail.com

July 8th, 2006

To the Local Boundary Commission
regarding the proposed annexation
of the communities of Union Bay and
Meyers Chuck into the Wrangell Borough.

Having previously submitted written
comments to the Local Boundary Commission
of the Ketchikan Borough annexation proposal
of Union Bay and Meyers Chuck, I would
stress again that our first choice is to
remain in an unorganized borough as
stated in the Alaska Constitution. However,
if we are forced to choose between the
Ketchikan Borough and a Wrangell Borough,
the Wrangell Borough makes more sense
on a social, economic, geographic and
cultural note.

We have historically shared the same
geographic areas as the Wrangell
Community for hunting and fishing.

My husband and I have lived in the
remote area of Union Bay for 19 years.
We fish in Union Bay and Ernest Sound
for halibut, shrimp and salmon.

The very logistics of using our small
boats and skiffs to go to Wrangell from
Union Bay and Meyers Chuck for fuel & supplies
is geographically safer because of protected
waters the entire way, rather than the
unprotected open waters of Clarence Strait.

to get to Ketchikan.

My husband and I have used the Wrangell boat shop for our boat maintenance in the past. We use the facilities in Wrangell for fuel and propane.

The lifestyle of the community of Wrangell has more in common with the residents of Union Bay and Meyers Chuck than Ketchikan.

We live with a remote lifestyle and we feel that the Wrangell Borough would respect that we would want to remain as close as possible to how we live today.

The Wrangell Borough would better reflect our decision making at a local level.

To me, this is the most important factor - that our communities of Union Bay and Meyers Chuck are given as much latitude as possible at our local level to decide our future. The Wrangell petition would accomplish this.

We are a united voice in the communities of Union Bay and Meyers Chuck. Please listen.

Most sincerely,
Dabbie Johnson

Subject: Incorporation of the City and Borough of Wrangell
From: Cliff Hall <clifford_hall@hotmail.com>
Date: Thu, 18 May 2006 12:35:16 -0700
To: lbc@commerce.state.ak.us

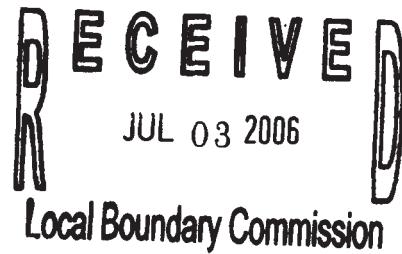
I live in Meyers Chuck, Alaska and am totally supportive of our inclusion into the Wrangell Borough.

Thanks,

Cliff Hall
P.O. Box 35
Meyers Chuck, Ak 99903

27 June 2006

Local Boundary Commission Staff
550 West Seventh Ave., Ste. 1770
Anchorage, AK 99501-3510



As residents of Meyers Chuck, we protest the annexation of our community by the Ketchikan Gateway Borough.

The nature of our very rural community is far more compatible with that of Wrangell, and we have many ties there. The needs of Meyers Chuck are more readily met by Wrangell, and our association with that borough will certainly benefit both communities.

It's very important to the citizens here to protect the unique character of Meyers Chuck, and we need to have a voice in decisions that affect us.

Sincerely,
Dave and Maggie Grantham
Island "F"
PO Box 87
Meyers Chuck, AK 99903

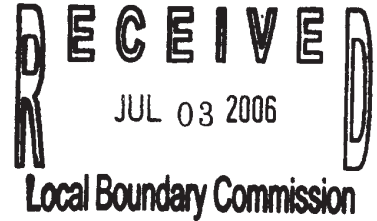


CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833

TELEPHONE (907) 772-4519

FAX (907) 772-3759



June 26, 2006

Local Boundary Commission Staff
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510

RE: Petition for Incorporation of the City and Borough of Wrangell;
Letter of Support

Dear Commission Staff,

The City of Petersburg has reviewed Wrangell's petition for incorporation of the City and Borough of Wrangell. The City supports Wrangell's efforts to form a unified home rule borough which includes Meyers Chuck, Union Bay and other portions of the western Cleveland Peninsula.

The City of Petersburg understands that this petition deviates from the Commissions' planned boundaries by dividing the proposed Wrangell-Petersburg Borough and by including areas the Commission had included in the Ketchikan Borough boundary. The Councils of both Wrangell and Petersburg have met and agreed that they should move forward with separate boroughs and have agreed on the common boundary between the two as described in Wrangell's petition. The City of Petersburg also supports the inclusion of Meyers Chuck and Union Bay into the Wrangell Borough. Petersburg feels that the citizens of these two communities should be listened to and supported with regard to whose borough they should be associated with.

Again, we would like you to act favorably toward Wrangell's petition for borough formation. If you have any questions concerning this letter of support please feel free to contact me at your convenience.

Sincerely,

Bruce R. Jones, CPM
City Manager

CC: City of Wrangell
File



June 28, 2006

Local Boundary Commission Staff
550 W. Seventh Ave., Suite 1770
Anchorage, AK 99501-3510

Dear LBC Staff:

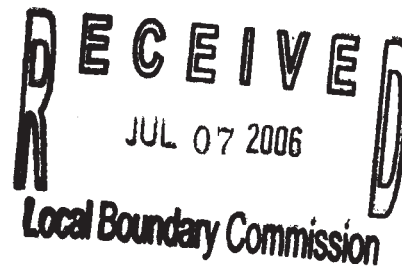
The City of Wrangell supports the pending petition to form a home rule, unified municipality of the City and Borough of Wrangell. The City Council, at their meeting of June 27, 2006, unanimously voted to support the petition and submits the following points in support.

- ✓ The City believes that the proposed borough will fully and efficiently provide services to the region. The City has already been doing so in a number of instances, such as: electricity, fire, ambulance, and police response, school and library usage to residents of Wrangell West outside City limits; for outlying areas such as Thoms Place, Farm Island and Meyers Chuck/Union Bay, the Wrangell Volunteer Fire Department provides search and rescue, and the Police Department responds to public safety issues. Harbor infrastructure support is provided to residents living in the entire region.
- ✓ The area proposed for incorporation has strong historical and current social and economical interconnections, from the Stikine River to the north and south to Meyers Chuck/Union Bay, including Ernest Sound and the western drainages of the Cleveland Peninsula. Folks living in the region use the entire area for subsistence hunting and fishing and commercial fishing and recreation.
- ✓ Formation of the borough has strong support from area residents. Area residents want to define the boundaries of their own borough, not have it defined for them.
- ✓ The residents of the Wrangell area, while acknowledging the Petersburg area and their specific interests and preferences, are not hostile to Petersburg, but have agreed that they do not want to be in a borough with Petersburg. There seem to be significant differences in attitudes and culture. There would be no governmental efficiencies gained by combining the two regions, and in fact the cost of local government, if Petersburg and Wrangell were combined in a borough, would actually increase, as the Cities of Wrangell and Petersburg would remain in place. After discussion with Petersburg's Mayor and Council, it is the City of Wrangell's understanding that Petersburg intends to file its own borough formation petition sometime later this year.
- ✓ While residents of Petersburg and Wrangell don't always see eye-to-eye, the leaders of the two communities have agreed on a natural demarcation between the two regions. Rather than using the Wrangell Ranger District Boundary on the north, Wrangell and Petersburg agreed to the watershed line between the Stikine River drainage and LeConte Bay as the northern boundary. Historically and currently, access and travel on the Stikine River has been dominated by Wrangell businesses, residents or visitors. LeConte Bay and Glacier, while accessed by operators from both communities, is dominated by Petersburg business and residents.

CITY OF WRANGELL

INCORPORATED JUNE 15, 1903

P.O. BOX 531 (907)-874-2381
Wrangell, AK 99929 FAX (907)-874-3952



● Page 2

June 28, 2006

- ✓ The residents of the proposed borough will benefit from borough formation by having a greater influence on land decisions in the region by state and federal authorities; ability to have direct control over certain development and activities in the area; municipal land selections; increased national forest receipts and PILT. Many of the prime selectable lands that would likely be selected by the new borough are potentially going to be turned over to the University of Alaska in 2009. Area residents are outraged and firmly believe that their ability to influence and control land use decisions on these lands that directly impact area residents is being stifled.
- ✓ We have stronger ties with Meyers Chuck/Union Bay area than does Ketchikan, not only because of the commerce transacted between the communities, but social and political views and needs are more closely aligned and understood. The Annexation Petition of Ketchikan Gateway Borough and the petition for the City and Borough of Wrangell both seek some of the same land area, therefore the City of Wrangell requests that DCCED and the LBC consider the petitions simultaneously.
- ✓ Wrangell Community leaders are committed to incurring the expense necessary to establish communication facilities to allow the residents of outlying areas such as Thoms Place and Meyers Chuck/Union Bay to participate in public hearings and other important public proceedings of the proposed new borough. Community leaders are also committed to working with residents of Meyers Chuck/Union Bay to explore opportunities for working together and assistance for residents compatible with their desired lifestyle.

Thank you for this opportunity to comment.

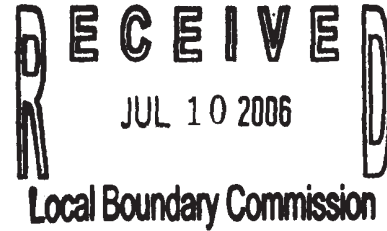
Sincerely,



Mayor Valery McCandless
Serving as Mayor



July 1, 2006



Local Boundary Commission,

This letter is written to urge the commission to be responsive to the unique needs of Meyers Chuck property owners.

We do not want to be part of any borough. We want to be independent.

If, however, the state cannot see to our autonomy, we would request to be part of the Wrangell borough. There are many ties to the Wrangell area some of which are listed below.

Protected waters going to Wrangell as opposed to traveling by boat to Ketchikan

Many of the Meyers Chuck residents have skiff engine repair, buy groceries and hardware in Wrangell

In the last three years, long time Meyers Chuck residents, our former postmaster, have retired to Wrangell

Many of us buy our skiffs from Svensen Boats in Wrangell

We are often visited by the MV Christian, Lutheran Ministry boat, home ported in Wrangell

FM radio reception from Wrangell

Again, we want to be independent. We do not want any services. We do not want to be tied to any borough government. Meyers Chuck has always been a unique Alaska community and we wish to remain so.

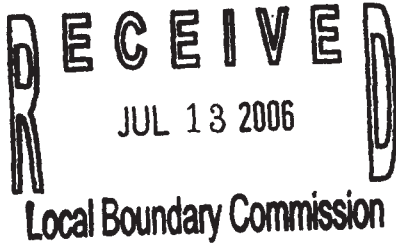
Thanks you.

Vince and Cherri Langley

PO Box 1

Meyers Chuck, Alaska 99903

A large, handwritten signature in black ink, appearing to read "Vince & Cherri Langley". The signature is written in a cursive, flowing style with a large loop at the end.



July 1, 2006

Dan Higgins & Carol Brown
Harbor Point
Meyers Chuck, AK 99903

Local Boundary Commission
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510

Re: Wrangell Borough Incorporation Proposal

Dear Commissioners,

With interest, we have read the Wrangell Borough Incorporation Proposal and considered it with regards to both the Ketchikan annexation proposal and the recent passage of HB 133. While Wrangell's proposal appears to have some merits, it, like that of Ketchikan, fails to identify any reason other than revenue for incorporating Meyers Chuck.

Clearly evident is the fact that both of these communities need Meyers Chuck far more than Meyers Chuck needs or wants them. In neither case does their struggle for a justification describe any existing problem they will correct or any benefit they will provide. In Wrangell's case, it seems Meyers Chuck is included in order to meet a perceived "two community" standard for borough formation. Ketchikan appears to have included Meyers Chuck in response to an earlier application denial when the LBC incorrectly assumed we wanted the services of an organized borough. Creating another level of government for Meyers Chuck is not needed or warranted given the demographics, geographical isolation, and minimal economic activities in Meyers Chuck.

Additionally, there is a procedural issue. The recent approval of HB 133 requires that prior to approving any boundary proposal, the Local Boundary Commission is obligated to propose, adopt, and apply new standards for proposals submitted under both "local action" and "legislative review" methods. As stated by Governor Murkowski, the intent of this recently signed legislation, is "putting appropriate sideboards on the Local Boundary Commission to make sure their processes do not usurp or conflict with the direction the communities want to go." Meyers Chuck residents clearly wish to maintain their current status as independent of any organized borough. Furthermore, as stated by the Governor's press secretary, HB 133 "requires a majority vote of the voters residing in an area that is to be annexed to an existing municipality or borough". Current LBC procedures deny us a voting voice in regards to annexation under the Ketchikan proposal and this appears contrary to the expressed intent of the legislation.

The remote location of Meyers Chuck imposes considerable difficulty and expense in order to participate in a borough centered either in Ketchikan or Wrangell. Our local telephone provider has denied us Internet service so electronic communications is limited, and very slow. Mail service is once a week. There are no scheduled transportation services or roads between Wrangell and Meyers Chuck. Chartered seaplane services are not based in either community. Ketchikan is difficult to access given the open stretch of water separating us. The list goes on.

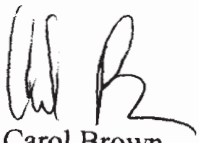
Both the Ketchikan Borough and the proposed Wrangell borough have substantial, pre-existing financial indebtedness. The infrastructure and services related to this debt are of no value to Meyers Chuck, yet by association, we would share this burden. Meyers Chuck residents would be taxed for services not rendered, as both proposals clearly state their intentions to tax but not provide any services or infrastructure.

Similar to Ketchikan, the Wrangell proposal attempts to justify taxing Meyers Chuck by stating the “residents....use and rely upon the public and private infrastructure provided by the current City of Wrangell and therefore should bear some of the public cost...” This is an overstatement as it relates to Meyers Chuck. Usage of infrastructure such as docks, transportation, healthcare, retail and cargo facilities is occasional and residents in no way rely upon such facilities from any single community or any single borough. (In fact, neither of us has even been to Wrangell in over 10 years). We applaud Wrangell’s proposal to apply a lower rate of taxation in Meyers Chuck in recognition of this fact. However, even this lower rate appears egregious given the benefits. Like any other visitor, Meyers Chuck residents pay all appropriate taxes when they transact business in other communities.

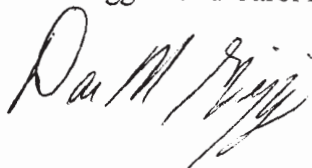
The Wrangell proposal is more consistent with the Constitutional requirement that a borough embrace an area and population with common interests. At some future date, it may be appropriate for Meyers Chuck to be included in an organized borough, and Wrangell might indeed be the appropriate one. However, there is no immediate call for this action. Placing Meyers Chuck in an organized borough at this time would create strife and bureaucracy where none currently exists. This clearly is inconsistent with the spirit of the regulations and directives guiding the Boundary Commission.

The Commission has authority to alter proposals as a condition for approval. We recommend you exercise this power and exclude Meyers Chuck from incorporation into an organized borough at this time. We welcome the formation of the Wrangell Borough and suggest that including Meyers Chuck in it would occur at some future date when our needs for local government services become apparent.

Sincerely,

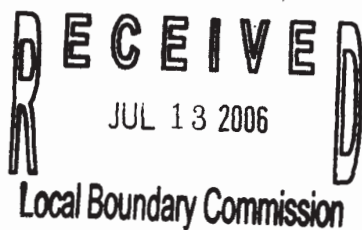


Dan Higgins and Carol Brown



Dear folks @ Boundry Comm.
I have been a full time
Resident of Meyers
Chuck for the last third
of a century without being
in any borough which is
the way I believe it should
remain, no taxation without
representation sounds fair
to me, there are no services
provided from anywhere,
there is not even any roads
any where near Meyers Chuck.
Nevertheless here I am
requested to choose between
Ketchikan & Wrangell. I
believe Wrangell to be the
lesser of the two evils
with Prince of Wales
making more sense than
either of those options.

Sincerely,
Robert L. Hunley
Robert L. Hunley





United States
Department of
Agriculture

Forest
Service

Alaska Region
Tongass National Forest
Ketchikan-Misty Fiords
Ranger District

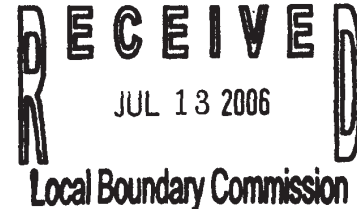
3031 Tongass Avenue
Ketchikan, AK 99901-5743
Phone: (907) 225-2148
Fax: (907) 225-8738

File Code: 1560

Date: July 7, 2006

Local Boundary Commission
550 West Seventh Avenue
Anchorage, AK 99501-3510

Re: Notice of Filing of Petition for Incorporation
Of the City and Borough of Wrangell



I am writing in response to your Public Notice regarding the filing of a petition for the incorporation of the City and Borough of Wrangell (CBW). I have reviewed the notice and offer the following comments.

The boundary for the proposed CBW includes portions of the Cleveland Peninsula. As shown by the map included with your Public Notice, the proposed CBW boundary would run south down the middle of the peninsula and effectively divide it in half lengthwise. Splitting the Cleveland Peninsula in this fashion will result in a portion of the Ketchikan – Misty Fiords Ranger District (KMRD) being included within the CBW.

The Ketchikan Gateway Borough (KGB) recently filed a petition to expand its boundary. The proposed KGB expansion would create a larger borough whose boundaries mirror the boundaries of the KMRD, with the exception of the temporarily excluded area near Hyder, Alaska. Exhibit C of the KGB's Annexation Petition visually depicts the KMRD boundary. I am enclosing a copy for your reference. If the KGB's proposed boundary on the Cleveland Peninsula is used, the result will be that all of the within the KMRD in that are will be in the expanded KGB and all of the land with in the Wrangell Ranger District will be within the new CBW.

From the Forest Service perspective, I believe it would facilitate administrative responsibilities if proposed borough boundaries on the Cleveland Peninsula matched those of the Tongass National Forest ranger districts. Similar management boundaries will help avoid confusion between the ranger districts of the Tongass National Forest and the proposed boroughs. Furthermore, the offices and staff of both the KMRD and the KGB are located in Ketchikan. The same is true of the Wrangell Ranger District and the proposed CBW. The proximity of these organizations to one another will result in a savings of time and travel on matters that mutually affect them.



In conclusion, we recommend that the boundary for the proposed CBW be modified to remove the portions of the Cleveland Peninsula that are within the KMRD. If you have any questions about these comments, please feel free to contact Vernon Keller, Realty Specialist, at (907) 228-4129 or vkeller@fs.fed.us.

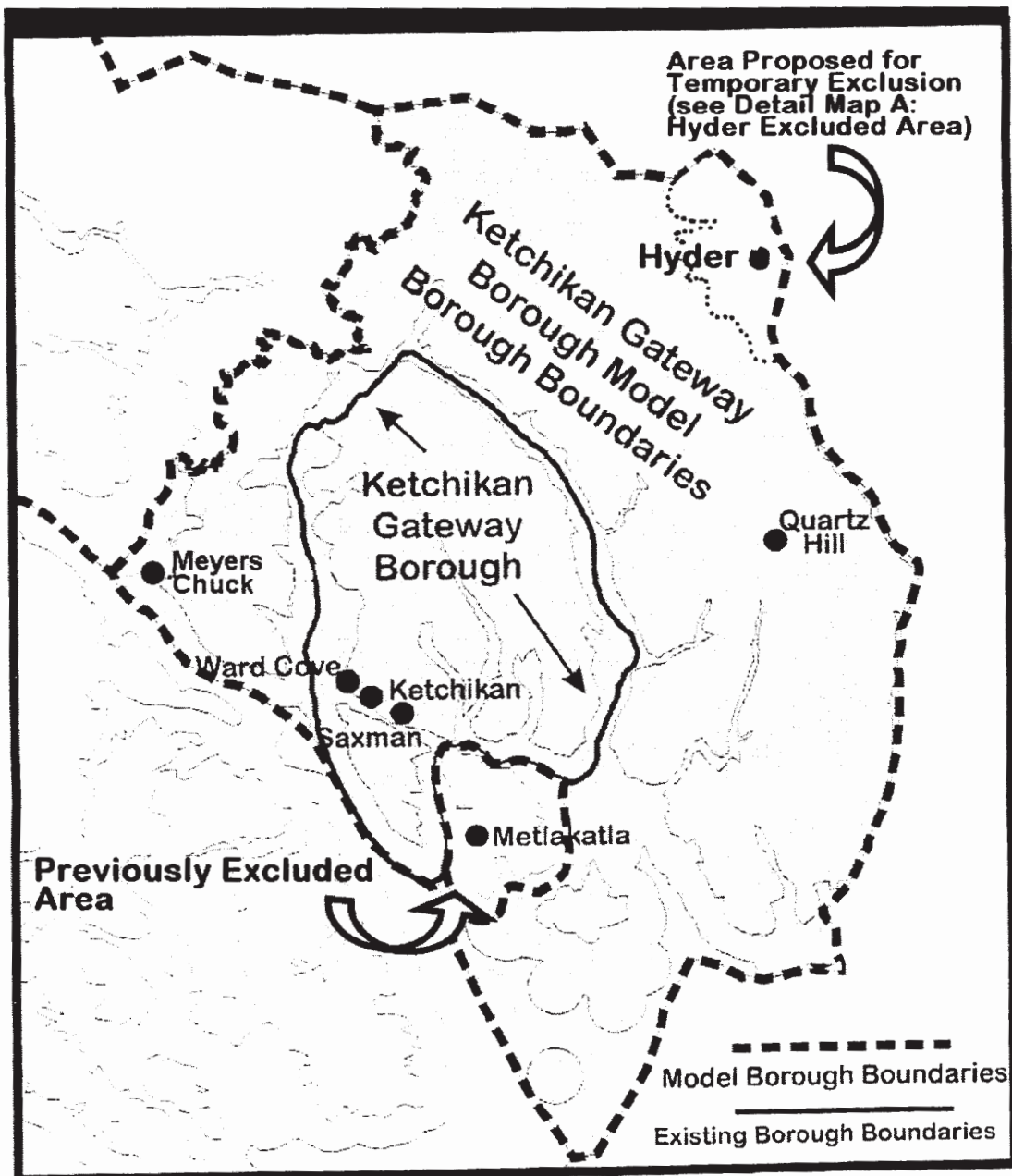
Sincerely,

A handwritten signature in black ink, reading "Lynn D. Kolund". The signature is fluid and cursive, with the first name "Lynn" being more prominent and the last name "Kolund" following in a similar style. The initials "D." are written between the first and last names.

LYNN D. KOLUND
District Ranger

EXHIBIT C MAPS AND PLATS

A map showing the existing boundaries of the Borough and the boundaries of the area proposed for annexation are presented in this Exhibit.



JUNE 5TH 2006

DEAR STATE OF ALASKA

MY NAME IS LAUREN E ROGERS AND I'M WRITING TO YOU ABOUT THE NOTICE OF FILING OF PETITION FOR INCORPORATION OF THE CITY AND BOROUGH OF WRANGELL.

MY HOME IS LOCATED ON LOT 2 BLOCK 4 OF THE THOMS PLACE COVE HOMESITE AREA. I DO NOT SUPPORT THIS PETITION IN ANY WAY. ALTHOUGH I RESPECT THE RIGHTS OF OTHERS TO WANT TO BE IN A WRANGELL BOROUGH I DO NOT WISH TO BE SO.

I WON THIS LAND YEARS AGO IN A STATE LAND DRAWING. MY WIFE AND I MOVE HERE AND BUILT A SMALL HOME. WE FISH SALMON ON OUR 30 FT HAND TROLLER.

