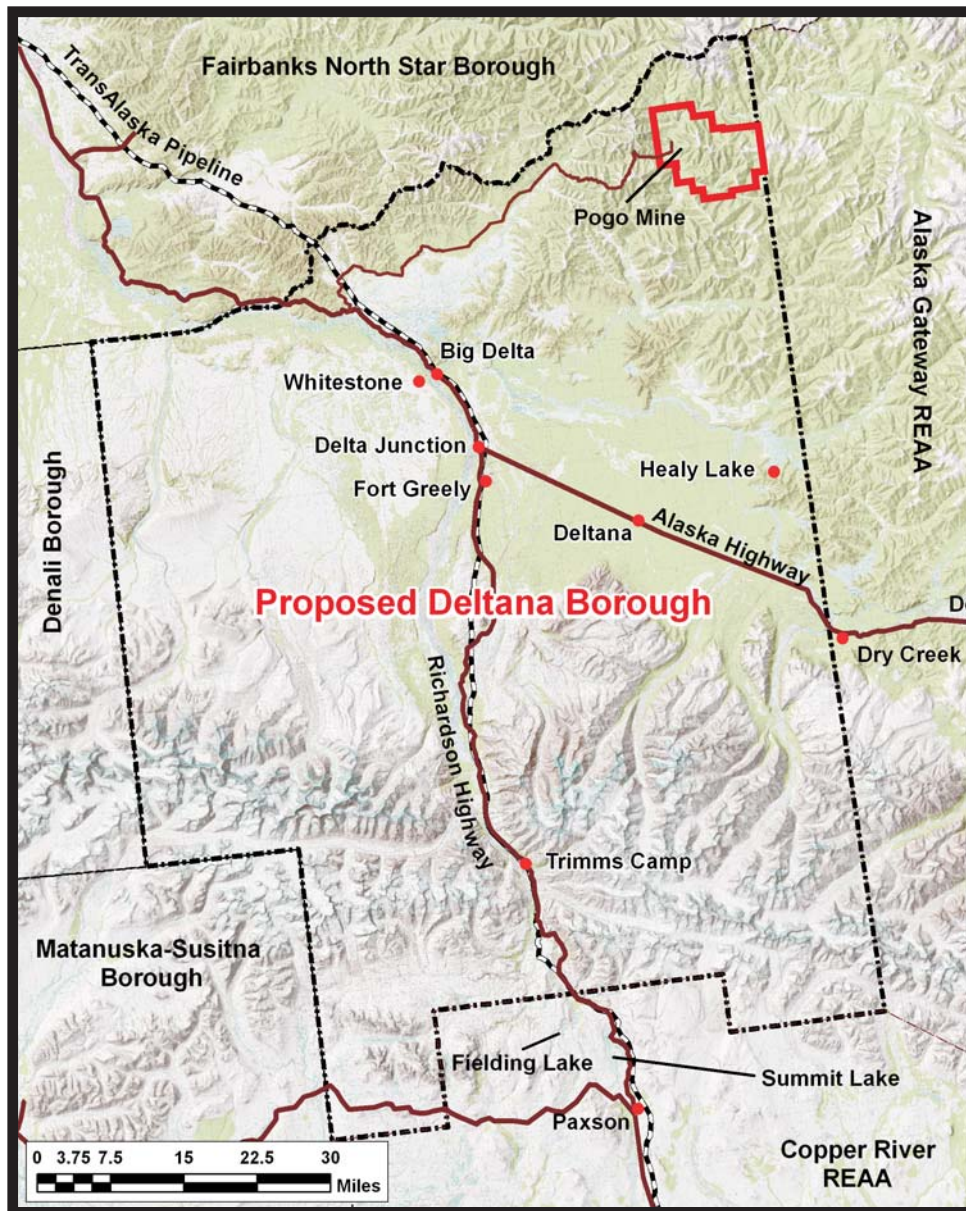




Preliminary Report to the Local Boundary Commission on the Deltana Borough Proposal



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Chapter 1 - Background

A. Introduction

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

B. General Background on Local Government in Alaska

1. 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.

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

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.

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.

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.



A meeting of the Local Government Committee during the Alaska Constitutional Convention in February, 1956.