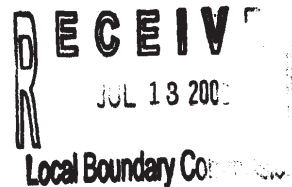
WE BOTH FEEL SO BLESSED TO HAVE THIS WONDERFUL PLACE. I KNOW THEY WILL START TO TAKE OUR LAND AND THIS WILL BE A HARDSHIP THAT WILL ONLY GROW.

I ASK FOR YOUR SUPPORT IN REJECTING THIS. I KNOW THERE IS ALWAYS THIS TALK ABOUT BOROUGHS COMING, PLEASE JUST NOT NOW.

THANK YOU FOR YOUR TIME



LAUREN E ROGERS
PO BOX 842
WRANGELL AK
99929



Ernie Christian
P.O. Box 428
Wrangell, Alaska
99929
7/14/06

LBC
550 W. 7th Ave. Suite 1770
Anchorage, Alaska
99501

To Whom It May Concern:

My name is Ernie Christian and I'm a life-long resident of the State of Alaska and have live in Wrangell since 1981. I support the formation of the City and Borough of Wrangell.

I believe by forming a Borough the City of Wrangell will benefit in many ways. First, it will equalize the tax base and allow our schools to receive more money to support education. Second, if Wrangell doesn't form a borough, we might be annexed by another Borough. Third, Wrangell will receive more revenue for resource development beyond current City limits.

Overall, I see the formation of the Borough as a positive step for Wrangell and the surround areas. It will strengthen our economy in many ways. It will add more residents to the local economy and give us more "clot" in the legislature. I look forward to the Borough and the potential it brings to the Wrangell area. Thank you for your time reading my thoughts concerning the formation of the Borough for Wrangell.

Sincerely yours,

Ernie Christian

Subject: Wrangell Alaska
From: Nolan Center <nolancenter@wrangellalaska.org>
Date: Fri, 14 Jul 2006 09:13:39 -0800
To: lbc@commerce.state.ak.us

Dear Sirs,

I am writing this email to support the petition for boro from the City of Wrangell. I believe that this would be a great advantage for this community and would encourage you to authorize this request.

Marcy Garrison
PO Box 2223
Wrangell AK 99929

Subject: Wrangell
From: Terri - WMLP <wmlp@gci.net>
Date: Fri, 14 Jul 2006 14:19:42 -0800
To: lbc@commerce.state.ak.us

To whom it may concern,

My Name is Terri Henson and I live in Wrangell and I'm also on the Planning and Zoning commission. This is a quick note to let you know that I support the Borough formation.

Terri Henson
PO Box 317
Wrangell, AK 99929

Subject: Boro Formation-Wrangell
From: Janell Privett <jprivett@aptalaska.net>
Date: Thu, 13 Jul 2006 18:37:45 -0800
To: lbc@commerce.state.ak.us

I am sixteen years old and would like to support all of the Privett emails as far as supporting the Boro formation...I understand this as the best formation for Wrangell and believe it is time for Wrangell to get started on this formation. Thank you for considering my opinion...

Jillian Victoria Privett

Janell R. Privett
jprivett@aptalaska.net

Subject: Wrangell Boro Formation

From: Janell Privett <jprivett@aptalaska.net>

Date: Thu, 13 Jul 2006 18:28:14 -0800

To: lbc@commerce.state.ak.us

I would like to go on record as being in full support of the Wrangell Boro Petition, as presented by the City of Wrangell this is the most viable proposal for all involved in this Boro proposal.

Thank you for receiving my support,

Janell R. Privett

jprivett@aptalaska.net



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET • KETCHIKAN, ALASKA 99901

Office of the Borough Manager, Manager Roy Eckert • roy.eckert@borough.ketchikan.ak.us

• 907/228-6625 • Fax 907/247-6625

July 14, 2006

Mr. Dan Bockhorst
Division of Community Advocacy
Department of Commerce, Community, and
Economic Development
550 West 7th Avenue, Suite 1770
Anchorage, AK 99501-3510

RE: Written comments regarding Petition to the Local Boundary Commission for
Incorporation of the City and Borough of Wrangell as a Unified Home Rule Municipality

Please accept the enclosed comments submitted on behalf of the Ketchikan Gateway Borough regarding Wrangell's pending petition before the Local Boundary Commission (LBC) for Incorporation of the City and Borough of Wrangell as a Unified Home Rule Municipality. These comments are submitted pursuant to 3 AAC 110.480.(d).

The purpose of this correspondence is to clarify various items of record in Wrangell's petition and to express support for an LBC decision that is consistent with state law and constitutional provisions. The present work of the LBC will establish a spirit of precedence and it is the KGB's wish that this precedence will support a sound basis for future local government expansion in Southeast Alaska and the state as a whole.

Generally speaking, the Ketchikan Gateway Borough (KGB) supports and encourages Wrangell's efforts to expand local government in the region. This effort complements other efforts, including Ketchikan's, to build a stronger system of local government in Southeast Alaska. With respect to Wrangell's petition to annex a portion of Ketchikan model territory including the settlements of Meyers Chuck and Union Bay, it should be noted that the Ketchikan Gateway Borough Assembly, at its meeting of February 6, 2006, approved an annexation petition application that proposes annexation of this same territory into an expanded Ketchikan Borough. The petition includes ample evidence regarding the consistency of this petition with all state regulations. In a separate action, the Borough Assembly also indicated "that the Borough would register no objection if Wrangell chose to include the enclave (of Meyer's Chuck) in their borough."¹

The KGB offers the following notes regarding Wrangell's petition:

Page 8 of the petition lists 13 area-wide services which will be provided to all residents of the proposed municipality including residents in outlying areas. The ability of the proposed municipality to pay for all of these services based upon a 4 mil minimum area-wide property tax is unconvincing.

¹ Borough Assembly minutes of February 6, 2006

<http://www.borough.ketchikan.ak.us>

Page 11 of the petition states that all communities within the proposed borough (including Meyers Chuck and Union Bay) are connected to Wrangell by a public roadway, regularly scheduled airline flights on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications as required by 3 AAC 110.045(d). The KGB would note for the record that charter air service between Wrangell and Meyers Chuck/Union Bay is infrequent according to the one air operator based in Wrangell that provides non-scheduled, charter only air-service and that carries limited freight.² This is compared to air service from Ketchikan which has weekly scheduled service to Meyers Chuck. Combined air carrier statistics to Meyers Chuck for 2004 (approximately 40 air miles distant) indicate 210 regularly scheduled passenger trips, 3,648 pounds of freight, and 13,609 pounds of mail out-bound and 88 trips, 335 pounds of freight, and 221 pounds of mail in-bound to Ketchikan³. In addition, Wrangell's public radio station KSTK, sends to Meyers Chuck only a "weak signal that would be difficult to receive with standard radio equipment".⁴ This contrasts to the fact that Meyers Chuck and Union Bay residents receive broadcasts, or are within the service areas of four Ketchikan radio stations: KRBD FM (public radio)⁵, KTKN AM/KGTW FM,⁶ and KFMJ FM⁷

Exhibit C, page 2 does not list Ketchikan-based KRBD FM (public radio) as a communication service provider in the area proposed for annexation. The other radio stations listed in the petition apparently do not reach Meyers Chuck or Union Bay with sufficient strength or predictability to constitute reliable service.

Exhibit D-1, Note 9: should be clarified to accurately state that emergency 911 calls from Meyers Chuck and Union Bay are routed to, and dispatched by Ketchikan-based service providers (State Troopers or City Police).⁸ In addition, it is not clear in the event of annexation who would dispatch 911 calls to the Meyers Chuck/Union Bay area.

Exhibit H, page 6. The petitioner notes that the proposed City and Borough of Wrangell (CBW) boundary will depart from the existing Wrangell Ranger District Boundaries and include part of the Ketchikan Ranger District on the Cleveland Peninsula in order to follow natural geography. In fact, the boundaries of the two ranger districts (which also follow model boundaries) are already based upon natural geography (watersheds) and other long established features and no departure from these boundaries is necessary for the petition to comply with 3 AAC 110.060 (Boundaries).

Exhibit H, page 10. The petitioner states that at least 25 people live in the Meyers Chuck Union Bay area. State estimates for Meyers Chuck are 15⁹ and there are no estimates for Union Bay although the CBW petition contains one (1) signature from a Union Bay resident. Resident testimony suggests that the year-round population of Meyers Chuck is smaller than the 15 estimated by the state. At the special Assembly meeting of June 27, 2005, it was noted that perhaps six or so people were commuters (i.e. Ketchikan) and another 20 or so were summer only residents and a few people were residents at least nine months of the year.¹⁰

² Source: Sun Rise Aviation, 6/1/06.

³ Source: ProMech Air and Pacific Airways, March 8, 2005 and Federal Dept. of Transportation Bureau of Transportation Statistics website www.bts.gov, March 7, 2005.

⁴ KSTK Radio Staff, July 6, 2006.

⁵ Signal received according to KRBD staff.

⁶ Weak signal according to KTKN staff.

⁷ Meyers Chuck is within their service area although the strength of the signal is unknown according to KFMJ staff.

⁸ According to AP&T staff, July 3, 2006 and State Troopers, July 7, 2006.

⁹ DCEED 2005 Certified Population. Union Bay is not included in the list of Alaska communities.

¹⁰ Special Assembly Meeting Minutes, June 27, 2005, page 3.

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KTN GATEWAY BOROUGH

9072476625

P.04/05

One resident noted that she was there by herself for a while during the winter of 2004/2005.¹¹ As such, the KGB questions whether or not Meyers Chuck constitutes a community under 3 AAC 110.920.

Exhibit H, page 27. The CBW petition places a great deal of relevance and importance upon the historic boundaries of aboriginal uses and ownership within the Wrangell Territory as presented in Haa Aani, Our Land, Tlingit and Haida Land Rights and Use prepared by Goldschmidt and Haas. This is presented to satisfy the requirement under 3 AAC 110.045, Community of Interest standard. The KGB agrees that these historic boundaries should be considered during contemporary decisions. However, it also believes that the particular relevance of these boundaries in these decisions should be the result of deliberations by the tribal organizations affected and not simply by previous studies presented by local government. The petition contains no record that such consultations occurred with the affected tribal groups or that these groups share the boundary claims and their relevance as presented in the petition.

Exhibit H, pages 34-36. In support of consistency with 3 AAC 110.045, Community of Interest standard, the CBW petition presents the fact that the City of Wrangell, including the area proposed for incorporation, lies outside any of the "Nonsubsistence" areas designated by the State, including the Ketchikan Nonsubsistence Area. The relevance of this, according to the petition, is to distinguish Wrangell as a rural area more compatible with the needs and sentiments of rural settlements such as Meyers Chuck as opposed to urban areas such as Ketchikan. Ketchikan responds that aside from the fact that all Alaskans, including Ketchikan and Wrangell residents, have access to the state's fish and game resources under Article 8 of the Alaska's constitution, that the conclusions drawn here are far from obvious. Specifically, 5 AAC 99.016, which governs activities in a non-subsistence area, allows all of the same fish and game harvest activities allowed in subsistence areas under personal use regulations. The principal difference is not cultural (Ketchikan residents also hunt and fish a great deal) as it is regulatory. The non-subsistence designation makes it easier to manage the sustainable yield of the resource since, under the code, subsistence hunting and fishing regulations do not apply in this area and the subsistence priority does not apply. Finally, the Borough finds Wrangell's claim somewhat specious that, as an urban area similar, but smaller than Ketchikan, it is somehow more dependent upon fish and game for household survival than Ketchikan.

Exhibit H, page 37. The CBW states that "Wrangell serves as a hub for nearly all economic activity in the area..." No evidence is offered to support the claim that residents in the Meyers Chuck area secure any services from Wrangell. To the contrary, all evidence, based upon air freight and passenger manifests, Postal Service data, and newspaper ads, suggests that Meyers Chuck residents secure most of their services from Ketchikan. In addition, the petition presents no real evidence that Clarence Strait somehow impedes the existing social and economic activity between Ketchikan and Meyers Chuck/Union Bay.

Exhibit H, page 38. According to KSTK Wrangell public radio staff, their radio signal is too weak to provide adequate service to Meyers Chuck/Union Bay using typical consumer radio equipment there. This contradicts the petition's claim that KSTK provides broadcasts to the Meyers Chuck area.

Exhibit H, page 42. The petition documents four search and rescue service calls by the Wrangell Volunteer Fire Department in the Meyers Chuck/Deer Island area between 1998 and 2005. In contrast, the Ketchikan-based State Troopers had 29 service calls in the Meyers Chuck/Union Bay area during the same time period.¹²

¹¹ Ibid.

¹² Source: Alaska State Troopers, Ketchikan Office

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KTN GATEWAY BOROUGH

9072476625 P.05/05

Exhibit H, page 52. The petition states that due to the abandonment of some joint venture mineral claims in the Union Bay area, that the potential for mineral development is not a sound basis for annexation of this area by the Ketchikan Gateway Borough. While it's true that a number of mineral claims have been abandoned in the Union Bay area, it is also true that there are still 78 claims covering 1,560 acres in the area as of May 2006.¹³ The potential for commercially viable mineral deposits in the Ketchikan region, and for that matter throughout Southeast Alaska, is well known. Commercial mineral recovery is inevitable depending upon world market forces. In addition, the existence of oil and gas deposits in British Columbia's Queen Charlotte Basin (adjacent to the southern model boundary) is also well documented¹⁴ and underscores the importance of developing a local government perspective and response to any future recovery activities.

In summary, the Ketchikan Gateway Borough supports the expansion of local Borough government as proposed by the City of Wrangell petition. Such a proposal, if successful, will shift the management of local government services to local citizens and their elected officials where they are best suited. The KGB also does not formally object to Wrangell's proposal to include a portion of Ketchikan's model territory (the Meyers Chuck/Union Bay area) within Wrangell's proposed boundaries. However, it is our conviction that the merits of such a decision should be evaluated on a complete and factual record in order to assure that the decision complies with state constitutional policies and laws to the greatest extent possible.

Thank you for your consideration.

Best regards,



Roy Eckert
Borough Manager

C: Borough Assembly
Borough Attorney
Principal Planner

¹³ Source: USFS, Realty Department, May 19, 2006.

¹⁴ Source: <http://www.cwilson.com/pubs/energy/legalshoals.pdf> and
<http://temagami.carleton.ca/jmc/cnews/01042005/n4.shtml>

<http://www.borough.ketchikan.ak.us>

Subject: Boro Formation-Wrangell
From: Janell Privett <jprivett@aptalaska.net>
Date: Thu, 13 Jul 2006 18:35:38 -0800
To: lbc@commerce.state.ak.us

Marni Privett resident of Wrangell for 18 years, just about to be 19 years, I am in full support of the Boro Formation as presented by the City of Wrangell, it seems to be the best formation for all those involved and we all have about the same rural community needs...having something in common with your neighbors is important when forming a Boro that will try to keep things as equal as possible.

Marni E. Privett

Janell R. Privett
jprivett@aptalaska.net

Subject: Meyers Chuck
From: "C. Meyer" <myc@whidbey.state.ak.us>
Date: Fri, 14 Jul 2006 14:09:30 -0700
To: lbc@commerce.state.ak.us

Dear Sir,

I am writing this e-mail in response to the once again discussion of Meyers Chuck joining a borough. I'm not sure what can be said that hasn't been said before except once again I state that if the State is going to require Meyers Chuck to belong to a borough then that borough needs to be Wrangell. Ketchikan in no way cares about the community as has been proven time and time again by the lack of listening on the people of Meyers Chuck by the Ketchikan Borough.

My family have been property owners in Meyers Chuck since 1969. It is a wonderful small Alaskan community the kind of community like others throughout the State that made this State what it is today. I think it is wrong for the State to require small independent communities to join boroughs if that is not their wish. In my way of thinking it is a crime for the State to further dictate the borough that a community must join.

Wrangell is my choice for supplies and general maintenance. It is where I go now and where I will continue to shop. Wrangell is a small Alaskan town much like Ketchikan used to be in the late 40's and 50's. Wrangell is concerned about the community of Meyer's Chuck as a whole and are willing to listen to the peoples' opinion.

I reinstate my first vote is to keep the community of Meyer's Chuck independent and my second vote is to join the Wrangell borough.

Thank you for taking the time to read this e-mail and I trust you will not only read it but take it to heart as you make your decisions concerning a community and the individuals who live in that community.

Sincerely,

Cheryl A. Meyer
Lot 9 Meyer's Chuck

Subject: boro
From: Olga Norris <olganor@aptalaska.net>
Date: Thu, 13 Jul 2006 21:55:56 -0800
To: lbc@commerce.state.ak.us

I support the borough formation.

Olga Norris
Norris Gift Shop
Box 675
Wrangell, ak. 99929
phone 907 874 3810
907 874 3809 home

Subject: Wrangell Boro Formation

From: Janell Privett <jprivett@aptalaska.net>

Date: Thu, 13 Jul 2006 18:43:05 -0800

To: lbc@commerce.state.ak.us

I am in support of the Wrangell Borough since it will help expand our tax base as well as putting the community in a better position to have a say in the lands around Wrangell. Which have an impact on our well being. A unified borough will give us a more stream lined government at eh local level without small local entities having a greater say then the majority of the people within our boundaries. Since Wrangell already covers the Wrangell Ranger District on search and rescue matters it seems logical that we would then be able to assess those individuals who rely on our communities resources already. Classic example is the Bear attack at Berg Bay when Wrangell Search and Rescue were the first to responders.

Sincerely,

William B. Privett

Janell R. Privett

jprivett@aptalaska.net

Subject: Wrangell Borough petition
From: "Rice, Peter (MD)" <PRice@peacehealth.org>
Date: Thu, 13 Jul 2006 19:22:30 -0800
To: lbc@commerce.state.ak.us
CC: "Carol Rushmore (E-mail)" <ecodev@wrangell.com>

I am writing in support of the Wrangell Borough petition, and , specifically, in support of inclusion of Meyers Chuck and nearby areas in Ernest Sound in this petition.

As has been pointed out by previous communication from me to the Boundary Commission, I believe that this proposed Borough represents the best fit for these two communities, and I also feel there is a sound geographical and social justification for redrawing the model boundaries to include all Ernest Sound communities with Wrangell.

Please move ahead with approval of this proposed Borough. Please also take note of the unanimous support of the people of Meyers Chuck in previously submitted letters, and petitions.

Sincerely,

Peter Rice

land owner and part time resident of Meyers Chuck since 1972

This message is intended solely for the use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable state and federal laws. If you are not the addressee, or are not authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, distribute, or disclose to anyone this message or the information contained herein. If you have received this message in error, immediately advise the sender by reply email and destroy this message.

Subject: Boro Formation-Wrangell

From: Janell Privett <jprivett@aptalaska.net>

Date: Thu, 13 Jul 2006 18:32:36 -0800

To: lbc@commerce.state.ak.us

I am Samuel Raymond Privett and would like to go on record as supporting the City of Wrangell's proposed Boro Formation as presented to the Boro Commission.

Samuel Raymond Privett III

Janell R. Privett

jprivett@aptalaska.net

Subject: letter of support
From: Wrangell Chamber of Commerce <wchamber@gci.net>
Date: Fri, 14 Jul 2006 14:28:46 -0800
To: lbc@commerce.state.ak.us

July 14, 2006

Local Boundary Commission Staff
550 W. Seventh Ave., Suite 1170
Anchorage, AK 99501-3510

Dear LBC Staff:

As a local resident I am writing this letter in support of the pending petition to form a home rule, unified municipality of the City and Borough of Wrangell.

I am a life long Wrangell resident, and can see the advantages of forming a borough, such as much needed services as electricity, fire, ambulance and police response. I also work with the local tribal government as such worker I have been told of the importance of the areas mentioned by the tribal elders, such as fishing, hunting, and berry collecting.

If you have any questions regarding this letter please feel free to contact me at: (907) 874-3486.

Sincerely,

Augie Schultz

P.O. Box 49
Wrangell, Alaska 99929
Phone: 907-874-3901
Fax: 907-874-3905
Website: www.wrangellchamber.org
E-mail: wchamber@gci.net

Leading our community to a brighter future

Subject: boro
From: Wrangell Chamber of Commerce <wchamber@gci.net>
Date: Fri, 14 Jul 2006 15:03:50 -0800
To: lbc@commerce.state.ak.us

TO WHOM IT MAY CONCERN - PLEASE PUT ME ON RECORD AS A SUPPORTER FOR THE CITY OF WRANGELL BORO FORMATION. I BELIEVE THAT OUR COMMUNITY WOULD GREATLY BENEFIT FROM DOING SAME. C.L. SNODDY

P.O. Box 49
Wrangell, Alaska 99929
Phone: 907-874-3901
Fax: 907-874-3905
Website: www.wrangellchamber.org
E-mail: wchamber@gci.net

Leading our community to a brighter future

Subject: Letter of Support

From: Wilma Leslie <wilma@alaskawaters.com>

Date: Fri, 14 Jul 2006 09:02:59 -0900

To: lbc@commerce.state.ak.us

To Whom It May Concern:

I was born and raised in Wrangell. My husband and I were previously owned a timber felling company. We now own a small "ma and pa" charter company and rv park.

It is imperative for Wrangell to organize into a borough in order to be a viable city in the future and to help the outlying villages and our community with economic diversity and recovery.

Thank you for your time and consideration.

Sincerely,

Wilma E. Stokes-Leslie
P.O. Box 2133
Wrangell, AK 99929

Subject: Wrangell borough
From: John Taylor <taylorandsons@gci.net>
Date: Fri, 14 Jul 2006 07:57:31 -0800
To: lbc@commerce.state.ak.us

I am in full support of the formation of the Wrangell Borough.

John Taylor
318 McKinnion Street
PO Box 2076
Wrangell, AK 99929

Subject: Boro Support-Wrangell
From: Janell Privett <jprivett@aptalaska.net>
Date: Thu, 13 Jul 2006 18:31:06 -0800
To: lbc@commerce.state.ak.us

My name is Shane Privett and I would like to be recorded as being in support of the Wrangell Boro proposal, I believe this will give all parties and meet the required mandate for Boro formation, I support the City of Wrangell's proposed Boro Formation.

Shane Legg-Privett

Janell R. Privett
jprivett@aptalaska.net

Subject: Meyers Chuck: Wrangell Borough
From: Cathryn Vanderzicht <cvan@whidbey.net>
Date: Fri, 14 Jul 2006 16:14:38 -0700
To: lbc@commerce.state.ak.us

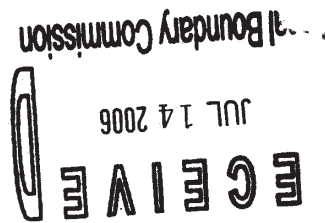
Dear Sir:

I am a property owner in Meyers Chuck and want to comment concerning Meyers Chuck being incorporated into Wrangell Borough. The residents of Meyers Chuck have voiced their opinions about not belonging to any borough. It seems evident that this would be the choice for all of us. If Meyers Chuck must belong to a borough, Wrangell Borough would be much preferable to Ketchikan. Throughout this whole process Ketchikan has not responded in any way to the opinions of the Meyers Chuck residents. Anything we have to say is simply brushed aside.

The residents of Meyers Chuck have much more in common with Wrangell than Ketchikan. Personally, I travel to Wrangell to shop at the grocery and hardware stores regularly. The small town atmosphere of Wrangell suits Meyers Chuck to a greater degree than the cruise ship culture of Ketchikan. I am looking for work to be done on my boat and I am looking to Wrangell, not Ketchikan. Several former Meyers Chuck residents have chosen Wrangell as their home when they were no longer able to live in Meyers Chuck.

It seems as though time and again, residents of Meyers Chuck make known their opinions, but rarely do we feel as though we are listened to. It seems that Ketchikan views our community as a way to bring money into their borough. I certainly have not heard of any way that they will enhance our lives here. At least Wrangell seems much more open to listening to us and, as I have repeated in other correspondence, we feel we have much more in common with Wrangell than Ketchikan.

Sincerely,
Cathryn Vanderzicht
lot 8
Meyers Chuck, AK 99903



REBECCA WELTI
GREG RICE
ISLAND D
MEYERS CHUCK
AK. 99903

TO MEMBERS OF THE LOCAL BOUNDARY
COMMISSION:

JULY 11, 2006

WE WOULD LIKE TO AGAIN VOICE OUR SUPPORT OF WRANGELL'S
PETITION TO INCLUDE MEYERS CHUCK AND UNION BAY IN
THEIR PROPOSED BOROUGH. SINCE WE ARE LOCATED ON THE
BOUNDARY OF THREE PROSPECTIVE BOROUGHES, WE BELIEVE THAT
WE SHOULD HAVE THE CHOICE OF WHICH ONE WOULD BEST SUIT
OUR NEEDS AS A COMMUNITY. THANK-YOU FOR YOUR CONSIDERATION.

SINCERELY,

REBECCA WELTI Rebecca Welti
GREG RICE G R

Appendix F

Petitioner's Reply to Post-Petition Comments

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

IN THE MATTER OF THE PETITION FOR THE)
INCORPORATION OF A CITY AND BOROUGH)
OF WRANGELL, ALASKA)

PETITIONER'S REPLY BRIEF

In accordance with the interests of the State regarding formation of regional boroughs and the removal of lands from the Unorganized Borough, the Petitioner here is seeking to incorporate a City and Borough of Wrangell (CBW). The CBW would encompass an area approximately 3,645 square miles in size and include the communities of Wrangell and Meyers Chuck/Union Bay.

In response to the statutory notice given regarding the filing of this petition, thirty-five written comments and no responsive briefs have been received. In contrast to most filings before the Local Boundary Commission, which typically generate significant and spirited opposition (including, for example, the recent annexation petition filed by the Ketchikan Gateway Borough (KGB)), the overwhelming majority of comments here are supportive of formation of a Wrangell Borough. Moreover, even though it takes issue with some of Wrangell's contentions regarding greater connections with the Meyers Chuck/Union Bay region of which the KGB also seeks annexation, the KGB ultimately would not object to inclusion of this area in the CBW. See, comments of KGB, pp. 1, 4. The comments filed reflect the view that incorporation will benefit the area as a whole, combining into one borough an area of Alaska which has strong historical, economic and cultural ties, that will provide to area residents the opportunity to have effective influence and control over governmental decision-making at the local level.

Of the few comments that expressed any objection to the petition, these did not generally oppose borough formation itself, but rather were limited to the issue of the boundaries of that borough; specifically, (1) whether, as suggested by the KGB and the United States Forest Service (USFS), the western drainage area of the Cleveland Peninsula, and the community of Meyers Chuck/Union Bay, should be annexed by the KGB despite the strong connections between that area and the City of Wrangell and the

overwhelming preference expressed by area residents to be included in a Wrangell Borough rather than the KGB, and (2), whether, despite the City of Wrangell's long-standing and continuous provision of municipal services to the region and its low per capita taxpayer-borne debt, the Wrangell Borough would have the financial wherewithal to provide those services to a region of the size proposed.

This reply memorandum fully answers these comments. As is set out in detail below, the proposed Wrangell Borough is fully capable of providing municipal services to the area to be incorporated, and in fact the City of Wrangell has to a great extent already been doing so. The budget for the proposed borough demonstrates surpluses, and the City provides a strong precedent of continuous and responsible local government. Furthermore, the proposed boundaries would bring together an interrelated area, whose citizens share common rural lifestyles and have significant economic ties. The cities of Wrangell and Petersburg have agreed upon a common shared boundary, and each is separately moving forward with borough formation. Additionally, the comments submitted by the residents of the western Cleveland Peninsula area demonstrate that those residents unanimously prefer inclusion in a Wrangell Borough over Ketchikan.

A. Inclusion of Meyers Chuck/Union Bay in the Wrangell Borough.

1. Local Preference.

Most of the residents of Meyers Chuck/Union Bay have submitted written comments to the Local Boundary Commission, both to the CBW petition and in connection with the KGB's annexation proposal. The vast majority of those commenting have stated that they strongly prefer to be included in a Wrangell Borough as opposed to the KGB.¹

I live in Meyers Chuck, Alaska and am totally supportive of our inclusion into the Wrangell Borough. (comments of Cliff Hall, P.O. Box 35, Meyers Chuck.)

¹ This is in accord with the numerous signatures from residents of the area on the initial petition. See, Exhibit A-2.

Socially, the residents of Meyers Chuck have more in common with residents of Wrangell rather than residents of Ketchikan. Therefore, if Meyers Chuck is to be included in a borough, most residents would rather be associated with Wrangell than Ketchikan. (comments of Robert M. Meyer, #6 Beach Path, Meyers Chuck.)

Wrangell is our choice of Boroughs. ... If you listen to the people of Meyers Chuck, you will know how we ALL feel, because it is a 100% choice!! (comments of Catherine and Steve Peavey, P.O. Box 5, Meyers Chuck.)

[I]f the State is going to require Meyers Chuck to belong to a borough then that borough needs to be Wrangell. (comments of Cheryl A. Meyer, Lot 9, Meyers Chuck.)

We would like to again voice our support of Wrangell's petition to include Meyers Chuck and Union Bay in their proposed borough. (comments of Rebecca Welti and Greg Rice, Island D, Meyers Chuck.)

If Meyers Chuck must belong to a borough, Wrangell Borough would be much preferable to Ketchikan. ... [W]e feel we have much more in common with Wrangell than Ketchikan. (comments of Cathryn Vanderzicht, Lot 8, Meyers Chuck.)

I am writing in support of the Wrangell Borough petition, and specifically, in support of inclusion of Meyers Chuck and nearby areas in Ernest Sound in this petition. (comments of Peter Rice, part-time resident/land owner, Meyers Chuck.)

[I]f we are forced to choose between the Ketchikan Borough and a Wrangell Borough, the Wrangell Borough makes more sense on a social, economic, geographic and cultural note. (comments of Debbie Johnson, P.O. Box 100, Meyers Chuck.)

The needs of Meyers Chuck are more readily met by Wrangell, and our association with that borough will certainly benefit both communities. (comments of Dave and Maggie Grantham, P.O. Box 87 Meyers Chuck.)²

2 Three additional Meyers Chuck residents submitted written comments. One acknowledged that it may be appropriate to include Meyers Chuck in a Wrangell Borough in the future, but believed that there was "no immediate call for this action" (comments of Dan Higgins and Carol Brown, Harbor Point, Meyers Chuck); another stated strongly that they did not wish to be part of any borough, but that "[i]f, however, the state cannot see to our autonomy, we would request to be part of the Wrangell borough." (comments of Vince and Cherri Langley, P.O. Box 1, Meyers Chuck); and

The KGB itself implicitly recognized the importance of honoring the stated local preference when its Assembly indicated that it “would register no objection if Wrangell chose to include the enclave (of Meyer’s Chuck) in their borough.” See, comments of KGB, page 1.³ The Assembly’s comments were presumably influenced by the testimony presented before it by Meyers Chuck/Union Bay residents uniformly opposing annexation of the area into the KGB.

This local resident preference is understandable given their common rural lifestyles and sensibilities with the other residents of the proposed borough⁴, and the

lastly another described inclusion of Meyers Chuck in a Wrangell borough over Ketchikan as the lesser of two evils, “with Prince of Wales making more sense than either of those options.” (comments of Robert Hunley, P.O. Box 7 Meyers Chuck). As to this latter point, there is no current proposal, or even one being considered, regarding formation of a Prince of Wales Borough, and the financial and human resources and potential viability of such a borough are unknown. It is important to note that Wrangell’s petition does not presume that the western drainage area of the Cleveland Peninsula has connections only with Wrangell, to the complete exclusion of either Ketchikan or Prince of Wales Island. Rather, it notes that this area, and the other areas of the proposed Wrangell Borough, have significant social and economic ties, and that the residents of the area overwhelmingly prefer inclusion in a Wrangell Borough over annexation by Ketchikan.

3 The KGB reiterated this position at page 4 of its comments:

“The KGB also does not formally object to Wrangell’s proposal to include a portion of Ketchikan’s model territory (the Meyers Chuck/Union Bay area) within Wrangell’s proposed boundaries.”

The KGB has inexplicably referred to the Meyers Chuck/Union Bay area as an “enclave” within the proposed Wrangell Borough, but this is in error. The western drainage area of the Cleveland Peninsula is contiguous with the mainland to the north, which is included in the proposed borough.

4 See, e.g., written comments of Debbie Johnson (“We have historically shared the same geographic areas as the Wrangell community for hunting and fishing. ... The lifestyle of the community of Wrangell has more in common with the residents of Union Bay and Meyers Chuck than Ketchikan.”); Cathryn Vanderzicht (“The small town atmosphere of Wrangell suits Meyers Chuck to a greater degree than the cruise ship culture of Ketchikan. ... Several former Meyers Chuck residents have chosen Wrangell as their home when they were no longer able to live in Meyers Chuck.”); and Dave and Maggie Grantham (“The nature of our very rural community is far more compatible with that of Wrangell, and we have many ties there.”).

strong economic and social ties between the Meyers Chuck/Union Bay area and the City of Wrangell.

The residents of Meyers Chuck/Union Bay also prefer the maritime transportation route to Wrangell and obtain services from Wrangell. Contrary to the KGB's assertion that there is "no evidence" that they obtain services from the Wrangell area (see, comments of KGB, p. 3), the Meyers Chuck/Union Bay residents themselves have outlined their use of such services:

Personally, I travel to Wrangell to shop at the grocery and hardware stores regularly. ... I am looking for work to be done on my boat and I am looking to Wrangell, not Ketchikan. (comments of Cathryn Vanderzicht).

My husband and I have used the Wrangell boat shop for our boat maintenance in the past. We use the facilities in Wrangell for fuel and propane. (comments of Debbie Johnson).

I shopped at the local Hardware store [in Wrangell], which handles everything you can imagine. My husband even buys his fishing gear there! ... We have also had repair work done on our outboard motor at Bunes Bros. in Wrangell. (comments of Catherine and Steve Peavey).

[D]uring the past 20 years, improvements in the transportation and communication infrastructure, Prince of Wales Island communities and Wrangell have become the primary support centers for [Meyers Chuck]. (comments of Robert M. Meyer, attachment 1).

Many of the Meyers Chuck residents have skiff engine repair, buy groceries and hardware in Wrangell. ... Many of us buy our skiffs from Svensen Boats in Wrangell. We are often visited by the MV Christian, Lutheran Ministry boat, home ported in Wrangell. (comments of Vince and Cherri Langley).⁵

Wrangell is my choice for supplies and general maintenance. It is where I go now and where I will continue to shop. (comments of Cheryl A. Meyer).

⁵ As noted in this comment, and contrary to the KGB's comments (at p. 3), residents of Meyers Chuck do receive a signal from KSTK-FM, out of Wrangell. Additionally, KSTK is installing a new translator much nearer to Meyers Chuck, which will significantly improve KSTK reception there. (conversation with Matt Holmes, Coast Alaska engineer, August 21, 2006.)

Likewise, the KGB's claim that there is "no real evidence" that Clarence Strait is an impediment to travel between Meyers Chuck/Union Bay and Ketchikan (see, comments of KGB, p. 3) is completely undermined by the statements of those who actually reside in the area and live with the realities of the risks of travel on Clarence Strait:

Clarence Strait remains a major transportation impediment for those traveling to Ketchikan or across the Straits to Thorne Bay on Prince of Wales Island. (comments of Robert M. Meyer, attachment 1).

The very logistics of using our small boats and skiffs to go to Wrangell from Union Bay and Meyers Chuck for fuel and supplies is geographically safer because of protected waters the entire way, rather than the unprotected open waters of Clarence Strait. (comments of Debbie Johnson).

Protected waters going to Wrangell as opposed to traveling by boat to Ketchikan. (comments of Vince and Cherri Langley).

Ketchikan is difficult to access given the open stretch of water separating us. (comments of Dan Higgins and Carol Brown).

The KGB's contention that there is no real evidence that Clarence Strait is an impediment to travel to Meyers Chuck is also rebutted by the website of the Ketchikan Yacht Club (www.ketchikanyachtclub.org/index.php?fuseaction=home.cruising), which describes cruising opportunities around Ketchikan, including Behm Canal and areas south and west, but does not include the western Cleveland Peninsula area of Meyers Chuck and Union Bay. It does discuss Clarence Strait, however, in the context of crossing the Strait from Ketchikan to Prince of Wales (POW) Island:

Crossing Clarence Strait to arrive at ...eastern POW requires respect for Mother Nature, however, as the open water can and does churn up big seas and very brisk winds sometimes, often without a lot of notice. Mariners are advised to listen to the weather report carefully before beginning the crossing, and waiting if it appears that conditions are not good, or deteriorating.

In short, the statements made by the KGB in its written comments regarding the residents of Meyers Chuck/Union Bay, their use of services in Wrangell, and their maritime connections with adjacent areas, suggest a lack of meaningful

communications with residents of the area and a similar lack of understanding of the day-to-day lifestyles lived by those residents.⁶

2. Subsistence v. Non-subsistence areas.

The KGB asserts that the Alaska Department of Fish & Game's designation of the Ketchikan area, including the eastern drainages of the Cleveland Peninsula, as a non-subsistence area, is irrelevant, asserting that the "principal difference is not [so much] cultural...as it is regulatory". However, the regulatory distinction between the Ketchikan Non-Subsistence Area and the proposed City and Borough of Wrangell area, including the western drainages of the Cleveland Peninsula extending south past Meyers Chuck, was based precisely upon "cultural" differences between the two areas. Under 5 AAC 99.016(a), a non-subsistence area

...is an area or community where a dependence upon subsistence is not a principal characteristic of the *economy, culture and way of life* of the area or community.

(Italics added.) Based upon this recognized economic/cultural distinction between the lifestyles of the residents of the two respective areas, there is a consequential distinction in fish & game regulatory approaches.

The KGB asserts that "a non-subsistence designation makes it easier to manage the sustainable yield of the resource since, under the code, subsistence hunting and fishing regulations do not apply in this area and the subsistence priority does not apply." This statement itself demonstrates insensitivity to those rural residents who are

⁶ This lack of communication and understanding extends to its comments regarding the population of Meyers Chuck/Union Bay. See, KGB comments, p. 2. The CBW petition's estimate of at least 25 residents for the area comes directly from discussions with residents of Meyers Chuck, including the postmistress. The information provided was verified by Independent research of voter registration records and the last available (2004) permanent fund dividend application information. This research showed that in 2004, 22 residents applied for a permanent fund dividend at their addresses in Meyers Chuck/Union Bay. The residency of one additional person was obtained from voter registration records. The continued and present residency of those 23 citizens was verified by recent discussions with the postmistress. Also, in the last year or so, at least two more people have moved to Meyers Chuck/Union Bay, for a grand total of 25 or more.

dependent upon a subsistence lifestyle, as are many of the residents in Meyers Chuck, Union Bay, and Wrangell. True, fish & game regulation is “easier” in a non-subsistence area because the regulators do not need to be concerned with applying subsistence priorities in hunting and fishing regulations in such areas. See, 5 AAC 99.016(b). However, in the areas where subsistence regulations do apply, including Meyers Chuck/Union Bay and the entire proposed City and Borough of Wrangell, whenever the level of harvest jeopardizes sustained yield of a fish stock or game population, non-subsistence harvest must be restricted or eliminated before there can be any reduction in taking for subsistence usages. See, 5 AAC 99.010(c). This is an important regulation to those whose lives depend upon subsistence. The reason the Department of Fish and Game applies such regulations in the Wrangell, Meyers Chuck and Union Bay areas and not in the Ketchikan area is that the economy, culture and lifestyle of Wrangell area residents is rural and subsistence-oriented as compared to the urban lifestyle of those in the Ketchikan non-subsistence area. These distinctions in regulatory areas were not arbitrarily drawn; they were the product of careful study by the Department of Fish & Game of the relative dependence of residents on subsistence in the two distinct areas.⁷

3. 1957 Constitutional Election Districts.

The KGB has contended that its proposed inclusion of all of the Cleveland Peninsula in an expanded Ketchikan-Gateway Borough more closely follows the Ketchikan election district identified by the Constitutional Convention, and the resulting mandatory boroughs identified by the Legislature in 1963. This is not true. The election districts described in Article XIV, Section 3 of the 1957 Supplement to the Constitution of Alaska, using a boundary nearly identical to that of the proposed City and Borough of Wrangell, divides the Cleveland Peninsula down its ridgeline as far south as Lemesurier Point, near Meyers Chuck, with only that portion of the northern Cleveland Peninsula which drains into Behm Canal (on its east side) included within the Ketchikan area. This is the area adopted by reference to describe the proposed Ketchikan Borough in the legislature’s 1963 Mandatory Borough Act. Attached hereto as exhibit 1 is a map of

⁷ Conversation with Mike Turek, Subsistence Resource Specialist, Division of Subsistence, Southeast Office.

the Cleveland Peninsula region, depicting (1) the boundary of the Ketchikan election district described by the Constitutional Convention and used to identify the mandatory Ketchikan Borough, (2) the nearly identical boundary of the proposed City and Borough of Wrangell and (3) the substantially different boundary which would be created by the proposed KGB annexation. While the proposed Wrangell Borough boundary varies slightly from the election district identified by the Constitutional Convention, it is far more similar than the KGB's proposed annexation boundary.

4. Ranger Districts.

Without reference to any borough incorporation standards found in Alaska statutes or departmental regulations, the Ketchikan-Misty Fjords Ranger District of the U.S. Forest Service (USFS), suggests that the boundaries of the Wrangell Borough should match the Ranger District boundaries solely for the administrative convenience of the federal government. See, July 7, 2006 comments of District Ranger Kolund. Without elaborating, the District Ranger states that it would result in a "savings of time and travel" for the USFS if the entire Cleveland Peninsula were excluded from the CBW, and instead annexed into the KGB.

With due respect to the District Ranger, the LBC has never ceded to federal agencies the responsibility for determining the appropriate boundaries of boroughs within Alaska. The USFS criteria, whatever they were, for organization of ranger districts within the Tongass National Forest, are not the same as Alaska's statutory and regulatory criteria for establishment of municipal boundaries. As a result, there has been a great divergence between the ranger districts in Alaska's two National Forests, the Tongass and the Chugach, and the boundaries of existing Alaska boroughs. For example, the Juneau Ranger District includes not only the City and Borough of Juneau, but also most of the Haines Borough, and extends substantially to the south of the existing Juneau Borough. See, exhibit 2 hereto. Similarly, the Sitka Ranger District includes the municipalities of Tenakee Springs and Port Alexander, both of which are located outside of the City and Borough of Sitka.⁸

⁸ The ranger districts would also diverge from the model borough boundaries for a Prince of Wales Island Borough, which would include both the Thorne Bay Ranger

The situation is similar in the Chugach National Forest. The Kenai Peninsula Borough is split – some of the borough is located in the Seward Ranger District and some is located within the Glacier Ranger District. The Glacier Ranger District also includes part of the Municipality of Anchorage, and part of the Prince William Sound model borough.⁹

There is in fact not a single National Forest ranger district whose boundaries directly correspond to the boundaries of an Alaska borough. The administrative difficulties to which the District Ranger Kolund refers are obviously not unduly burdensome for the Juneau, Sitka, Seward or Glacier Ranger Districts, all of which overlap multiple borough or municipal boundaries. In this age of electronic mail, and universal telephone and videoconferencing services, it is simply not necessary to be in the same town to conduct business.

Additionally, Wrangell has a strong history of political and economic support for regional logging and mineral exploration activities. Timber activities and mineral operations occurring on the western Cleveland Peninsula could well receive more logistical assistance and support from Wrangell and Wrangell entities than from Ketchikan. This is especially true given the calmer water route of Ernest Sound for barging materials. Thus, communications with the actual logging entities (presumably more administratively important to the Forest Service than communications with a borough government) would still be required to occur between Wrangell and the Ketchikan Ranger District. In this case, modifying the borough boundaries solely to accommodate the USFS would not even achieve its apparent goal of confining all of its administrative activities to Ketchikan.

5. Conformity to Natural Geography.

In a related contention, the KGB contends that the boundary between the Wrangell and Ketchikan ranger districts of the Tongass National Forest follows natural

District and the Craig Ranger District. Id.

9 The Prince William Sound model borough would be divided roughly down the middle, between the Glacier Ranger District (in which Whittier and Chenega are located) and the Cordova Ranger District (which contains Cordova and Tatitlek).

geography based upon “watersheds”, better than does the proposed borough boundary down the middle of the Cleveland Peninsula which is proposed by Wrangell. “Natural geography” is best shown by a relief map, which demonstrates that Ketchikan is wrong. Watershed lines are, in fact frequently and appropriately utilized by the LBC in approving borough boundaries. On the Cleveland Peninsula, the “watershed” is the ridge line which divides the western side – facing Clarence Strait and Ernest Sound – from the eastern side, facing Behm Canal. This is the line used by Wrangell, down to a point south of Meyers Chuck. This watershed divide was also utilized to describe the Ketchikan election area adopted at the constitutional convention, the Ketchikan Borough under the 1963 Mandatory Borough Act, the ADF&G boundary between game management units and the ADF&G boundary for the Ketchikan Non-subsistence Area.

The basic distinction here is between including all of the Cleveland Peninsula in the Ketchikan Borough, and including only that side of the Cleveland Peninsula which drains into the protected waterway (Behm Canal) which surrounds Ketchikan. The latter approach is more sensible because the significance of natural geography in determining appropriate borough boundaries turns upon the extent to which geography serves or impedes connections between a borough seat and other areas. Where maritime connections are more important than overland connections (most decidedly the case in the Wrangell-Meyers Chuck-Union Bay areas!) the area best connected to a borough seat by navigable water is determined by natural geography. In this case, geography distinguishes the protected Ernest Sound/Zimovia Strait route to Wrangell from the more treacherous and risky Clarence Strait passage to Ketchikan.

The Local Boundary Commission has previously used drainage divides (ridgelines) for borough boundary determinations where maritime connections are paramount. A proposed annexation by the Kodiak Island Borough of substantial coastal areas on the Alaska Peninsula mainland, across Shelikof Strait from Kodiak Island, was disputed by the petition for the proposed Lake and Peninsula Borough, which opposed exclusion of this sliver of territory from the remainder of the Alaskan Peninsula. However, Kodiak prevailed. The Local Boundary Commission recognized the

substantial maritime connection between the Kodiak fishing industry and this area, and also based its decision upon natural geography:

The area in question is also more geographically related to the Kodiak Island Borough than to the proposed Lake and Peninsula Borough. The Aleutian Range on the Alaska Peninsula, which determines river drainage patterns, serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin.

Decisional Statement of Local Boundary Commission on Proposed Annexation of Territory to the Kodiak Island Borough, dated December 28, 1988.¹⁰

Similar reasoning in this case would adopt a Cleveland Peninsula drainage divide boundary which recognizes maritime connections, rather than arbitrarily including all of the Cleveland Peninsula in one borough or the other.