2. 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

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 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 374,843 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

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3. 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 local option petition for incorporation of a second-class city.

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.)

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that each borough embrace a maximum area and population with common 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.

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.)

4. 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 Hellenthal 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

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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

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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.

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 9.35.220(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



The framers of the Alaska Constitution ensured local government powers were liberally defined in Article X, Section 1 of the Alaska Constitution.

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.

5. A Second-Class City Has No Duty Under State Law to Provide a Particular Service or Facility

Duties to provide particular services are imposed by State law only on certain municipalities.⁷ However, second-class cities in the unorganized borough are not obligated by State law to provide any fundamental service or facility.

Services and facilities provided by municipalities must be delineated by ordinance. AS 29.25.010 expressly requires the governing body of a general law municipal government to adopt an ordinance to: (1) establish, alter, or abolish municipal departments; (2) provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed; (3) provide for the levying of taxes; (4) make appropriations, including supplemental appropriations or transfer of appropriations; (5) grant, renew, or extend a franchise; (6) adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map; (7) approve the transfer of a power to a first or second-class borough from a city; (8) designate the borough seat; (9) provide for the retention or sale of tax-foreclosed property; and (10) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025.

⁷ Organized boroughs, home-rule cities in the unorganized borough, and first-class cities in the unorganized borough are obligated to provide education, platting, planning, and land use regulation services. Additionally, if certain municipal taxes are levied within a borough, the borough is obligated to collect property, sales, and use taxes levied within the boundaries of the borough. (AS 29.35.160-180 and AS 29.35.260(b)-(c).)

6. The Powers of Second-Class Cities in the Unorganized Borough have Certain Limitations

As previously noted, all municipalities have broad powers. However, State law limits the powers of second-class cities in certain respects. This section of the report addresses the limitations imposed by State law on second-class cities in the unorganized borough.

Limits are placed on the exercise of planning, platting, and land use regulation powers by second-class cities in the unorganized borough in the sense that State law stipulates that such powers may be exercised as provided by AS 29.35.180(a) for first and second-class boroughs. (AS 29.35.260.)



Delta Community Library

State law also limits the power of a second-class city to levy property taxes. AS 29.45.590 provides that a second-class city, may by referendum, levy property taxes as provided for first-class cities. However, the levy of an ad valorem tax by a second-class city may not exceed two percent of the assessed value of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness that is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

The power of a second-class city to levy and collect sales and use taxes is limited to that of a first-class city. (AS 29.45.700.) A new sales and use tax or an increase in the levy rate of a sales tax approved by ordinance does not take effect until ratified by a majority of the voters. (AS 29.45.670.) Beyond property taxes, sales taxes, and use taxes, a second-class city has the same implicit taxing powers as other general law municipal governments in Alaska.

As previously noted, State law expressly prohibits a second-class city in the unorganized borough from operating a school district. (AS 29.35.260.)

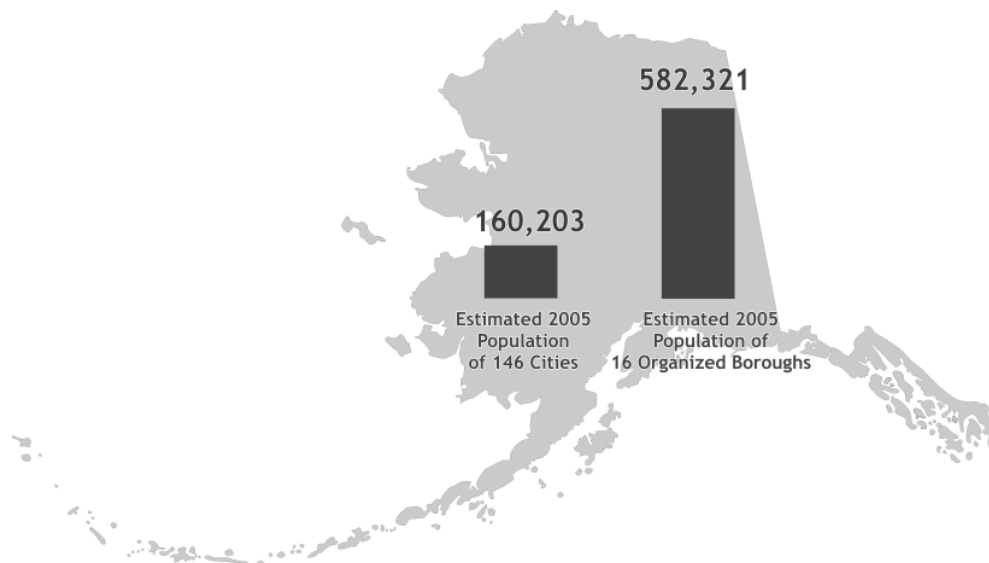
The exercise of the power of eminent domain declaration of taking by a second-class city must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance. The power may be exercised only within city boundaries in the performance of a power or function of the city under the procedures set out in AS 09.55.240 - 09.55.460. (AS 29.35.030.)