6. Economic Connections.

The KGB's comment also backs off substantially from its prior apparent contention that there will soon be substantial mining activity in Union Bay, served from Ketchikan. It now all but acknowledges that the proposed platinum mine project in Union Bay is dead, which is in fact the case. One of the joint venturers has retained a small percentage of the claims, but in fact the exploratory drilling which was recently done showed that mining would be uneconomical. Wrangell does not dispute that there are potentially viable mineral deposits elsewhere in the existing KGB; or in areas other than the western Cleveland Peninsula which the KGB is attempting to annex. This is irrelevant to the present issue concerning the western Cleveland Peninsula. Potential development of oil and gas deposits in British Columbia's Queen Charlotte Basin – all of

¹⁰ The LBC has also approved boundaries for a Kenai Peninsula Borough which are not restricted to the Kenai Peninsula, but include large areas of land lying on the west side of Cook Inlet, again based upon maritime economic connection between Kenai Peninsula communities and the areas across Cook Inlet. If geographic maritime connections are sufficient to include non-contiguous mainland territory in an "Island" (Kodiak) borough and non-contiguous territory in a "Peninsula" (Kenai) borough, recognition of a geographic connection between the Wrangell Borough and the *contiguous* western Cleveland Peninsula would easily be consistent with LBC decisional precedent on the geography factor.

which lies in Canada south of the Alaska boundary – is irrelevant to issues regarding potential mining on the Cleveland Peninsula, 100 miles away.¹¹ As to potential mineral development in the subject area of dispute – the western Cleveland Peninsula – the connections of existing residents with Wrangell and their preference to be in a Wrangell rather than a Ketchikan borough should not be outweighed by a potential mineral development in the area, one which has in fact been explored and determined to be nonviable. Even if such mining did ever occur, logistical support would just as likely come from Wrangell, due to its superior maritime connection to this area. For example, a Wrangell-owned gold mining enterprise is currently proceeding with drilling activities supported from Wrangell, on Zarembo Island on the western side of the proposed borough.¹²

5. Location of Meyers Chuck/Union Bay.

A few comments referred to the “remote location of Meyers Chuck” from either Ketchikan or Wrangell, and to Meyers Chuck’s being “geographically isolated from Ketchikan or Wrangell”, the latter based upon Wrangell’s being 50 miles distant. But 50 mile distances from the borough seat, even in roadless areas, are far from excessive in Alaska. From Barrow, the headquarters of the North Slope Borough, it is 300 roadless miles west to Point Hope, 300 miles east to Kaktovik, and 250 miles south to Anaktuvik

¹¹ The KGB has utilized similarly contorted reasoning to use statistics as to Ketchikan residents’ harvest of fish and game *elsewhere* in the Ketchikan area Game Management Unit to incorrectly imply that its residents engage in greater harvest than Wrangell residents in the disputed western Cleveland Peninsula drainages. As stated previously, the boundary between Unit 1-B and Unit 1-A runs down the watershed drainage divide of the Cleveland Peninsula, very closely following the boundary of the proposed CBW. See, CBW Petition, Exhibit H, attachment 15. GMU 1A includes the entire KGB, and its surrounding territory, including the eastern drainages of the Cleveland Peninsula, and covers a very large area, the vast majority of which is not even remotely connected to the western Cleveland Peninsula area. The real issue here is not whether Ketchikan residents predominantly use GMU 1A – they obviously do; but rather who uses the western Cleveland Peninsula area – the area in actual dispute here. In fact, most of this disputed area is actually in GMU 1B, where the KGB has acknowledged that Wrangell rather than Ketchikan residents are the predominant harvesters. According to local residents, virtually no one from Ketchikan comes to hunt or fish there.

¹² Conversation with Mark Robinson, of Zarembo Minerals Company.

Pass, all in the Borough. From the Lake and Peninsula Borough's Naknek headquarters, it is 200 air miles south to Chignik and 150 north to Port Alsworth. Similar circumstances exist in the Northwest Arctic Borough and the Aleutians East Borough. Numerous other boroughs, including the City and Borough of Sitka, Kenai Peninsula Borough, Matanuska Susitna Borough, and Kodiak Island Borough encompass rural areas more than 50 miles away from the Borough seat. It was the expectation of the constitutional framers that eventually all of Alaska, including isolated rural areas, would be included in organized boroughs. In this case, the residents of Meyers Chuck/Union Bay themselves point to closer connections with Wrangell than Ketchikan, due to the safer maritime route.

B. The Ability of the CBW to Provide Municipal Services.

The KGB asserts that the proposed City and Borough of Wrangell's ability to support thirteen areawide services based upon a four mill property tax is "unconvincing". But most of the thirteen area-wide functions described at page 8 of the petition are "areawide" services already being furnished to the area by the existing City of Wrangell. For example, education is already being provided to students from outside City boundaries; to the extent borough incorporation at some point results in any additional students in the Wrangell school system, the additional cost of this will be largely met under the state's average daily membership formula for local education funding assistance. It is true that borough incorporation will require an extension of some new or expanded services outside the present City, from what is presently provided. This may, for example, include expansion of the city's boat harbor system to include assumption of maintenance and operation of the existing state harbor facility in Meyers Chuck. Planning, land use, taxation and police functions will need to be extended area-wide.

The additional revenue accruing to the new City and Borough of Wrangell would be more than adequate to meet such costs. First, the KGB erroneously assumes a four mill areawide property tax in the areas of the borough outside the existing City of Wrangell, when in fact, a twelve mill tax would be applied throughout the planned Service Area, including Wrangell West, a residential area on the south Zimovia Highway which is currently outside the city limits and not subject to any municipal property

taxes.¹³ Most of the property value newly subjected to any municipal taxation will be subject to the twelve mill, not four mill, rate. The budget therefore projects that the new borough will receive \$140,000.00 more in tax revenues in its first year than does the present City of Wrangell.

Additionally, pursuant to the federal act under which National Forest Receipts are shared with affected cities and boroughs¹⁴, the City and Borough of Wrangell would receive \$246,000.00 more than would the City of Wrangell, using the formulas used in the federal program. Finally, any area-wide land planning development would be at least partially funded by federal programs. The new unified municipality would have more than adequate means to support additional expenditures required by its areawide functions.

C. Thoms Place; taxation and fiscal concerns.

Two written comments opposed to the petition were filed by residents of Thoms Place, a small community on Wrangell Island, located less than 20 miles from the City of Wrangell.¹⁵ The first comment did not object to formation of the CBW, but the resident did not want his land, won a number of years ago in a state drawing, included in the Borough because it would then be subject to taxation. See, comments of Lauren Rogers.

The objection presented by Mr. Rogers is a typical argument raised by many rural Alaskan residents who do not wish to be in any borough, and subject to municipal taxation. While the sentiments are understandable, few boroughs in Alaska would ever be formed, or expanded beyond roaded areas, if this were the determinative factor. The

13 Compare map of Borough Service Area, Exhibit B-6, with map of existing Wrangell city limits, Exhibit B-4.

14 This act is known as the Secure Rural Schools and Community Self Determination Act of 2000 (Public Law 106-393), and technically expires at the end of this year. As of this writing, reauthorization bills are pending in the U.S. Congress and it is expected that legislation will extend this program for at least another seven years.

15 While no additional residents of Thoms Place submitted written comments, five residents did sign the petition seeking borough formation. See, Exhibit A-2.

residents of Thoms Place in particular rely upon Wrangell's infrastructure. They visit Wrangell regularly, using the roads and harbors (as established in part by the fact that both of those residents submitting comments have their mailing addresses in Wrangell), and Thoms Place residents have benefited from numerous search and rescue calls to the area, made by Wrangell personnel. It is certainly not unfair to expect them to shoulder at least some of the expense of providing those services currently borne by others.¹⁶ Thoms Place residents would also correspondingly benefit from an increased say in land disposal, land regulation, and roadbuilding decisions affecting their area, if a borough is formed.¹⁷

The other comment questioned the ability of the proposed borough to provide services to Thoms Place, or to administer an area of the size proposed, and suggested that it would be preferable to combine additional cities into one borough. See, comments of John Church. As set out in further detail above, in section B, the Petitioner has in fact demonstrated that the Wrangell Borough does have the human

¹⁶ While there are currently no children in Thoms Place, that is not necessarily a permanent situation, and education services may be required in the future. All Alaska residents have some responsibility to bear the cost of educating Alaska's children. This is evidenced by the fact that the obligation to pay local education-supportive property tax has never been dependent upon the taxpayer having school-age children.

¹⁷ As is demonstrated by the written comments received from residents of the Meyers Chuck/Union Bay area, those residents also benefit from the municipal infrastructure provided by the City of Wrangell, especially the four municipal harbors. The marine transportation connections of Meyers Chuck/Union Bay are better with Wrangell than with Ketchikan, as noted by several Meyers Chuck residents. There is chartered seaplane service available from Wrangell to Meyers Chuck. Wrangell conducts and assists with search and rescue activities in the Meyers Chuck/Union Bay area, and such future activities would be substantially aided by the new boat recently obtained by the Wrangell Public Safety Department -- a 30' aluminum vessel, with twin diesel jet drives, which can go up to 30 knots (reaching Meyers Chuck in under two hours) and which will be used to respond to police and search and rescue emergencies. While, as noted by the comments of the KGB, 911 calls are currently routed to the Alaska State Troopers, Ketchikan office (there is temporarily no state trooper stationed in Wrangell), calls for police assistance made subsequent to any inclusion of Meyers Chuck/Union Bay into a borough would be routed to that borough's police department. Per conversations with AST Major Howard Starbard, AST retains state-wide jurisdiction and would assist the borough when requested.

resources and financial wherewithal to provide municipal services to both Thoms Place and the region as a whole. The proposed budget for the CBW (Exhibit D-1) is based upon a realistic and reasonable view of anticipated revenues and expenditures and shows a surplus. The City of Wrangell has historically served as a supply center for this region, and to a significant extent, the City has already been providing numerous municipal services and public infrastructure to the area for years. The City has operated, continuously and responsibly, for over one hundred years, making it one of the State's oldest incorporated cities.

Unlike some municipalities in the State, Wrangell does not feature large long-term taxpayer borne debt. As set out in Section 13 of the Petition, the existing general obligation debt, excluding amounts to be reimbursed by the State and amounts paid by ratepayers, totals \$1.36 million, or only approximately \$600 per resident. The City of Wrangell has no history of default on general obligation bonds, has an inflation-proofed Permanent Fund of \$5,000,000 established by the voters in 1997, and is fiscally healthy.

Additionally, the suggestion that it would be more efficient to combine additional communities (presumably the City of Petersburg) into the Wrangell Borough is not borne out by reality. The lack of an economy of scale benefit in a Petersburg/Wrangell borough was noted by the LBC itself in its August 1991 Model Borough Boundaries Review, Southern Panhandle Region, at pp. 32-33 ("Several of the factors which render extension of organized borough government attractive in other areas are not evident in the Petersburg/Wrangell area"). A borough containing the two cities would feature retention of the existing city governments, thus resulting in more, not less, local government units, with each borough citizen subject to, and paying for, two layers of government. See, written comment of the City of Wrangell. In recognition of this fact, the cities of Wrangell and Petersburg have agreed upon a common boundary line, and both are moving forward with separate borough formation petitions. See, written comments of the Cities of Wrangell and Petersburg.

D. House Bill 133.

One comment from two Meyers Chuck residents asserts that the legislature's recent enactment of House Bill 133 requires that, prior to the LBC's approval of either a new borough or an annexation, it must adopt new standards; and that this legislation also requires a majority of the voters residing in an area that is to be annexed to approve the annexation. The commenters' belief is understandable, but incorrect. HB 133 requires the LBC to adopt regulations consistent with statutes governing borough formations and annexations; the LBC has already done so, and the legislation adds nothing. HB 133 also amended AS 29.06.040(c), requiring approval by a majority of votes from voters residing in an area proposed for annexation, if the annexation is being done by the *local action* method. The bill, and the statutory amendment, do not apply to annexation by *legislative review*, which is the method now being utilized by the KGB. Nor does it apply to a municipal incorporation. In assuming that a KGB annexation can only occur with their majority consent, these Meyers Chuck residents were apparently misled by a broadly worded press release from the Governor's office.

E. Conclusion.

Organization of the proposed City and Borough of Wrangell has not been opposed by any Southeast Alaska municipality or REAA, and the petition is supported by both the City of Petersburg and the Ketchikan Gateway Borough. Unlike most petitions for borough organization, public comment on the petition, including that from the more remote areas within the proposed borough, is predominately supportive.

The Alaska Constitution, according to the Supreme Court, "encourages" creation of organized boroughs, and favors their approval by the LBC "...whenever the requirements for incorporation have been minimally met." Mobil Oil Corporation v. Local Boundary Commission, 518 P.2d 92, 99, 101(Alaska 1974). The Alaska Legislature obviously encourages their formation, to the point of perennially considering mandating additional boroughs or increasing incentives for their formation. With this backdrop, where local residents of an area voluntarily seek formation of a borough or unified municipality, no interest is served if the petition is not approved. Borough creation would hardly be "encouraged" if Wrangell and Petersburg were forced to combine into a

single borough, which both communities and their constituents oppose, and which would result in no new borough.

Support for organization of the City and Borough of Wrangell, with its proposed boundaries, comes from both inside and outside the proposed area. Few comments seriously question the petition's compliance with the constitutional, statutory or regulatory criteria for incorporation of a borough or unified municipality. The few adverse comments are fairly addressed by countervailing evidence, and the proposed City and Borough of Wrangell more than "minimally" meets the requirements for incorporation necessary to satisfy the constitutional goal of organizing boroughs throughout the State of Alaska.

The primary issue raised by public comment on the petition has therefore not been whether to organize a CBW, but rather the extent of its boundary in the area of the Cleveland Peninsula. While inclusion of the western Cleveland Peninsula, including Meyers Chuck and Union Bay, is not critical to approval of the proposed unified municipality, the criteria for borough incorporation favors its inclusion, the residents of this particular area strongly favor its inclusion in the CBW rather than in an annexation to the KGB, and even the KGB itself "would not object" to its inclusion in a CBW. So long as the western Cleveland Peninsula is included in a City and Borough of Wrangell rather than being excluded from *any* borough, the KGB's own concurrent annexation petition is not dependant upon its inclusion of this area. Inclusion of the Meyers Chuck/Union Bay area in a City and Borough of Wrangell is consistent with approval of both petitions concurrently before the LBC, and is consistent with the state's interest in subsuming more of the Unorganized Borough into organized boroughs or unified municipalities.

The Petitioner respectfully requests that its Petition to create a City and Borough of Wrangell be approved.

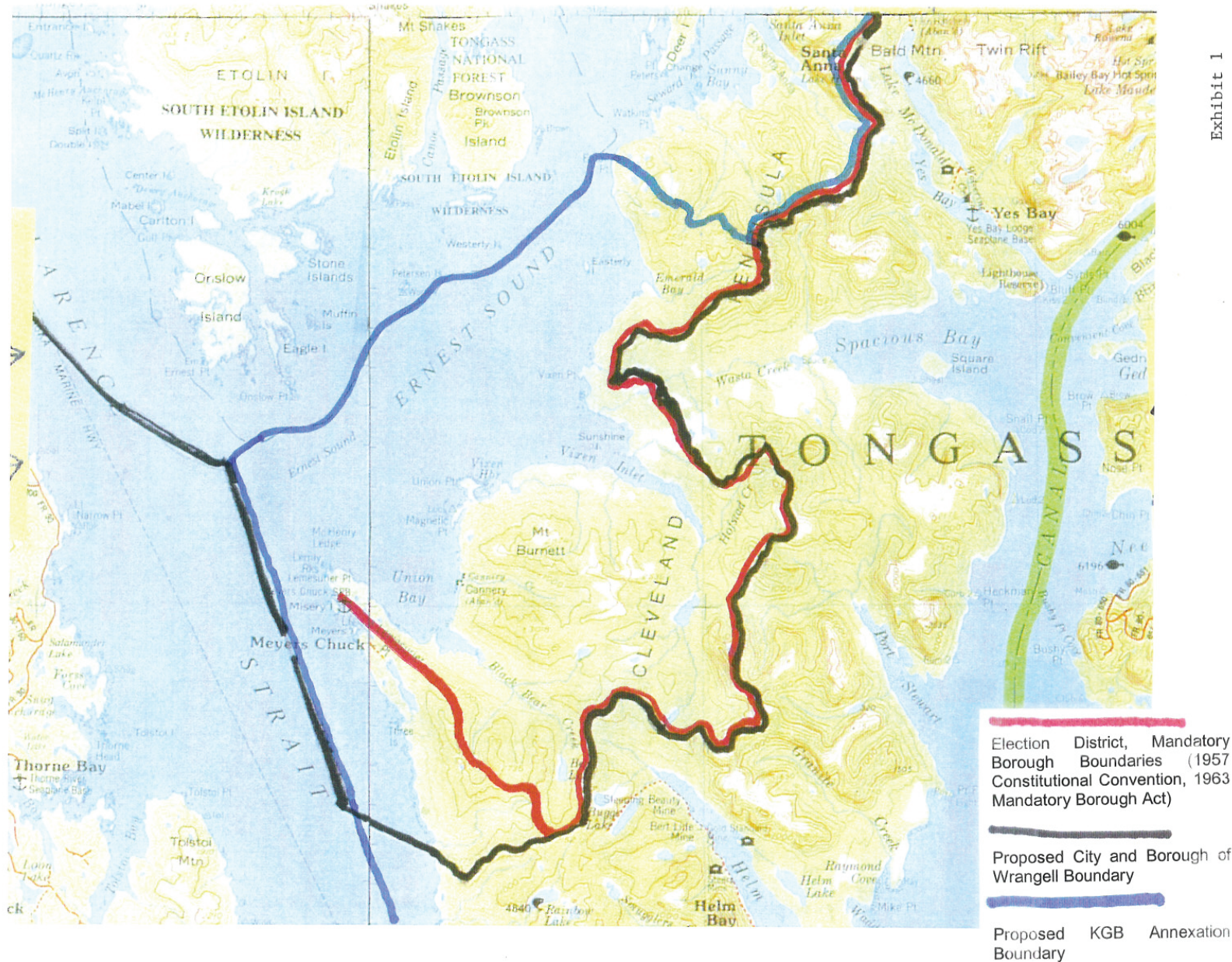
DATED this 23rd day of August, 2006.

By: _____

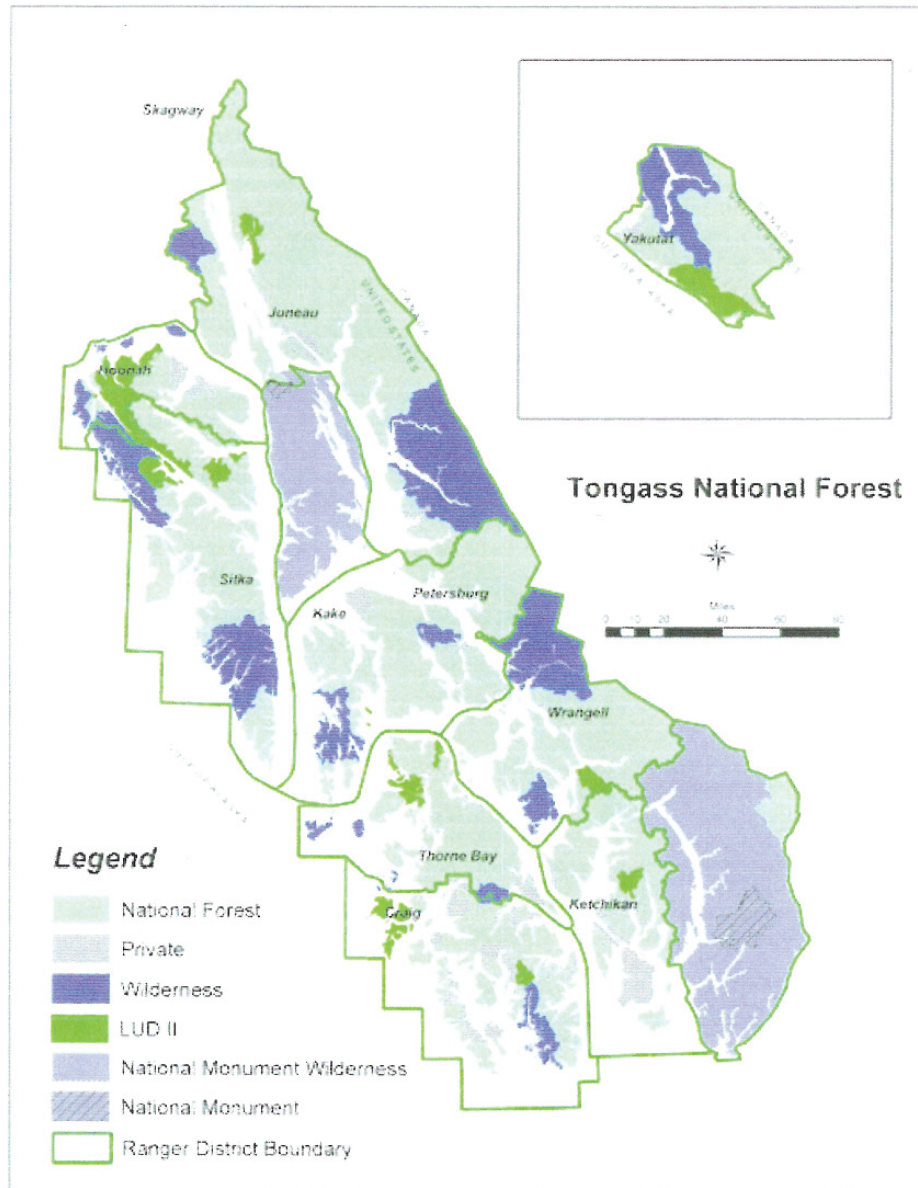
James T. Brennan

By: _____

Sara E. Heideman

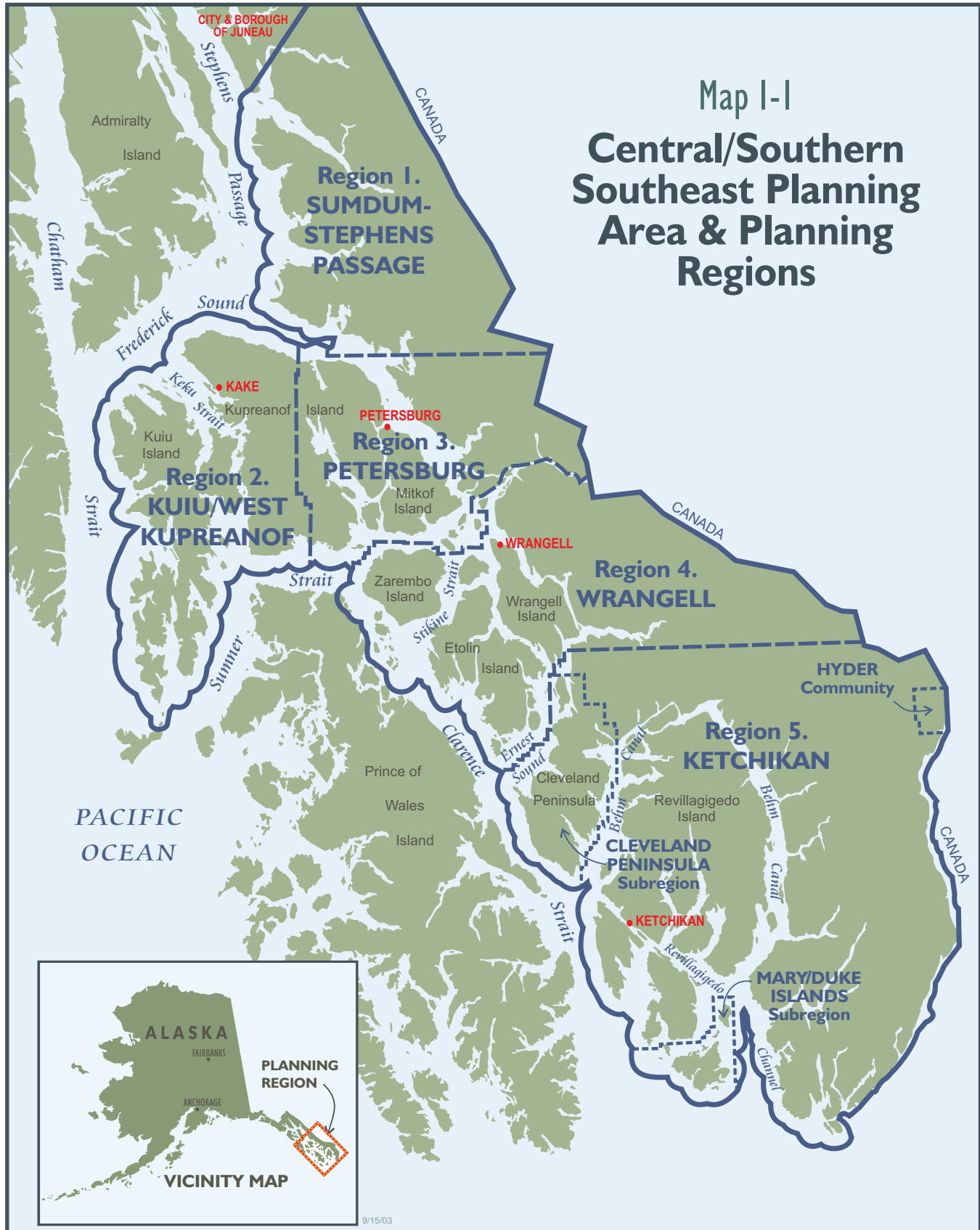


Tongass-SEIS Roadless Area Maps



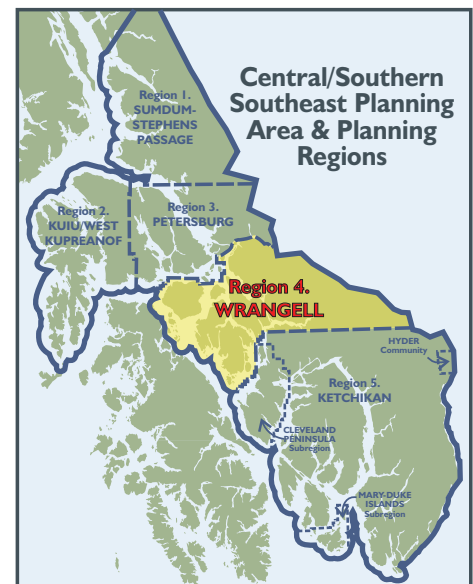
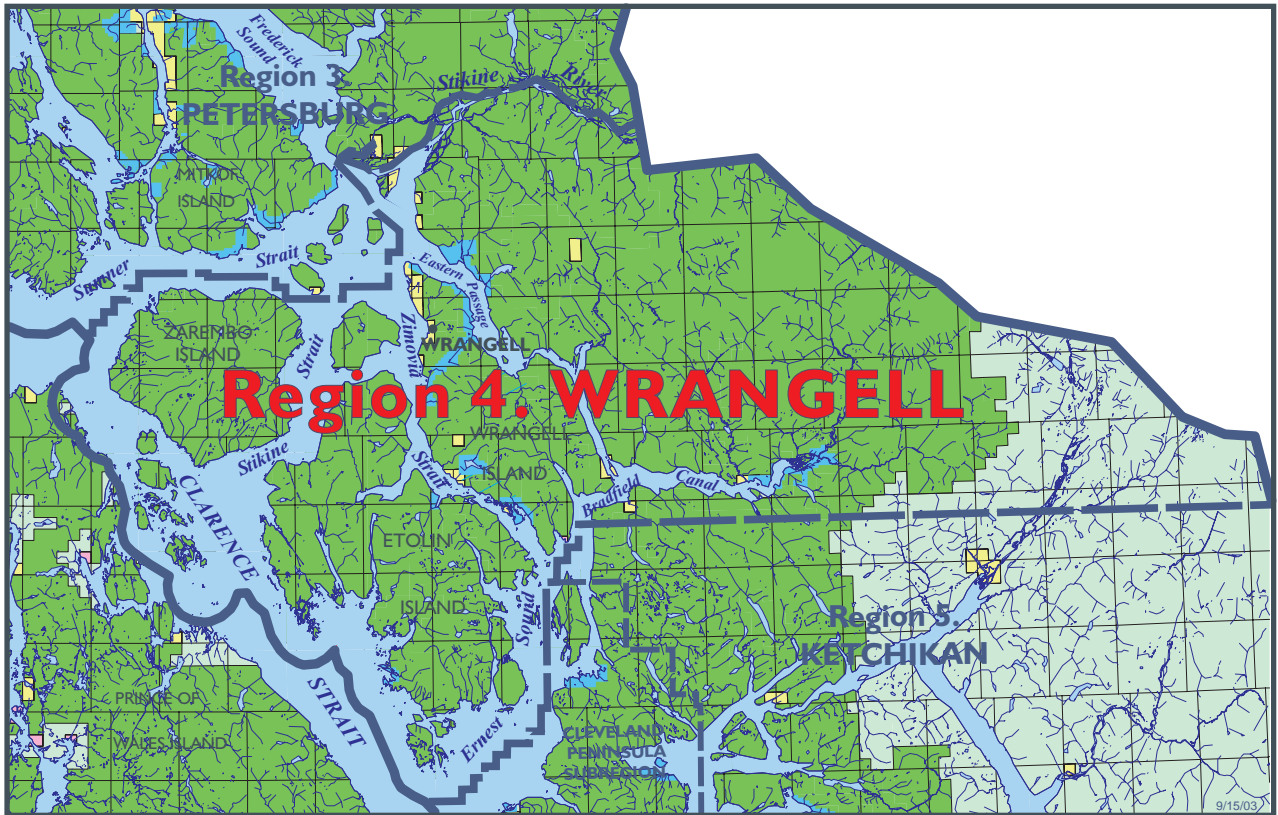
Appendix G

Select Maps from the Central/Southern Southeast Area Plan



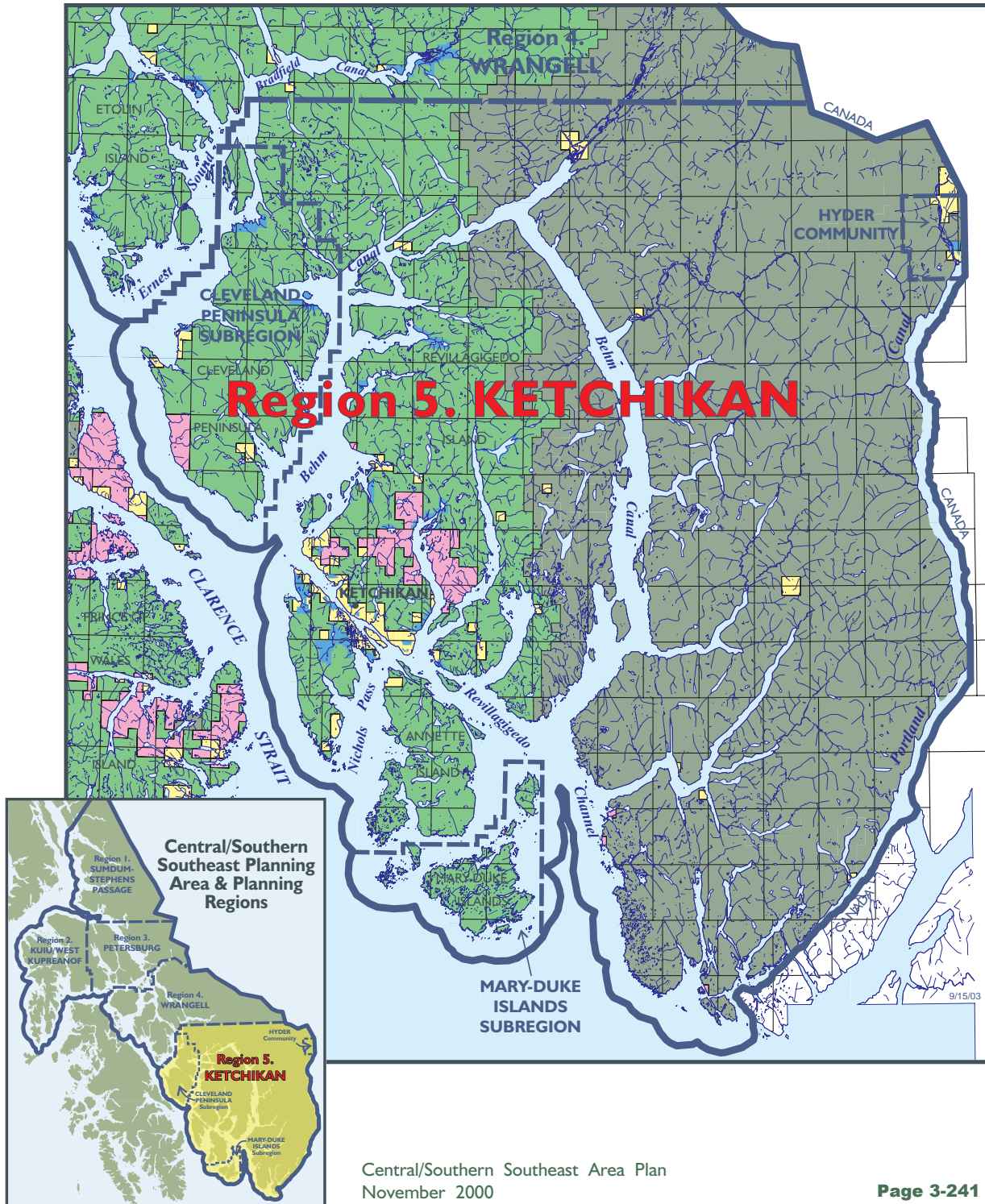
Map 3-15 ♦ Region 4

4 - Wrangell Planning Region

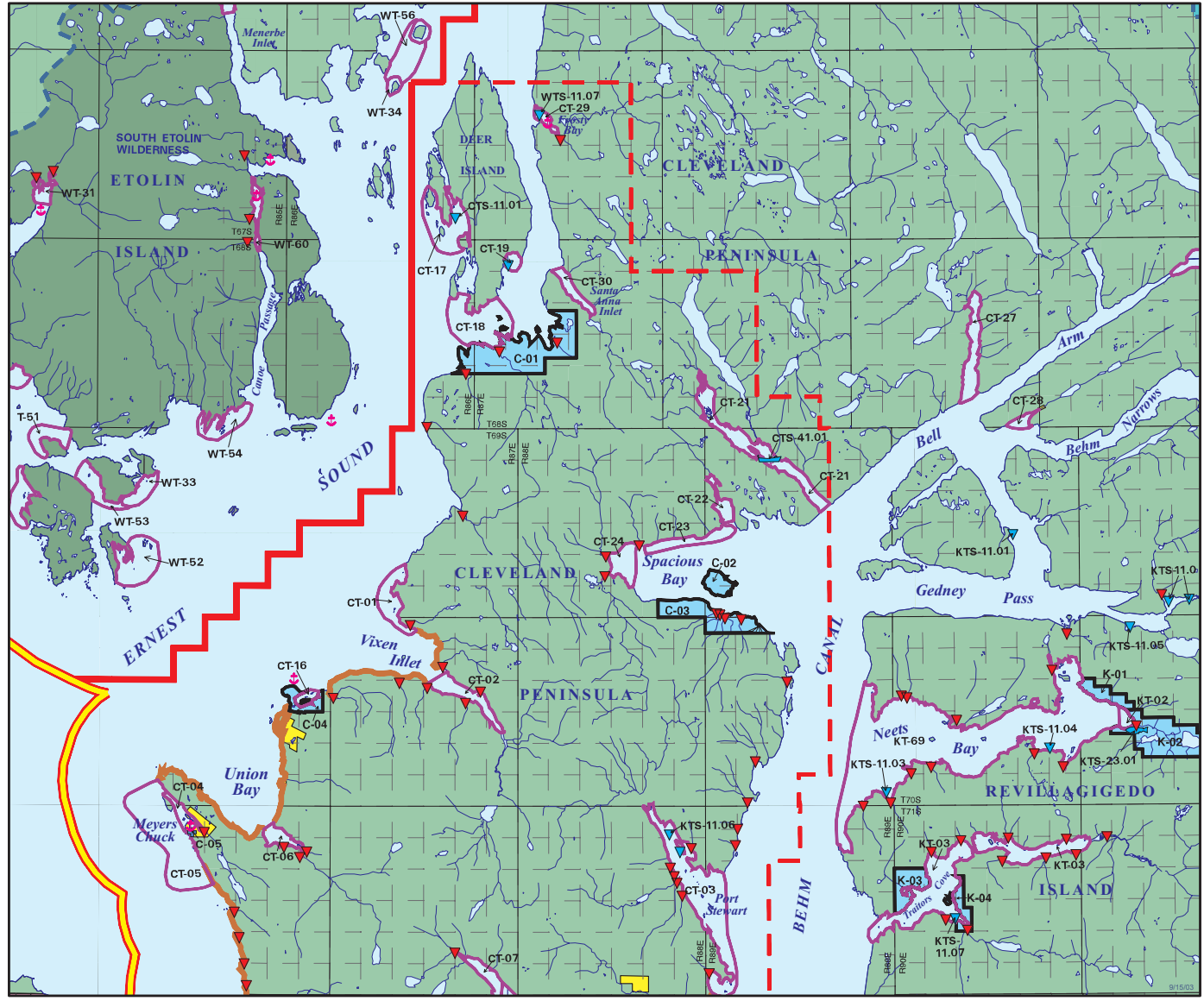


Map 3-21 ♦ Region 5

5 - Ketchikan Planning Region



MAP 3-22 ♦ REGION 5
Ketchikan -
Cleveland Peninsula



Central/Southern Southeast Area Plan
November 2000

Land Status (1)(2)

- Tongass NF Wilderness Areas
- Tongass Natl. Forest
- Misty Fjords Natl. Monument
- Native Owned
- Private
- State Owned
- Mental Health
- State Selected

Boundaries

- Upland Unit Boundary
- Upland Designation Boundary
- Tideland Unit Boundary
- Tideland Designation Boundary
- Subregion Boundary
- Planning Region Boundary
- Area Plan Boundary
- City Boundary
- Herring Spawning Area

Units (3)

K-01 Large Tract, Upland
KT-01 Large Tract, Tideland
KTS-01 Small Tract, Tideland

Tideland Uses/Facilities

- Anchorage (Private & Public) (4)
- Boat Ramp/Harbor
- Resource Transfer Site (Forestry, Others)
- Seaplane
- Lodge
- Log Transfer Site
- Aquaculture
- Hatchery
- Seabird Nesting Colony (Major)
- Anadromous Streams (5)

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Appendix H

Alaska Population Projections 2007 - 2030

State of Alaska
Sarah Palin, Governor

Alaska Department of Labor and Workforce Development
Click Bishop, Commissioner

Brynn Keith, Chief
Research and Analysis

J. Gregory Williams, Ph.D.
State Demographer

Eddie Hunsinger
Demographer

July 2007

This publication was prepared by the Alaska Department of Labor and Workforce Development,
Research and Analysis Section.

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eddie.hunsinger@alaska.gov

Preface

This report offers a description of Alaska's projected future population, based on historical data regarding Alaska's population size, and rates of fertility, mortality and migration. These projections serve as a reference work that provides planners and policy makers with outcomes of a series of demographic events.

It is important to note that Alaska is susceptible to many unpredictable events, and that no demographer or economist has a crystal ball to foresee the future. Though conditional estimates of uncertainty based on past data are provided for the state level projections, it is clearly not possible to predict what will happen.

Many thanks go to Brian Laurent, Research Analyst, and Jeff Hadland, Economist, for their careful review, and thoughtful comments and suggestions. Gratitude is further extended to Carl Mason and the Department of Demography at the University of California, Berkeley, for hosting class and laboratory presentations on Alaska's statewide population projections, and providing useful knowledge and feedback.

Special acknowledgment is given to the Vital Statistics sections of the Alaska Department of Health and Social Services, and the Alaska Departments of Revenue, and Commerce, Community and Economic Development for their aid in regularly providing information essential to the production of these projections. Special thanks also goes to the Alaska Department of Transportation and the Alaska Department of Health and Social Services for financial support during the production of these projections.

Comments or suggestions regarding the content or format of this publication are welcome. Many of the most requested statistics in this document may also be found on the Research and Analysis website at: <http://almis.labor.state.ak.us/>. Requests for demographic projections information may be addressed to Eddie Hunsinger, Research and Analysis Section, Alaska Department of Labor, P.O. Box 115501, Juneau, Alaska, 99811-5501. Telephone: (907) 465-5970; Fax: (907) 465-4506; email: eddie.hunsinger@alaska.gov.

Introduction

Alaska Population Projections

This report presents population projections for the State of Alaska, by age and sex, for the years 2007 through 2030. Additionally, 2010-2030 projections of Alaska's borough, census area, and Native populations, by age and sex, are presented.

Population projections are distinct from population estimates in that population estimates use current and historical data to make statements about the present and past, while projections use expected or extrapolated data to make statements about the future. There is much uncertainty in population projections, as it is not possible to predict future events, but projections based on reasoned assumptions are an important tool for planners and policy makers.

To create this set of population projections, a "cohort component" technique was used. Under this approach, the population of each sex is separated into age groups and aged forward in time, with projected births and in-migrants added, and projected deaths and out-migrants subtracted. The projection began with Alaska's 2005 population estimates and ended with the 2030 population projections. Technical details are provided in Appendix A at the end of the text.

Projections presented here are for the resident population of Alaska. The "July 1" projection dates represent an annual average population for each year, rather than the population on July 1. Seasonal populations may be higher than the annual average permanent resident population.

Statewide Projections

Alaska's statewide population is projected to most likely increase over the projection period, from 670,053 in 2006 to 838,676 people in 2030. As Alaska's population ages in the coming years, annual growth is expected to slow. Alaska's population aged 65+ is expected to grow at the highest rate over the projection period, followed by the population aged 0-17, and then the population aged 18-64. There is a great deal of uncertainty regarding what the actual levels of growth over the period will be, and statistical confidence intervals were estimated to express that uncertainty.

For the statewide projections, the population was divided into, and stepped forward in, single year increments. The process was repeated 2,000 times with random combinations of potential fertility and migration paths, and a fixed mortality path. This process provided a probability distribution for Alaska's future population, by sex and single years of age.

Alaska Native Projections

Alaska's Native population is expected to continue to grow over the projection period, from 118,884 people in 2006 to 162,820 in 2030. Similarly to the state as a whole, as the population ages, growth among Native Alaskans is expected to slow over time.

To create the Native and non-Native projections, the Native population was divided into, and stepped forward in five-year increments. This yielded population projections by sex and five-year age groups. Single paths, based on recent time series data and knowledge of the specified populations, were applied for each component of change.

Projections for Smaller Areas

Alaska's individual regions, boroughs and census areas are projected to grow at very different rates. The highest population growth is expected to occur in the Anchorage/Mat-Su Region, and the greatest (and only) population loss is expected to occur in the Southeast Region.

To create the borough and census area projections, the population of each area was stepped forward in five-year increments, using the cohort component method. This provided population projections by five-year age groups and sex. As with the Alaska Native projections, single paths, based on recent time series data and knowledge of the specified populations, were applied for each component.

Each of the borough and census area populations was projected independently, and the sum of these at each projection step matched closely to the median, or middle, statewide projections of that step. Any discrepancies between the median statewide projections and the sum of these smaller area projections were eliminated with a statistical fitting technique (described in Appendix A).

Outline

The report begins with a description of the components of population change for the statewide projections, then the results of the projections are described. Next, the components of population change that were applied to the Native Alaskan projections, and the results of the population projections for Native and non-Native Alaskans, are presented. Finally, the components of population change that were used in the borough and census area projections, and the results of the projections at the borough and census area level, are described.

Section 1

Alaska State Population Projections

Introduction

As of July 1, 2006, the State of Alaska was estimated to have a total population of 670,053. How Alaska reached a population of this level, and how this level will change in the future, is equal to the sum of four distinct processes, or "components" of change: fertility, mortality, in-migration and out-migration. Historical data regarding the level, trend and variability of each component of change was employed in these projections.

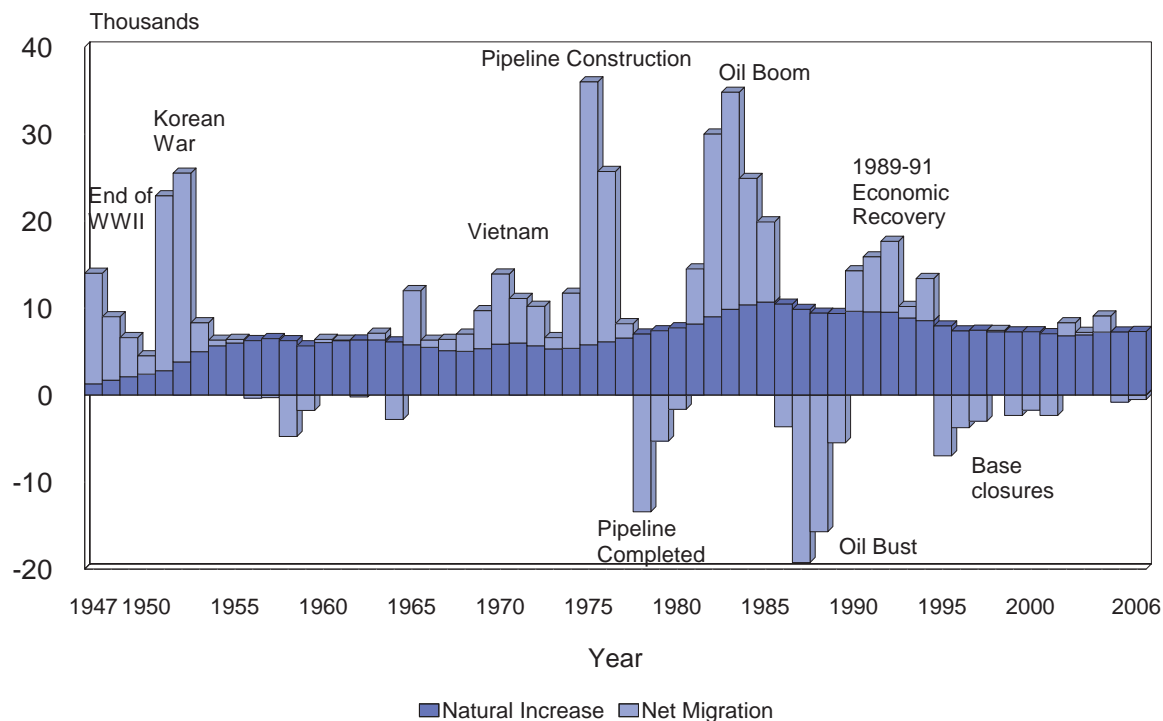
This section begins with a brief description of Alaska's recent population background. Alaska's mortality, fertility and migration levels, and their impact on the projections for Alaska's population, are then described. Finally, the results and interpretation of the statewide projections are presented.

Background

Since statehood in 1959, when Alaska's population level stood at roughly 224,000, there has been great variation in the rate of the state's growth. As shown in Figure 1.1, both "natural increase" (the difference between births and deaths) and "net migration" (the difference between in-migration and out-migration) have played important roles. The impact of natural increase has been steady and powerful. Numbers of births and deaths have not changed much from year to year, yielding a smooth, and to date positive-sided, path in the impact of natural increase on Alaska's population size.

In- and out-migration have been far more uncertain components of population change for Alaska. The rates and numbers of persons moving into and out of the state have varied greatly from year to year. In certain years, net-out-migration has been strong enough to even reverse the trend of annual growth.