A second-class city is required by law to provide for an annual audit or statement of annual income and expenditures. (AS 29.35.120.)

The mayor of a second-class city is elected by and from the council. Alternatively, upon adoption of an ordinance, the mayor may be elected from the council by the voters. The mayor of a second-class city serves a one-year term, unless a longer term is provided by ordinance. (AS 29.20.230.) The mayor of a second-class city, as a council member, may vote on all matters. (AS 29.20.250.) The mayor of a second-class city has no veto power. (AS 29.20.270.)

Each second-class city has a council of seven members elected by the voters at large. By ordinance, a second-class city may provide for election of council members by districts. (AS 29.20.130.)

Population of Cities in Alaska Versus Organized Boroughs



7. Characteristics of Existing City and Borough Governments in Alaska

Presently, there are 146 city governments and 16 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 (78.1 percent) of all city governments in Alaska are second-class cities.

Table 1-2 presents the classifications of the 16 existing organized boroughs in Alaska.

Table 1-1. Classification of Existing City Governments in Alaska

Classification	Cities Within Organized Boroughs		Cities Within the Unorganized Borough		Total of All Cities	
	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	8.2%
First-Class Cities	7	4.8%	13	8.9%	20	13.7%
Second-Class Cities	34	23.3%	80	54.8%	114	78.1%
Total	48	32.9%	98	67.1%	146	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	18.8%
Home-Rule Boroughs (non-unified)	6	37.5%
First-Class Boroughs	0	0.0%
Second-Class Boroughs	7	43.7%
Third Class Boroughs	0	0.0%
Total	16	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.

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 cities 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.

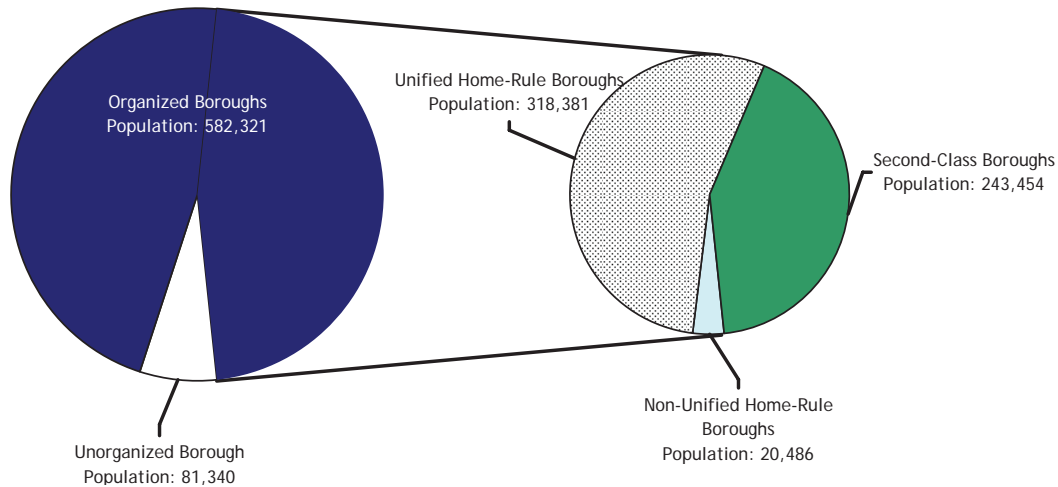
Table 1-3 lists the 2005 population of all cities in Alaska. During 2005, the median population of cities in Alaska was 379, while the average population of all cities was 1,097.

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.



On average, city governments in Alaska encompass 30.6 square miles. In contrast, the mean size of organized boroughs in Alaska is just over 17,400 square miles. 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, the City of Skagway, located in the unorganized borough, covers the largest territory (466 square miles). The present median size of the territory within the corporate boundaries of city governments in Alaska is 9.4 square miles. Organized boroughs encompass about 43 percent of the geographic area of Alaska. As presently configured, the unorganized borough encompasses 374,843 square miles.

The largest organized borough is the North Slope Borough (93,823 square miles); the Bristol Bay Borough is the smallest (918 square miles).

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

The Petitioner's rationale for the borough incorporation proposal is expressed on page 3 of the Petition:

The petitioner seeks to provide basic municipal services in the Deltana area, including education, planning and taxation. The area also seeks to provide services currently provided by the City of Delta Junction, Delta-Greely REAA and in the case of platting, the State of Alaska. The area desires to establish a regional government in a deliberate and thoughtful fashion that best reflects the region's values. It seeks boundary configurations that truly reflect the regional values and are based on logic and common sense. Moreover, the region desires to establish a borough government that can provide service in an efficient and cost-effective fashion.

D. Effects of the Pending Borough Incorporation Proposal

Historically, residents in the Delta area have relied on certain services provided by the City of Delta Junction.

The City government has always provided services and represented the entire area, not just what is within the city limits. . . . For the past thirty years, services provided to the community on an area-wide basis consist of use of the City park, landfill, Community Center, City Hall, Visitor's Center, Fire Hall and Rescue Squad.

(Minutes of the Deltana Borough Charter Commission,⁸ March 17, 2004, quoting Charter Commission member Lou Heinbockel.)

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 Deltana Borough are set out in the Petition. In particular, the Petition includes such details in the budget and financial plan presented in Exhibits D-1 through Exhibit D-3 and in the Transition Plan found in Exhibit E. The following is a summary of those changes.

⁸ The Charter Commission is occasionally referred to as the Delta Junction Charter Commission in Delta Junction City Council minutes and Charter Commission minutes.