Figure 1.1
Annual Components Of Population Change For Alaska, 1947 - 2006



Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section, Demographics Unit

Table 3.26
Wrangell-Petersburg Census Area Population by Age and Sex, and Components of Change,
2006 - 2030

July 1, 2006 Estimate				July 1, 2010 Projected			
Age	Total	Male	Female	Age	Total	Male	Female
0-4	327	168	159	0-4	334	171	163
5-9	375	214	161	5-9	376	201	175
10-14	435	222	213	10-14	407	225	182
15-19	517	263	254	15-19	414	219	195
20-24	290	158	132	20-24	485	254	231
25-29	225	122	103	25-29	290	156	134
30-34	294	147	147	30-34	294	151	143
35-39	356	184	172	35-39	325	171	154
40-44	437	207	230	40-44	364	181	183
45-49	573	291	282	45-49	433	209	224
50-54	611	318	293	50-54	549	278	271
55-59	492	269	223	55-59	489	264	225
60-64	358	193	165	60-64	403	212	191
65-69	247	137	110	65-69	307	167	140
70-74	148	89	59	70-74	186	104	82
75-79	138	74	64	75-79	109	59	50
80-84	103	48	55	80-84	96	50	46
85-89	57	19	38	85-89	60	26	34
90+	41	15	26	90+	39	13	26
Total	6,024	3,138	2,886	Total	5,960	3,111	2,849
Median Age	42.2	42.2	42.2	Median Age	40.8	40.2	41.3
July 1, 2015 Projected				July 1, 2020 Projected			
Age	Total	Male	Female	Age	Total	Male	Female
0-4	374	191	183	0-4	371	189	182
5-9	329	168	161	5-9	367	187	180
10-14	376	201	175	10-14	325	166	159
15-19	329	185	144	15-19	297	162	135
20-24	361	190	171	20-24	279	158	121
25-29	496	259	237	25-29	371	194	177
30-34	294	159	135	30-34	504	261	243
35-39	297	152	145	35-39	294	158	136
40-44	308	163	145	40-44	278	143	135
45-49	334	166	168	45-49	278	147	131
50-54	396	191	205	50-54	299	149	150
55-59	501	253	248	55-59	355	171	184
60-64	442	238	204	60-64	451	226	225
65-69	361	189	172	65-69	396	212	184
70-74	262	140	122	70-74	310	160	150
75-79	150	81	69	75-79	213	111	102
80-84	79	41	38	80-84	109	58	51
85-89	57	29	28	85-89	47	23	24
90+	39	15	24	90+	36	16	20
Total	5,785	3,011	2,774	Total	5,580	2,891	2,689
Median Age	40.6	40.0	41.2	Median Age	39.7	39.1	40.4

Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section, Demographics Unit

Table 3.26, cont.**Wrangell-Petersburg Census Area Population by Age and Sex, and Components of Change, 2006 - 2030**

July 1, 2025 Projected				July 1, 2030 Projected			
Age	Total	Male	Female	Age	Total	Male	Female
0-4	324	165	159	0-4	266	135	131
5-9	365	186	179	5-9	320	163	157
10-14	364	185	179	10-14	366	186	180
15-19	242	124	118	15-19	290	149	141
20-24	251	137	114	20-24	203	104	99
25-29	288	161	127	25-29	262	142	120
30-34	376	196	180	30-34	295	164	131
35-39	505	261	244	35-39	380	198	182
40-44	275	148	127	40-44	487	252	235
45-49	250	129	121	45-49	250	135	115
50-54	249	132	117	50-54	223	115	108
55-59	264	131	133	55-59	218	115	103
60-64	317	151	166	60-64	234	115	119
65-69	407	203	204	65-69	288	136	152
70-74	345	181	164	70-74	360	176	184
75-79	258	129	129	75-79	292	149	143
80-84	160	81	79	80-84	198	95	103
85-89	69	35	34	85-89	103	50	53
90+	31	14	17	90+	41	20	21
Total	5,340	2,749	2,591	Total	5,076	2,599	2,477
Median Age	39.6	39.2	39.9	Median Age	41.6	41.2	42.1

Population and Components of Population Change, 2006-2030

	2006-2010	2010-2015	2015-2020	2020-2025	2025-2030
Population at Start of Period	6,024	5,960	5,785	5,580	5,340
Population at End of Period	5,960	5,785	5,580	5,340	5,076
Average Annual Births	58	72	79	72	61
Average Annual Deaths	59	56	57	59	62
Average Annual Net Migrants	-16	-51	-62	-61	-52
Average Annual Change	-16	-35	-41	-48	-53
Average Annual Percent Change	-0.27%	-0.60%	-0.72%	-0.88%	-1.01%

* Average annual numbers are rounded to whole numbers.

Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section, Demographics Unit

Appendix I

Proposed Municipality of Wrangell Petition

Exhibits D-1 and D-2

**UNIFIED MUNICIPALITY OF WRANGELL
PROPOSED BOROUGH BUDGET
FOR THE FISCAL YEARS ENDING JUNE 30, 2007, 2008, 2009**

CITY DEPT OR ACTIVITIES WITHIN GENERAL FUND BUDGET	CITY	UNIFIED MUNICIPALITY BUDGET			
	2005-2006 FY	2007 FY	2008 FY	2009 FY	
	APPROVED BUDGET	BUDGET	BUDGET	BUDGET	
REVENUES:					
TAXES	3,235,708	3,375,000	3,385,000	3,395,000	NOTE 1
LICENSE & PERMITS	2,640	2,700	2,700	2,700	
STATE AND FEDERAL	147,961	60,000	60,000	60,000	NOTE 2
PILT-FEDERAL	183,448	200,000	203,000	206,045	NOTE 3
PILT-OTHER	61,052	61,000	61,000	61,000	
CHARGES /SERVICES	343,814	345,000	345,000	350,000	
FINES & FORFEITURE	131,750	132,000	135,000	140,000	
SALES & LEASES	111,200	112,000	113,000	114,000	
TIMBER RECEIPTS	579,465	825,466	844,452	862,978	NOTE 4
MISC. INCOME	71,300	75,000	75,000	75,000	
GRANTS	-	300,000	200,000	100,000	NOTE 5
PERMANENT FUND	250,000	250,000	250,000	250,000	NOTE 6
TOTAL REVENUES	5,118,338	5,738,166	5,674,152	5,616,723	

CITY DEPT OR ACTIVITIES WITHIN GENERAL FUND BUDGET	CITY 2005-2006 FY APPROVED BUDGET	2007 FY BUDGET	UNIFIED MUNICIPALITY BUDGET 2008 FY BUDGET	2009 FY BUDGET	
EXPENDITURES:					
FINANCE	312,317	318,500	330,000	340,000	
ASSESSOR	20,000	35,000	28,000	22,000	NOTE 7
ADMINISTRATION	531,879	540,000	550,000	560,000	
COMMUNICATION	-	25,000	10,000	10,000	NOTE 8
FIRE/SEARCH & RESCUE	268,563	275,000	285,000	290,000	NOTE 9
POLICE	681,639	689,000	715,000	730,000	NOTE 10
JAIL OPERATIONS	371,722	392,200	408,000	420,000	
PUBLIC SAFETY BLDG	158,260	159,905	162,000	165,000	
PUBLIC WORKS	154,946	161,700	177,000	190,000	
BLDG. PERMITS	-	6,000	6,000	6,000	NOTE 11
STREETS	295,869	310,000	315,000	320,000	
LIBRARY	199,427	207,000	212,000	220,000	
MUSEUM	90,000	90,000	90,000	90,000	
COMMUNITY PROM.	117,320	155,000	155,000	160,000	
PLANNING & ZONING	26,660	56,000	40,000	32,000	NOTE 12
PARKS & CEMETERY	48,850	59,000	61,000	63,000	
SWIMMING POOL	152,560	155,000	160,000	165,000	
EDUCATION	1,379,796	1,456,201	1,452,590	1,457,141	NOTE 13
CAPITAL	159,700	150,000	150,000	150,000	
COMMUNITY CENTER	103,204	110,000	112,000	115,000	
TOTAL	5,072,712	5,350,506	5,418,590	5,505,141	
BUDGET SURPLUS (DEFICIT)	45,626	387,660	255,562	111,582	

**UNIFIED MUNICIPALITY OF WRANGELL
BOROUGH BUDGET NOTES FOR FY 2007, 2008, 2009**

NOTE 1:

TAXES: As a Unified Municipality both sales and property tax revenue will increase. In the budget presented, there is an increase from the current 2005-2006 FY and each of the next three fiscal years as a borough. A portion of the additional increase comes from small increases in sales tax revenues, due to sales occurring in the area proposed for incorporation and increases in the price of fuel and other commodities. Another part of the increase is derived by the addition of property to the tax roll by borough formation. It is estimated that \$14,400,000 in real property value will be added to the tax roll, at a mill rate of 12 for property within the proposed service area and a mill rate of 4 for those outside the service area. The real property taxes will be imposed as soon as feasible, and not phased in as allowed under AS 14.17.410(e). The city's property tax base has shown only small increases in recent years and it is anticipated that this trend will continue for at least the near future. The remainder of the increase is due to the recent passage of school bonds.

NOTE 2:

STATE AND FEDERAL: This category contains several small annual operating grants that the city receives for the library, police and other general purposes. At this time it is not known if the state legislature will reinstitute a plan of revenue sharing or community dividend program (though currently there are a number of such bills pending before the Alaska Legislature -- see, S.B. 219, S.B. 226, S.B. 247 and H.B. 351), and thus the only items included in this category are those that are currently established.

NOTE 3:

PILT-Federal: The city receives payment annually from the federal government in lieu of taxes. For FY 2006, the city received \$183,449. This is expected to increase somewhat due to borough formation, to approximately \$200,000 in FY 2007, and to thereafter rise at a rate of roughly 1.5% annually.

NOTE 4:

PUBLIC LAW 106-393: Under PL 106-393, the Secure Rural Schools and Community Self Determination Act, the city has received annual National Forest Receipts payments. For FY 2006, the city received \$592,927, excluding the 15% Title 2 funds.

This Act expires in FY 2006. A bill reauthorizing the Act for a five year extension is currently pending before the U.S. Congress, and is expected to be acted upon in the next few months. The reauthorization is also contained within the President's recently issued 2007 budget proposal. If the Act does not pass, payments to affected cities and boroughs would be significantly reduced and revisions to the forecasted budget would need to be made.

Assuming reauthorization, it is estimated that following borough formation the 85% payment would increase to approximately \$825,000 for FY 2007, based upon the

9.956% of the Tongass National Forest located within the proposed borough boundaries. The Act also contains an inflation factor, and the increases provided for FY 2008 and FY 2009 are in line with historical averages.

NOTE 5:

GRANTS: State Organizational Grant: This \$600,000 in funding for newly formed boroughs, per A.S. 29.05.190, will be received over a three-year period. The new borough will receive \$300,000 in the first year, \$200,000 in the second, and \$100,000 in the third year.

NOTE 6:

PERMANENT FUND: The City of Wrangell voted in October 1997 to establish a Permanent Fund in the amount of \$5,000,000. The purpose of the fund, which is "inflation-proofed", is to provide a source of money to help replace declining state revenues. Fund revenues in excess of inflation are annually deposited into the city's general fund. The principal can not be accessed without a vote of the people.

NOTE 7:

ASSESSOR FEES: The city's assessor has estimated that borough formation will cause the cost of annual assessment to increase \$15,000 in the first year, \$8,000 in the second year, and \$2,000 per year thereafter.

NOTE 8:

COMMUNICATIONS: The newly formed borough plans to augment and/or supply communication links between the existing city and those living in outlying areas. Various options are being considered, and the cost set out in the budget is the estimate for those services.

NOTE 9:

SEARCH AND RESCUE: The Wrangell Search and Rescue already provides emergency response services to the area proposed for borough formation. It is anticipated that this will continue, along with the provision of additional emergency training to residents in certain outlying areas, particularly Thoms Place and Meyers Chuck, to facilitate response assistance. Currently, the state troopers reimburse the city for much of the search and rescue work done, and the city has been advised that this will continue after borough formation.

NOTE 10:

POLICE: As-needed police services will be furnished outside the new borough's service area. Air transportation to the site will be chartered when necessary, and the estimated costs for this transportation and other associated expenses are estimated and included within the budget.

NOTE 11:

BUILDING PERMITS: The cost of providing inspection and building permit services is anticipated to increase minimally following borough formation, and the estimated increase equals \$6,000 per year.

NOTE 12:

PLANNING AND ZONING: It will take several years to evaluate all of the borough lands and zone them appropriately, working closely with residents in outlying areas. Once the initial task is completed, planning and zoning assistance will be provided as needed to outlying areas.

NOTE 13:

EDUCATION: Based upon information received from the Wrangell Schools Superintendent, and the Superintendent of the Southeast Island REAA, we do not anticipate any significant increase in actual school costs when the Unified Municipality is formed. Wrangell has been providing school services to between 5 and 10 students who reside outside the existing City, and will continue to do so at the same levels and at the same costs. These students are already counted in the Wrangell School District's average daily membership for formula funding purposes.

The current city budget figure for the education expenditure -- \$1,379,796 -- includes the City's required local contribution, the additional funding up to the maximum cap, National Forest Receipts paid to the school district, and net annual debt service (total minus 70% state reimbursement) on school general obligation bonds, as follows:

Required Local Contribution:	\$ 592,666
Additional Funding to Max.	\$ 705,930
Nat'l Forest Receipts	\$ 17,691
Net Debt Service after reimb.	\$ <u>63,509</u>
TOTAL	\$1,379,796

The amounts projected for the borough are similarly calculated, with the increased required local contribution for the area of the borough taken into account.

Other general information about the budget:

Other services that the City of Wrangell currently provides include harbors/port, water, sewer, electricity, landfill, garbage collection and hospital. All of these services are owned and operated by the city as enterprise funds. Only those that use the services pay for them. This results in no impact on the general operating budget of the city.

The attached budget for the fiscal years ending June 30, 2006, 2007, 2008 and 2009 includes estimates for both our current level of services and the expected additional services under a Unified Municipality.

Some of the expenditure portion of the budget will increase regardless of borough formation. The rising employer costs associated with the state retirement system and

health insurance continue to increase costs for employee benefits. This is the most significant reason for the administrative increase over the next 3 years. As more is known regarding a possible solution to the state retirement problem and state revenue sharing, the budget can and will be balanced on the funds available. Other expenses have been reasonably stable and are expected to continue in that manner.

EXHIBIT D-2

CURRENT CAPITAL PROJECTS

The City of Wrangell is currently conducting six capital projects that do not appear in the annual approved operating budget. Generally, these are projects that are entirely paid for by grant funding.

1. Heritage Harbor- This is a 25 million dollar project paid by the Army Corps of Engineers, State of Alaska and the City of Wrangell. 70% of this project is complete. The remaining portion is installation of the float system and the city is waiting on legislative funding in order to finish all of the floats.
2. Nolan Center- This is a 9 million dollar project and is 95% complete. The final portion of this project being worked on now is coming from a USDA grant to finish up the project.
3. Community Cold Storage- This project is in the planning stage and is planned to be designed and constructed within the next 2 years. At this time, the majority of the funds for this project are grant funded, with the remainder from City funds.
4. Boat Haul Out- This project is being designed at this time and is expected to be completed within the next couple of years. This project is funded with an EDA grant and an appropriation from the Wrangell Permanent Fund.
5. Harbor Renovations- This project will make approximately 3.5 million dollars in improvements to the existing Wrangell Harbors. These funds were given to the city at the time the state turned over the harbors to the city. This work is expected to be complete by 2008.
6. School Construction- This project is funded by the 2005 School Bond and the work is expected to be completed by September of 2007.

Appendix J

Central Southern Southeast Area Plan 2000

Excerpts

Region 4 — Wrangell

REGION 4 – WRANGELL

BACKGROUND

The Wrangell planning region includes the area north from Eastern Passage to Ernest Sound in the south, and from Clarence Strait in the west to the Canadian border on the east. The planning area includes the islands of Wrangell, Zarembo, Etolin and Woronkofski. It also contains areas of the adjacent mainland, including the Stikine River coastal tide flats and the Bradfield Canal area.

The majority of state tracts are located on Wrangell Island, with minimal holdings on Zarembo and Etolin Island and somewhat larger areas near Crittenden Creek, Mill Creek and Bradfield Canal on the mainland. State tideland parcels are extensive throughout the Wrangell planning areas, reflecting the extensive coastlines along the mainland and around the offshore islands, and the unique habitat and presence of fish/marine mammals in these areas.

STATE LANDS

State uplands within this region are located primarily within Wrangell Island, with concentrations near the Wrangell community, southeast thereof, in Pat's Creek drainage and in the southwestern part of the island at Thoms Place and Thoms Lake.

The distribution of these tracts, according to principle geographic areas, is given below.

Geographic Areas	Acres
Zarembo Island	1,679
Bradfield Canal	5,783
Wrangell	17,801.8
Etolin	465.5
Mainland	4,385.7

Tideland units are primarily associated with the coastal tidelands of the Stikine River and at the head of various bays. The Stikine River area is particularly significant, functioning as a regionally important waterfowl concentration on the

Region 4 — Wrangell

Pacific Flyway, as a transportation corridor to the interior, and as an important harvest and materials extraction area.

ACREAGE

There is a total of 30,115 acres of state upland tracts in the Wrangell planning region. Of this total, approximately 22,995 acres are in TA/Patent status with the remainder (7,120) in selection status. In addition, there is a total of 430,733 acres of tidelands and submerged lands. Of this, there are approximately 76,486 acres in the 57 tideland tracts identified in Chapter 3.

Geographic Areas	Acres
Upland Tracts	30,115
Tideland Tracts	76,486

PHYSICAL FEATURES

The Wrangell planning region is part of the physiographic region of both the Boundary Ranges and the Coastal Foothills. Most areas, with the exception of the state tracts at the terminus of the Bradfield Canal, are located in the Coastal Foothills. The state upland parcels can be generalized into four principal areas: North/Central Wrangell Island, Wrangell Island South, Mainland, Bradfield Canal, and mainland Mill and Crittenden Creeks.

North/Central Wrangell Island. Within this area, state land occupies areas near the coast and the interior drainage of Pat's Creek. Areas near the coast are characterized by moderately sloping coastal plains. The interior areas are steeply sloped except for the floodplain and other adjacent areas to Pat's Creek. Uplands contain a mixed hemlock/spruce forest except for some even-age regeneration areas in the Pat's Creek drainage. The flatter areas, particularly within the Pat's Creek drainage, contain wetlands, which are mostly saturated spruce bog and sphagnum bog.

Wrangell Island South. In this area, state land occupies coastal areas and the interior drainage of Thomas Lake and Creek. Areas adjacent to the coast are moderately steep to gently sloping coastal plains. The Thoms Place Subdivision occupies portions of this coastal plain. Interior areas are dominated by the Thoms Lake and Creek drainage, with terrain tending to be gently sloped near the creek but more steeply sloped away from this area. This area includes mostly dry uplands covered by a mixed spruce/hemlock forest.

Region 4 — Wrangell

Mainland, Bradfield Canal. This area consists of two sub-parts: the Bradfield River floodplain and the other steeply sloped mountainous areas adjacent to it. The latter are physiographically part of the Border Ranges, a mountainous area with steeply sloped valley walls. The floodplain of Bradfield River is extensive, consisting of the numerous braided channels formed by the river. Within the floodplain of the river, there are extensive wetland areas consisting of emerging, forested, and shrub wetland types. The steeply sloped upland areas are dry and are covered by a mixture of hemlock and spruce forest.

Mainland, Mill and Crittenden Creeks. This area consists of gently rolling coastal plains with areas of steep slope within the interior of both parcels as well as areas of fairly level floodplains adjacent to Crittenden Creek. The uplands are covered by a mixture of spruce and hemlock forest. The flatter areas, especially those within floodplains, are covered by a mosaic of dry land, saturated spruce bog, and sphagnum bog.

USES AND RESOURCES

Uses.

Uplands. State upland tracts in the Wrangell planning region receive varying levels of use, with the more remote tracts primarily being used for dispersed and marine oriented recreation. The range of current uses on state land includes dispersed and marine recreation, areas used for settlement, and areas of timber harvest. There is a fairly heavy use of the Thoms Lake parcels and the Mill Creek/Virginia Lake tracts on the mainland. Recreational activities in these areas include camping, hiking, sport fishing, and other dispersed recreation uses. Other tracts receiving fairly heavy use include those in the Pat's Creek drainage in the central part of Wrangell Island and Earl West Cove. In these areas, fishing, hiking, and off-road vehicular uses are common. Settlement areas within the planning region are situated at Thoms Place, Olive Cove, and scattered areas along Eastern Passage. The remaining principal use of state land involves timber harvest. Most timber harvest has been conducted by the Forest Service, particularly along Pat's Creek drainage, and within Earl West Cove and the Bradfield Canal area. State timber harvest has occurred recently in the Pat's Creek drainage area.

Tidelands. A variety of sites throughout the region are used for subsistence harvesting, involving the gathering of invertebrates and intertidal gathering, as well as salmon and finfish harvest. Harvest areas are scattered throughout the planning area and include portions of Zarembo Island, areas near Thoms Place on Wrangell Island, and Woronkofski Island.

Region 4 — Wrangell

Resources. State upland tracts include a variety of resources, including recreation, settlement, timber harvest, and habitat. Areas of recreation and settlement occur at the areas described under "Uses of State Land". Additional areas appropriate for future settlement exist at St. John's Harbor on Zarembo Island, adjacent to Olive Cove on Etolin Island, and north of the existing Thoms Place Subdivision along Zimovia Strait on Wrangell Island. Commercial forest resources exist in the areas of previous timber harvest, but also at Crittenden Creek on the mainland adjacent to Thoms Lake and the Thoms Creek drainage on Wrangell Island, and on Zarembo Island. Mature commercial forest areas total 23,015 acres with some 3,250 acres having been previously harvested, representing 14% of the total. Most of the large tracts, especially those adjacent to the coast or including significant anadromous streams, are likely to support deer, some moose, and bear concentrations, both black and brown. Particularly heavy concentrations of these resources occur at the Thoms Lake and Thoms Creek drainage, Earl West Cove, and Virginia Creek on the mainland.

MANAGEMENT CONSTRAINTS AND CONSIDERATIONS

Few state resource or management plans affect the Wrangell planning region. Although there are no habitat management plans by the ADF&G, DNR has prepared a site specific plan for the Pat's Creek drainage.

Land use development is guided by the city comprehensive plan and zoning ordinance within the corporate limits of the City of Wrangell. The city's coastal zone plan manages resources within this area.

TLRMP designations of "Timber Production" abut the St. Johns Harbor tract on Zarembo Island and portions of the Crittendon Creek parcel on the mainland. Most other state lands are adjoined by the "Scenic Resources" prescription. This prescription is particularly common in the Pat's Creek drainage on Wrangell Island and adjacent to the Mill Creek tract on the mainland. The areas of Thoms Place and Thoms Lake are abutted by the "Old Growth Habitat" prescription.

MANAGEMENT OF STATE LANDS

State lands are intended to be used for multiple uses, including both dispersed and marine oriented recreation, timber harvest, habitat protection, and settlement. Some areas that are appropriate for eventual intensive use (such as settlement) are not recommended for development during the planning period of 20 years, however.

Most state upland tracts, particularly those of significant size and in remote locations, provide for and are recommended for dispersed recreation opportunities. Among the large tracts, the Pat's Creek drainage, Earl West Cove, Mill and Crittendon Creeks, and the Thoms Lake/Creek areas are important in terms of

Region 4 — Wrangell

dispersed recreation use. There is particularly heavy use of the Mill Creek/Virginia Lake and Thoms Lake/Creek areas by Wrangell residents.