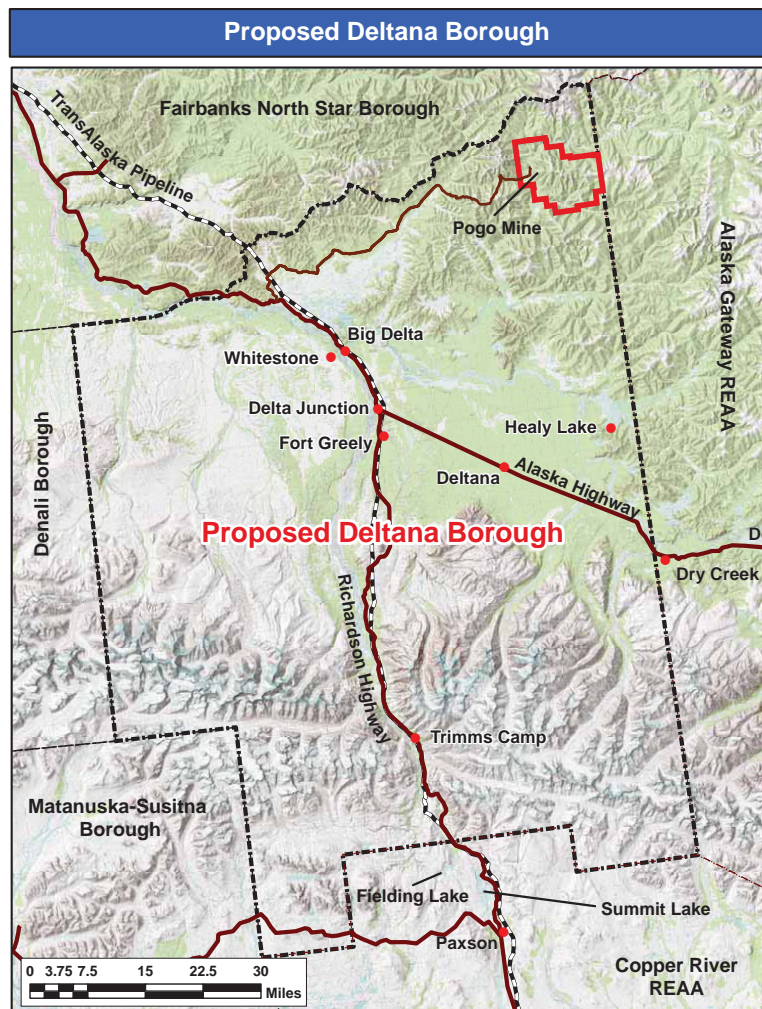
1. Local Government Structure

a) Fundamental Changes

The proposed Deltana Borough would be a unified home-rule borough. The proposed borough boundaries are identical to the present boundaries of the Delta-Greely Regional Educational Attendance Area (REAA⁹), encompassing approximately 5,892 square miles.

If voters approve formation of the proposed borough, incorporation would take effect on the day that the incorporation election results are certified. At that time, the second-class city of Delta Junction would be dissolved in accordance with the Charter. The Charter stipulates that “all ordinances, resolutions, regulations, orders and rules in effect in the former City of Delta Junction shall continue in full force and effect to the extent that they are consistent with the Charter, until repealed or amended in accordance with the Charter.”

Figure 1-2. Proposed Boundaries for the Deltana Borough.



⁹ REAA stands for Regional Educational Attendance Area. Each REAA is a school district in a rural area of Alaska. Elections of the school boards are conducted by the Division of Elections since they are in unincorporated areas of the state. For more information on REAAs, or school districts in general, visit the Department of Education website at <http://www.educ.state.ak.us/Alaskan_Schools/Public/home.html>.

Just one elected body, the assembly and mayor of the Deltana Borough, would govern citizens. Voters throughout the new borough would also have the right to vote on propositions of areawide interest. Such would include, for example, bond propositions for capital improvements.

Pursuant to the Charter, the Deltana Borough would conduct a school board election prior to assuming educational powers "to ensure a seamless transition of education services."

b) Fundamental Aspects That Would Not Change

The legal agreements and legal actions entered into by previous governments shall continue unaffected by the ratification of the Charter, unless otherwise specified, with the newly formed borough assuming the role of legal successor.

Any bond of a former government authorized but not issued on the date of ratification or authorized at the election, remains authorized and may be issued at the discretion of the Assembly without additional ratification, subject to the procedures provided by law.

All boards and commissions of the former governments shall continue to function until changed in accordance with the Charter.

2. Local Government Services

a) Fundamental Changes

Under the borough incorporation proposal, nine services and facilities currently provided by the City of Delta Junction or the Delta-Greely REAA would become borough services. In addition, the borough would collect the borough taxes and PILT monies. The new borough responsibilities would include:

- Delta Community Library;
- education;
- volunteer fire department, emergency medical service, ambulance, and rescue squad;
- street and road maintenance;
- landfill;
- airport maintenance,
- parks and recreation, including the Community Center;

- cemetery;
- collection of a three percent home heating fuel and vehicle gas sales tax, and a 10 percent energy tax on the sale of electrical power; and
- platting, planning, and land use regulation.

Employees of the former City of Delta Junction and Delta-Greely REAA shall become employees of the new borough government, in accordance with AS 29.05.130 and AS 29.05.140.

b) Fundamental Aspects That Would Not Change

Since the Petition calls for dissolution of the City of Delta Junction and formation of the Deltana Borough, all community services will be assumed by the Borough. To what degree that transition will result in changes to existing service levels was not specified in the Petition, other than a reference made to eliminating duplication of services. According to the Transition Plan (p. 2):

“Not later than 60 days following the effective date of incorporation, the Mayor shall submit to the Assembly a plan of organization of the executive branch. The plan shall provide for elimination of unnecessary duplication. The proposed plan will address the immediate dissolution of the City of Delta Junction and the immediate assumption areawide responsibility for cemetery, landfill, roads, . . .”