Commercial timber harvest is recommended in large tracts with less intensive recreation use and in areas not containing significant sensitive habitats. These areas are usually remote from the City of Wrangell, and are designated General Use (Gu). The General Use designation allows for a variety of uses, including potential timber harvest. Included among the areas where commercial timber harvest is recommended for consideration are the Pat's Creek drainage, Eastern Passage, Crittenden Creek, the Bradfield Canal, and Zarembo Island. Timber harvest to support subdivision development is considered appropriate and is recommended.

Several areas are identified within the Wrangell planning region for future settlement. Few potential sites exist with requisite water access, appropriate terrain, and safe anchorages. Areas meeting these criteria and recommended for future settlement include the St. John's Harbor area at Zarembo Island, the Olive Creek drainage on Etolin Island, and the area north of the Thoms Place Subdivision along the Zimovia Strait, Pat's Creek drainage and the area of state land adjoining Eastern Passage on Wrangell Island. Although settlement is appropriate at Olive Cove, it is not recommended that a land disposal occur there during the planning period.

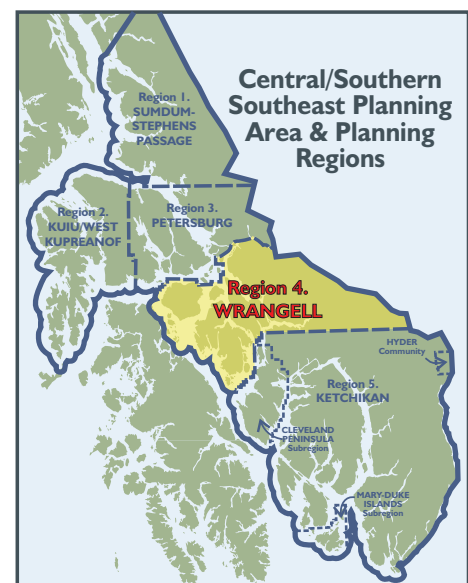
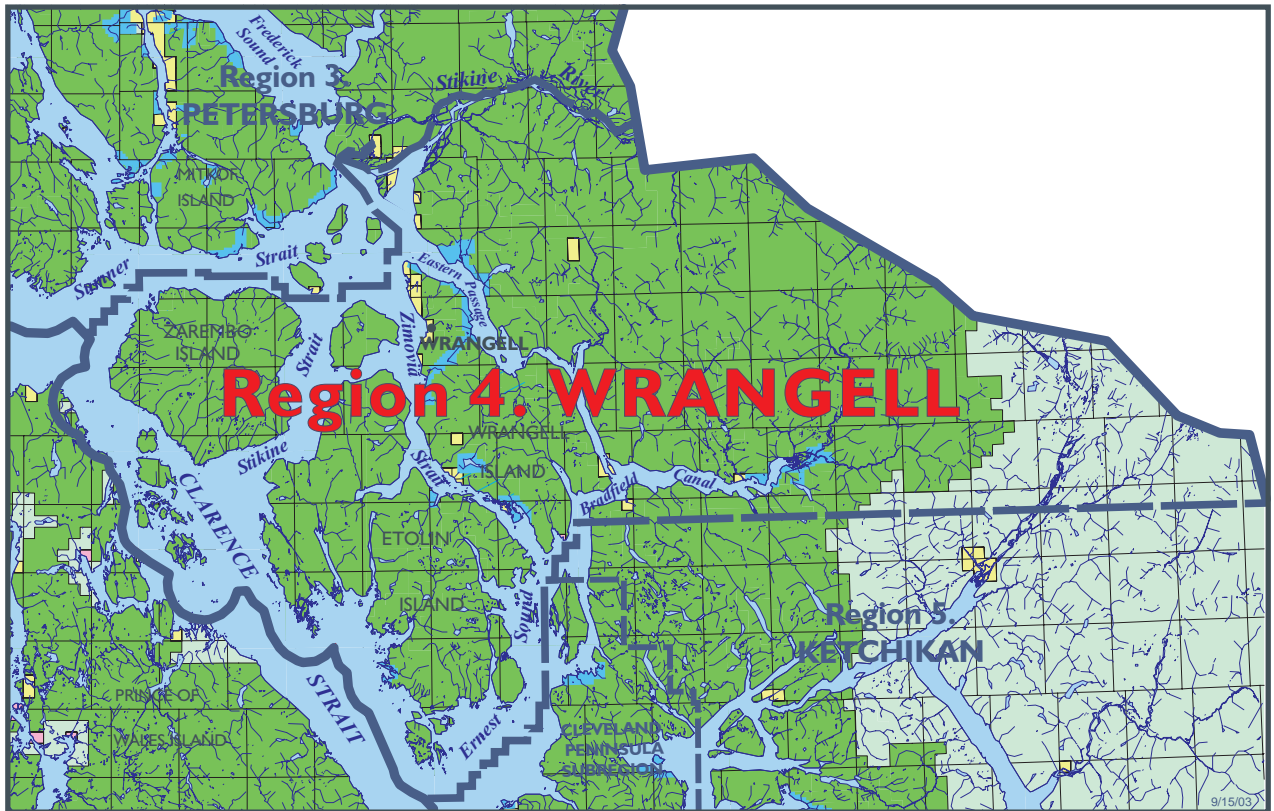
Acreage associated with these designations are as follows:

Designations		Acres
<u>Uplands</u>		
Gu	General Use	23,302
Ha	Habitat	7,121
Hv	Harvest	2,215
Ma	Materials	0
Pr	Public Facilities – Retain	4,191
Pt	Public Facilities – Transfer	0
Rd	Recreation – Developed	0
Ru	Recreation – Undeveloped	5,975
S	Settlement	5,824
Sc	Settlement – Commercial	4
<u>Tidelands</u>		
Gu	General Use	354,247
Ha	Habitat	69,614
Hv	Harvest	73,017
Ru	Recreation – Undeveloped	29,670
Sd	Shoreline Development	4,896
Wd	Waterfront Development	150

Region 4 — Wrangell

Map 3-15 ♦ Region 4

4 - Wrangell Planning Region

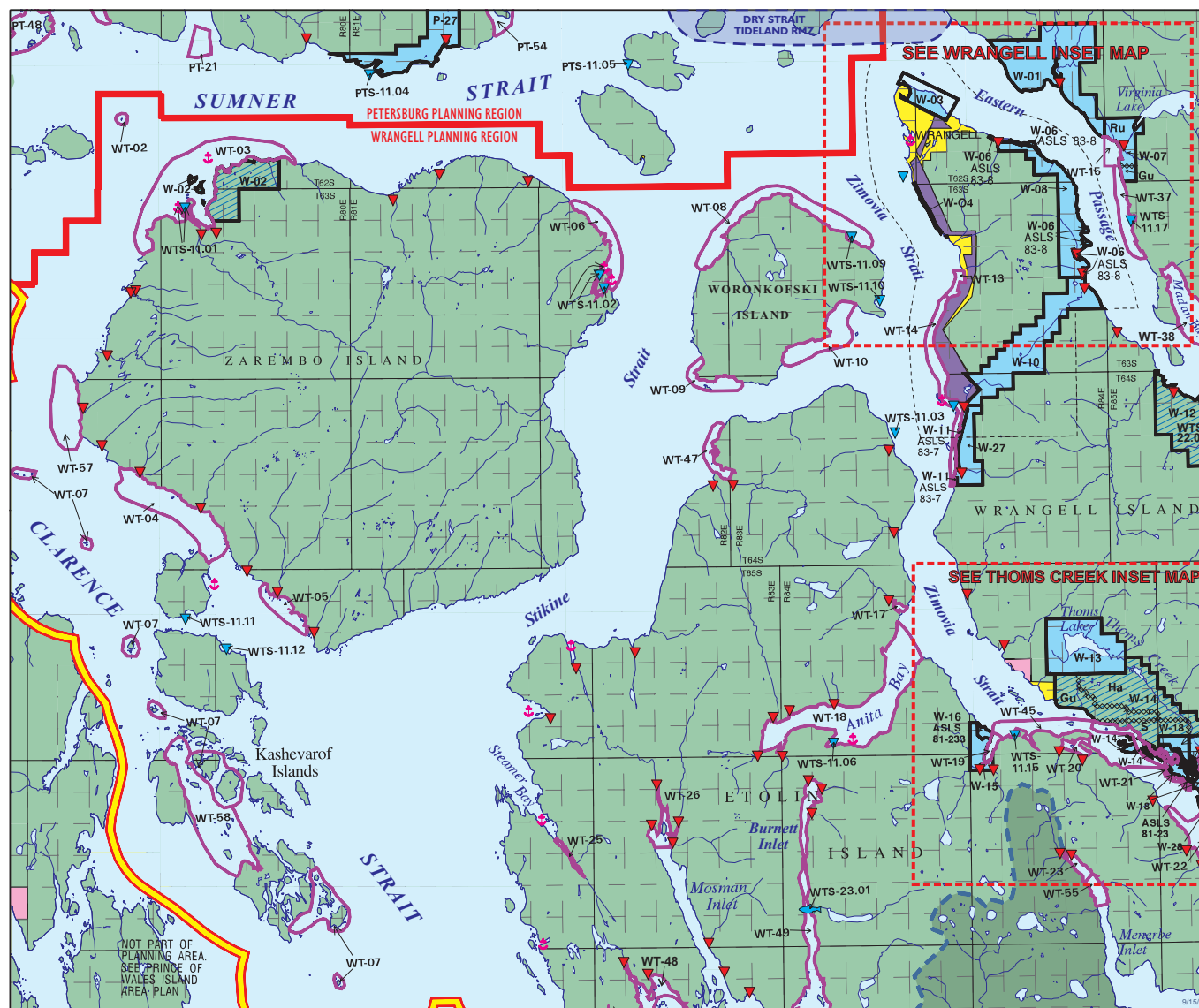


Region 4 — Wrangell

Explanation of Footnotes









1. **Except for state upland tracts, only generated land status, current to 1997, is depicted. Consult the land records of the Forest Service, borough and cities, and Native corporations to identify precise land ownership boundaries and current land status.**
2. Maps are generated from a geographic information system (GIS) using a specific hierarchy for the depiction of land status, with information portrayed at the section level. State land is at the highest level of this hierarchy, so that if there is only some land within a section that is state owned or state selected, the entire section is portrayed as state owned. Land status information, except for state tracts, is derived from the Land Status layer of the Tongass Land and Resource Management Plan GIS. DNR land records were used to depict state upland tracts.
3. Designation boundaries depict specific areas of a particular designation within a state tract, whether upland or tideland. They are only used if there is more than one designation in a tract. Additional information on the designations is included in the Resource Allocation Table.
4. The suitability of anchorage areas has not been identified. Nautical charts should be consulted.
5. Anadromous streams correspond to the anadromous streams in the ADF&G Streams Catalogue (Southeast).
6. **The General Use (GU) designation applies to all state-owned areas not otherwise designated on the plan maps.**

MAP 3-16 ♦ REGION 4
Wrangell - Central












Central/Southern Southeast Area Plan
November 2000

Land Status (1)(2)

-  Tongass NF Wilderness Areas
-  Tongass Natl. Forest
-  Misty Fiords Natl. Monument
-  Native Owned
-  Private
-  State Owned
-  Mental Health
-  State Selected











Boundaries

-  Upland Unit Boundary
-  Upland Designation Boundary
-  Tideland Unit Boundary
-  Tideland Designation Boundary
-  Subregion Boundary
-  Planning Region Boundary
-  Area Plan Boundary
-  City Boundary
-  Herring Spawning Area

Units (3)

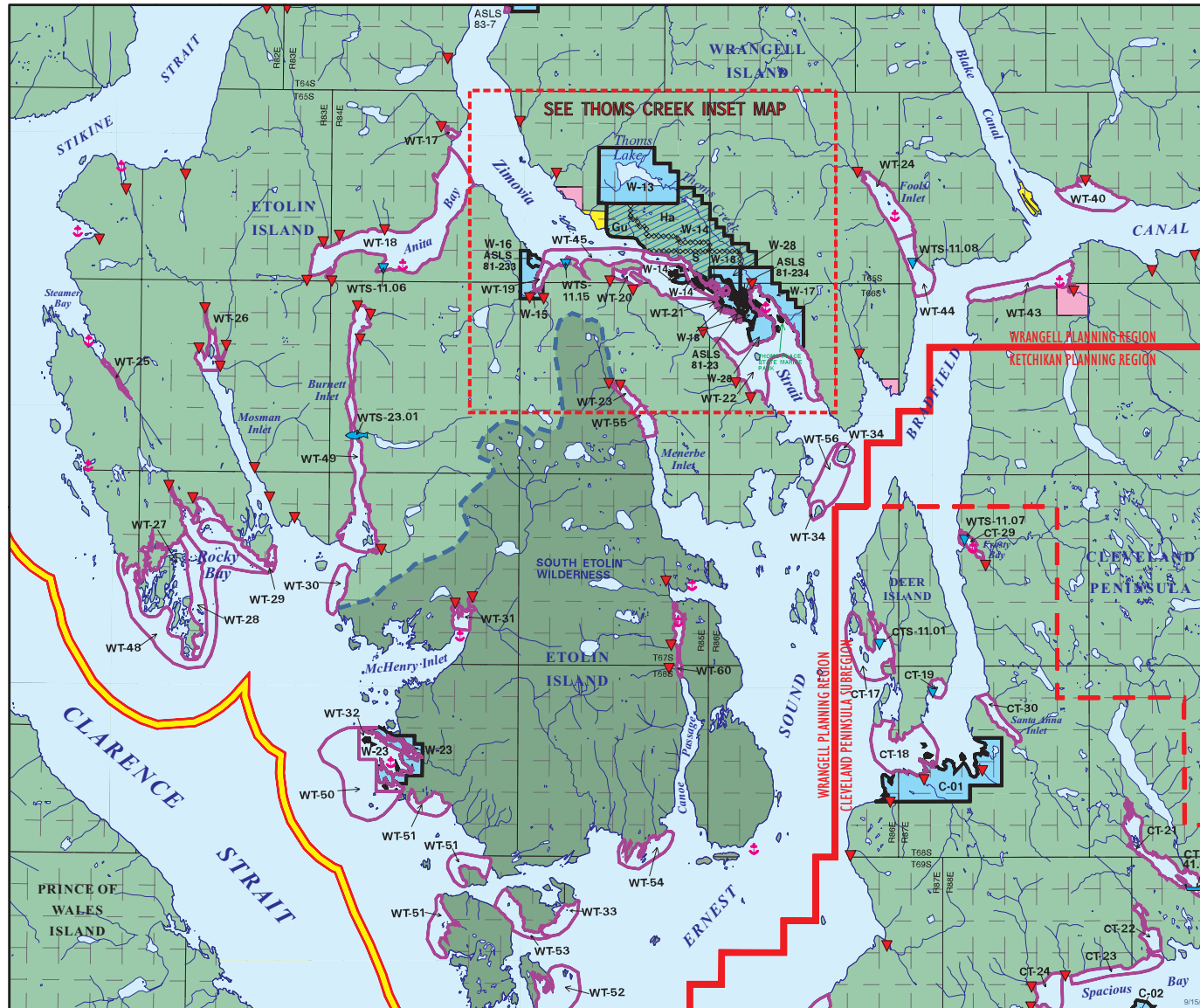
- K-01** Large Tract, Upland
- KT-01** Large Tract, Tideland
- KTS-01** Small Tract, Tideland

Tideland Uses/Facilities

-  Anchorage (Private & Public) (4)
-  Boat Ramp/Harbor
-  Resource Transfer Site (Forestry, Others)
-  Seaplane
-  Lodge
-  Log Transfer Site
-  Aquaculture
-  Hatchery
-  Seabird Nesting Colony (Major)
-  Anadromous Streams (5)

Region 4 — Wrangell

MAP 3-17 ♦ REGION 4 Wrangell - South



Central/Southern Southeast Area Plan
November 2000

Land Status (1)(2)

- Tongass NF Wilderness Areas
- Tongass Natl. Forest
- Misty Fjords Natl. Monument
- Native Owned
- Private
- State Owned
- Mental Health
- State Selected

Boundaries

- Upland Unit Boundary
- Upland Designation Boundary
- Tideland Unit Boundary
- Tideland Designation Boundary
- Subregion Boundary
- Planning Region Boundary
- Area Plan Boundary
- City Boundary
- Herring Spawning Area

Units (3)

- K-01** Large Tract, Upland
- KT-01** Large Tract, Tideland
- KTS-01** Small Tract, Tideland

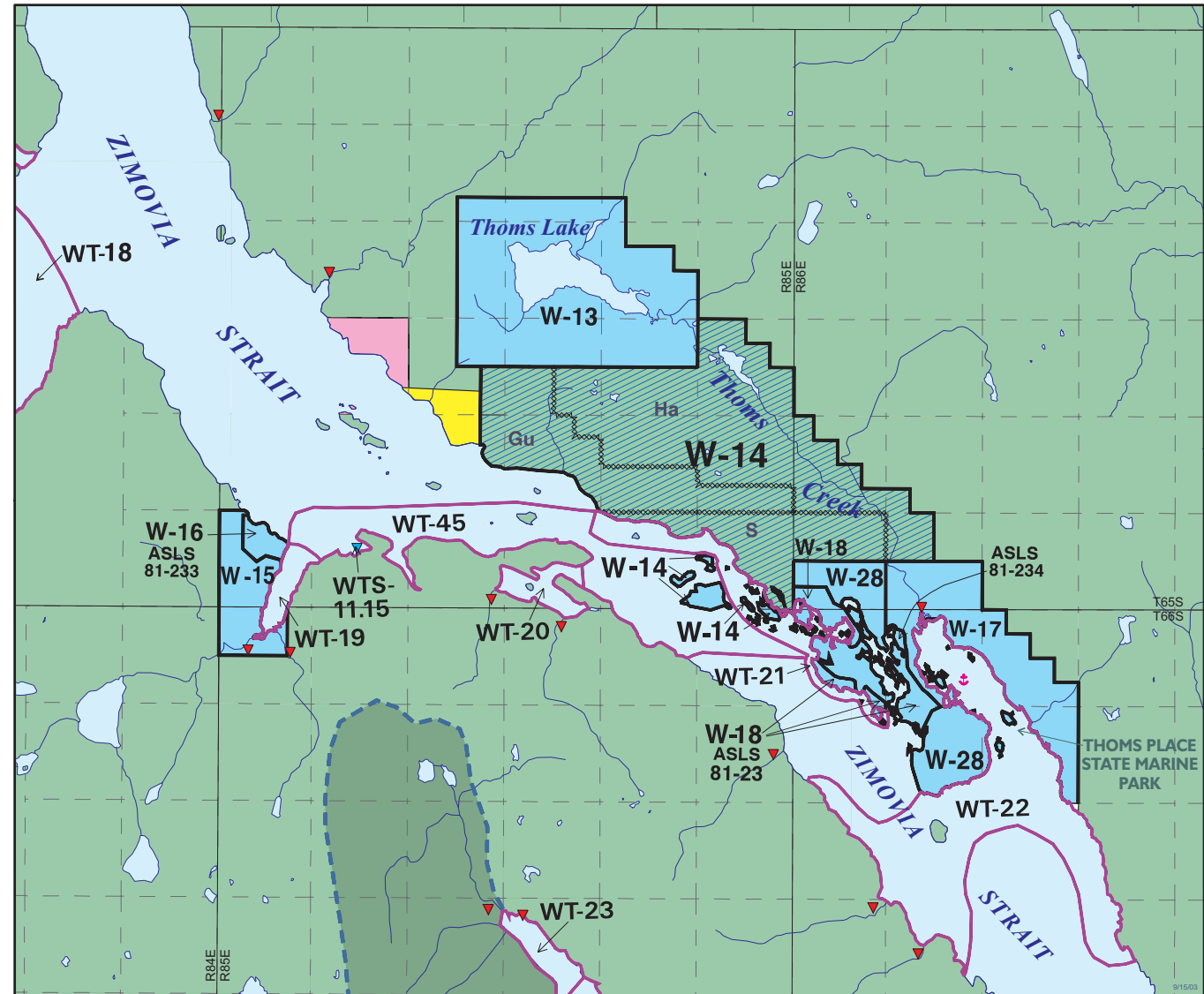
Tideland Uses/Facilities

- Anchorage (Private & Public) (4)
- Boat Ramp/Harbor
- Resource Transfer Site (Forestry, Others)
- Seaplane
- Lodge
- Log Transfer Site
- Aquaculture
- Hatchery
- Seabird Nesting Colony (Major)
- Anadromous Streams (5)

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Region 4 — Wrangell

MAP 3-18 ♦ REGION 4 **Wrangell - Thoms Creek Inset**



Land Status (1)(2)

- Tongass NF Wilderness Areas
- Tongass Natl. Forest
- Misty Fjords Natl. Monument
- Native Owned
- Private
- State Owned
- Mental Health
- State Selected

Boundaries

- Upland Unit Boundary
- Upland Designation Boundary
- Tideland Unit Boundary
- Tideland Designation Boundary
- Subregion Boundary
- Planning Region Boundary
- Area Plan Boundary
- City Boundary
- Herring Spawning Area

Units (3)

- K-01 Large Tract, Upland
- KT-01 Large Tract, Tideland
- KTS-01 Small Tract, Tideland

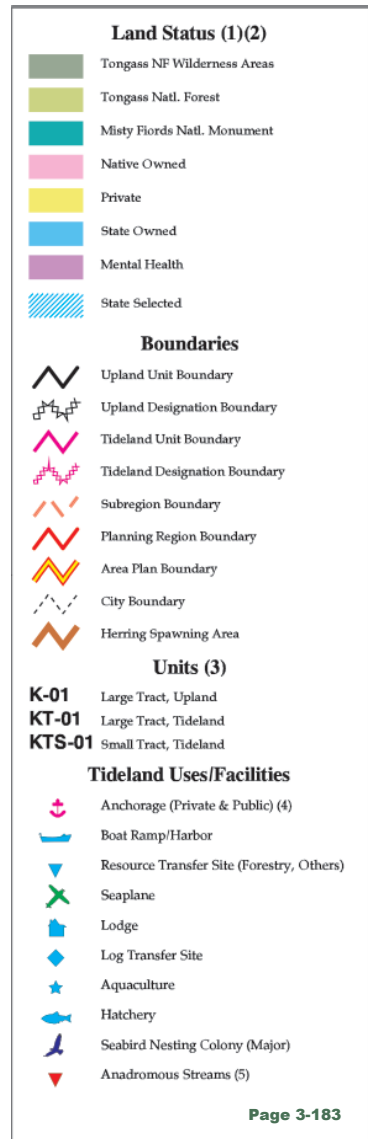
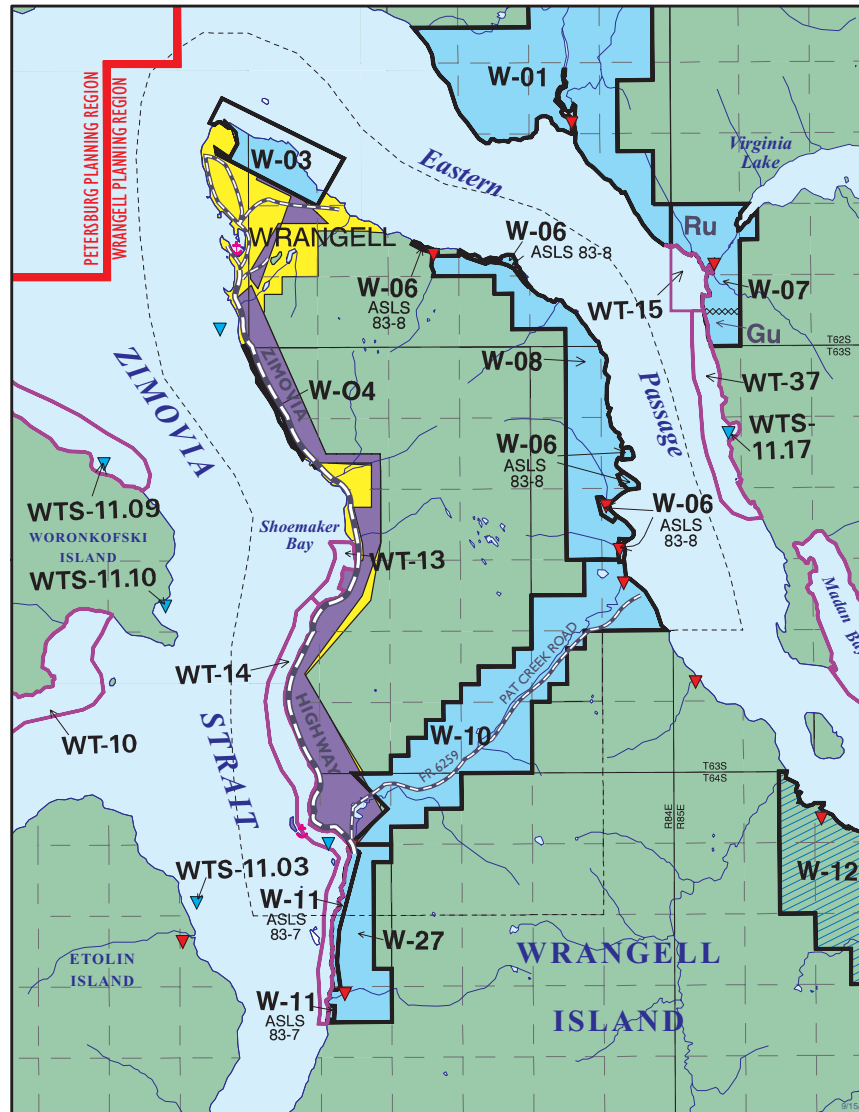
Tideland Uses/Facilities

- Anchorage (Private & Public) (4)
- Boat Ramp/Harbor
- Resource Transfer Site (Forestry, Others)
- Seaplane
- Lodge
- Log Transfer Site
- Aquaculture
- Hatchery
- Seabird Nesting Colony (Major)
- Anadromous Streams (5)

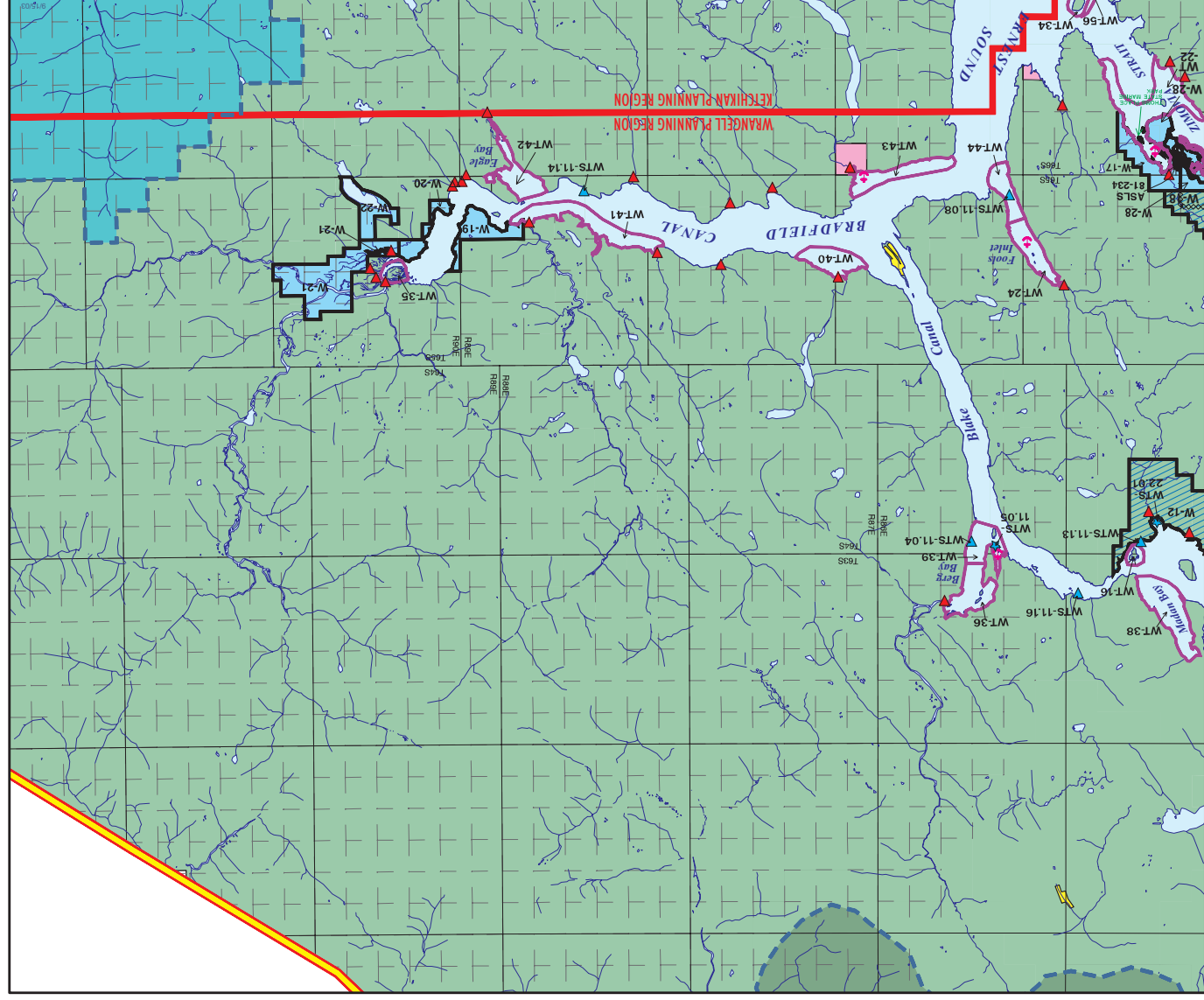
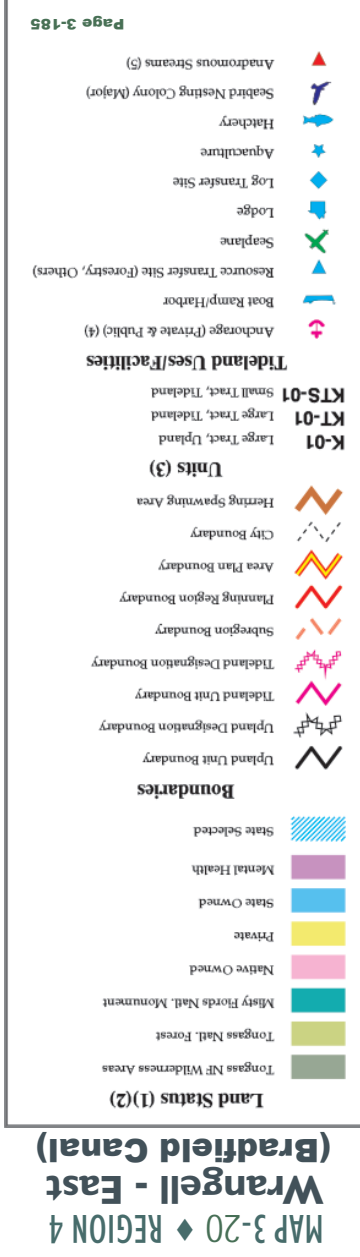
Central/Southern Southeast Area Plan
 November 2000

Region 4 — Wrangell

MAP 3-19 ♦ REGION 4 Wrangell Inset Map

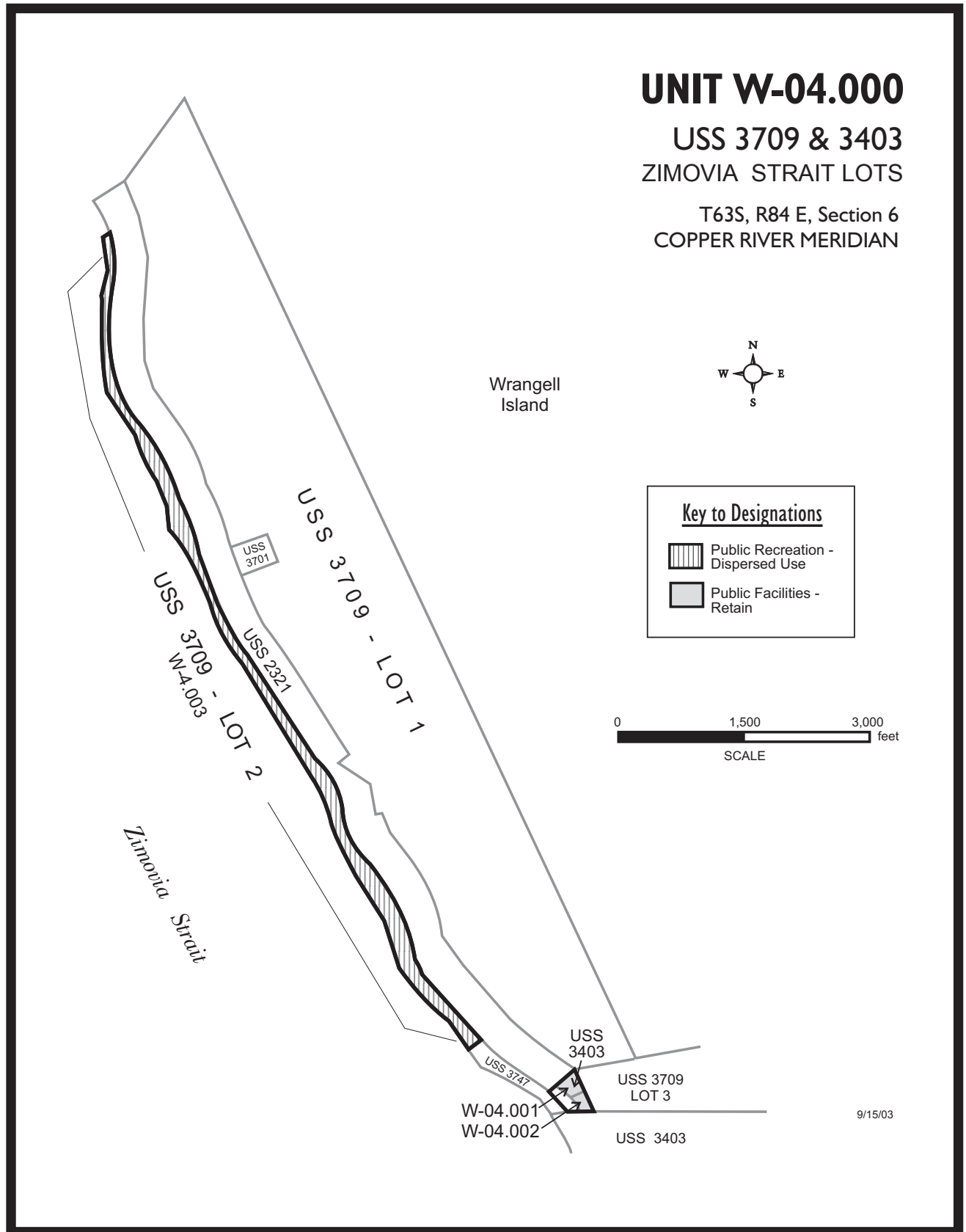


Region 4 — Wrangell



Central/Southern Southeast Area Plan
November 2000

Region 4 — Wrangell

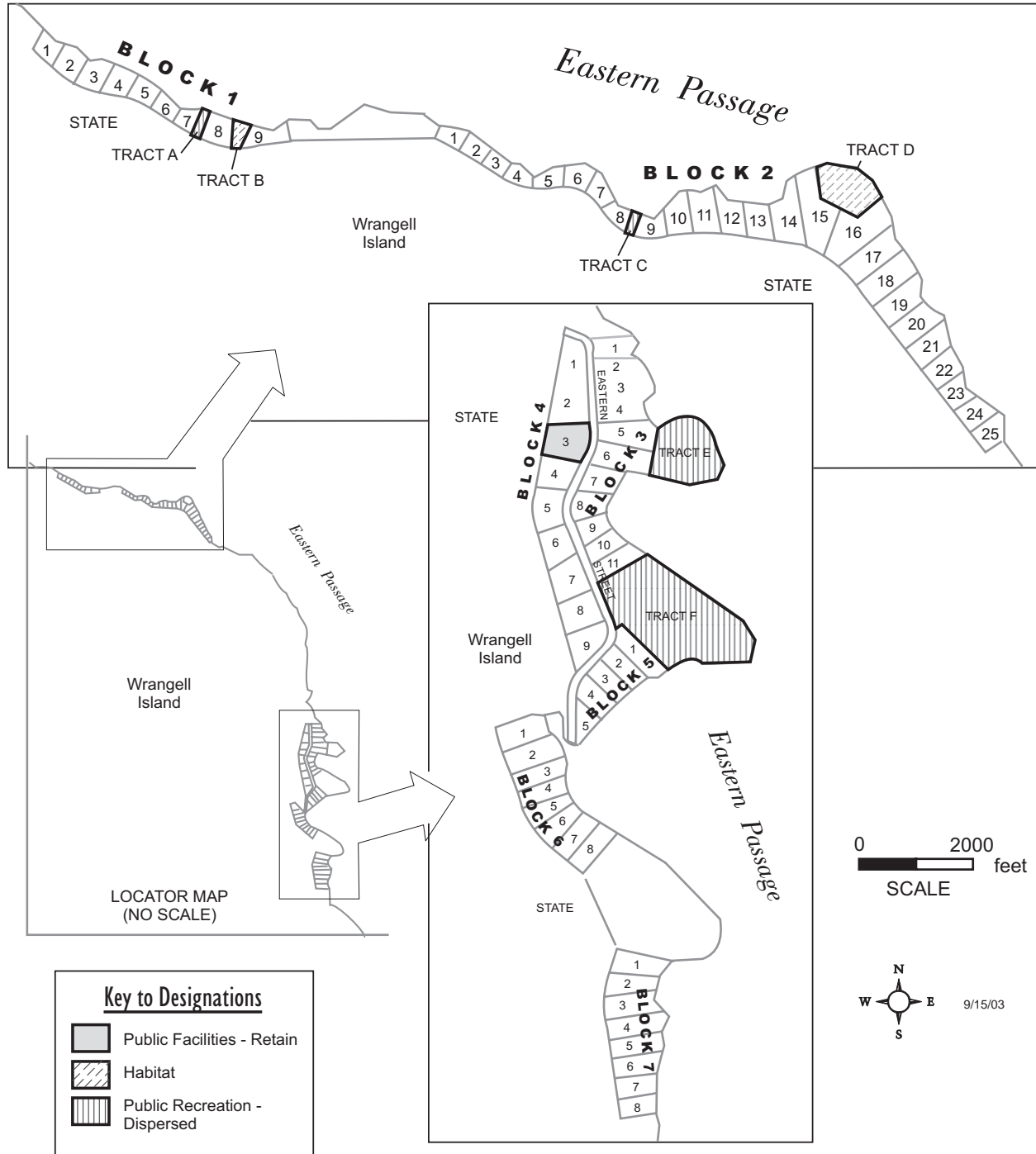


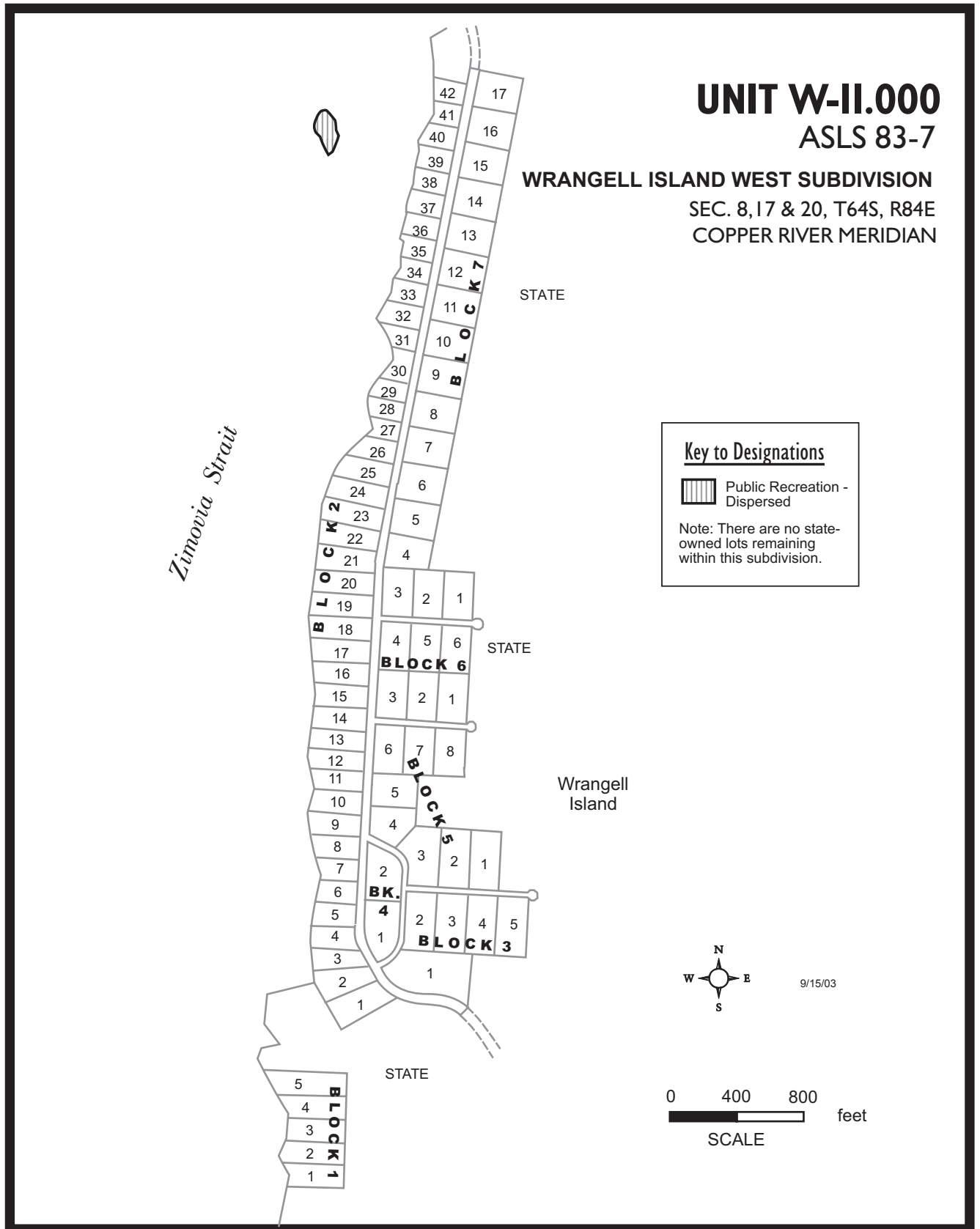
UNIT W-06.000

ASLS 83-8

WRANGELL ISLAND EAST SUBDIVISION

SEC. 27, 28, 34 & 35, T62S, R84E AND SEC. 12, 13, 14, & 24, T63S, R84E COPPER RIVER MERIDIAN





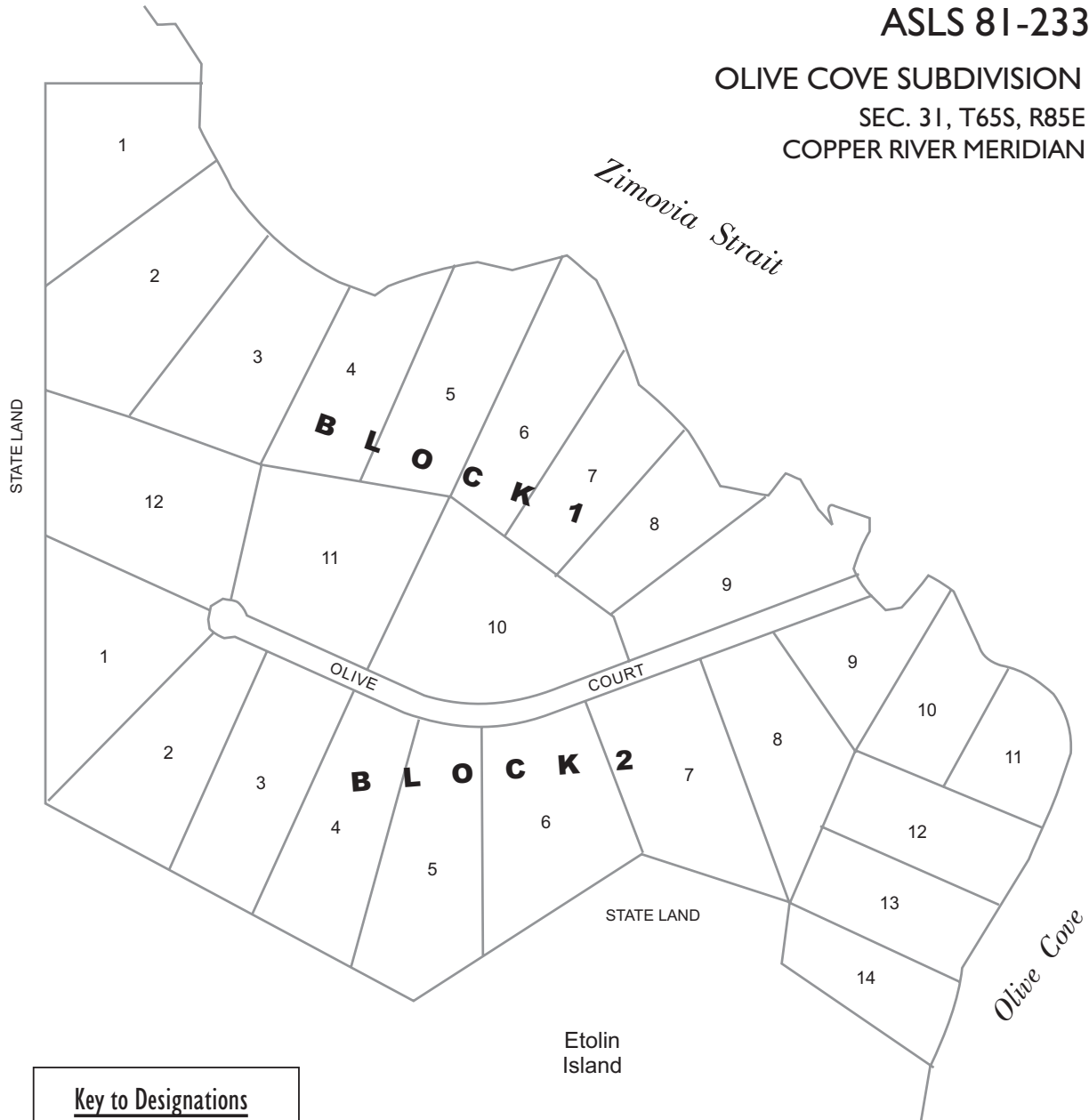
UNIT W-16.000

ASLS 81-233

OLIVE COVE SUBDIVISION

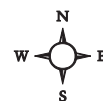
SEC. 31, T65S, R85E

COPPER RIVER MERIDIAN



Key to Designations

Note: There are no state-owned lots remaining within this subdivision.



9/15/03