3. Fiscal Impacts

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

- Residents and property owners throughout the Deltana Borough will shoulder an equal burden for areawide services.
- Upon borough incorporation, all assets, including the City of Delta Junction’s permanent fund and revenue from the PILT agreement, will be transferred to the Deltana Borough.
- Upon borough incorporation, the City of Delta Junction’s prison debt loan will be forgiven by the State.
- Areawide revenues will be generated as a result of the taxes to be levied by the newly incorporated borough. The Petitioner proposes to levy a three percent home heating fuel and vehicle gas sales tax and a 10 percent energy tax on the sale of electrical power.

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

Commerce’s objectives in terms of the review of fiscal matters relating to the proposed incorporation are two-fold. First, Commerce 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.

Commerce’s second goal in addressing the fiscal matters associated with borough incorporation is to provide an objective summary of the fiscal impacts that are reasonably expected to result from incorporation. To that end, Commerce elaborates on the four fundamental fiscal impacts identified earlier.

a) Residents and Property Owners Throughout the Deltana Borough Will Shoulder an Equal Burden for Areawide Services

The Delta-Greely School District currently operates seven schools (Delta Cyber Charter School, Delta-Greely Correspondence Home School Program, Delta Junction Elementary, Delta Junction Sr. High School, New Horizons High School, Gerstle River School, and Fort Greely Middle School). The Delta Cyber Charter School is a statewide correspondence school whose headquarters are in Delta Junction. In Fiscal Year 2006, the Delta Greely School District received \$8,798,107 in State Aid for operation of its schools. Additionally, the District received \$34,014 in Federal Impact Aid.

The Delta-Greely School District’s 4,148 residents are not currently required to make a local contribution in support of their schools because they live in the unorganized borough outside home-rule and first-class cities. That would change if the Deltana Borough were formed.

The Local Boundary Commission Staff¹⁰ estimates that there were 4,148 residents in the proposed borough in 2005. The 4,148 figure is the sum of the State Demographer's 2005 population estimates for the City of Delta Junction (1,047), Healy Lake CDP (29), Fort Greely CDP (395), Big Delta CDP (738), and Deltana CDP (1,939). The Petition estimated that there are an additional 127 residents of the proposed borough outside those five parts of the region. (See Petition, p. 4, and Petition Exhibit H, p. 8.) When asked to provide a source for the estimate, a representative of the Petitioner reduced the estimate of the population in the area outside the City of Delta Junction and four CDPs from 127 to "20 - 30 people."

State law allows a new borough to defer assumption of local responsibility for schools for up to two years following incorporation. The Petition proposes that the Deltana Borough would assume responsibility for operation of the region's schools in the second year following incorporation.

Upon assumption of responsibility for schools by the Borough, a requirement for local contributions would be phased in. Under AS 14.17.410(e), the Borough is not required to make any local contribution during the first year of local operation of its schools. In the second year following local assumption of responsibility for schools, the contribution must be equivalent to a two-mill tax levy on the full and true value of the taxable real and personal property in the Borough. In the following year, the required contribution increases to the equivalent of a three-mill tax levy. In the fourth year of operation of schools, the transition period ends and the Borough must contribute the equivalent of a four-mill tax levy on the full and true value of the taxable real and personal property in the Borough, or 45 percent of the district's basic need determined under AS 14.17.410, whichever is less.

The Petition estimates that the Borough's initial local contribution in support of schools will be made in the fourth year following incorporation (second year following assumption of responsibility for schools) and that the contribution will amount to \$822,166. The amount of the required Borough contribution is projected to increase in the next year to an estimated \$1,187,629. In the following year, the Borough contribution is estimated to be \$1,347,348.

¹⁰ Appendix C provides background information on the Local Boundary Commission (LBC) and staff to the LBC, their duties, responsibilities, and limitations. Biographical information on the current members of the LBC is also provided.

Borough proponents plan to raise the bulk of the money from the developers of the Pogo Mine through a contractual payment in lieu of taxes (PILT). A copy of the PILT agreement is in Appendix D. The Red Dog lead and zinc mine has a similar funding arrangement with the Northwest Arctic Borough in the Kotzebue region.

Under the 10-year PILT agreement signed with the City of Delta Junction, Teck-Pogo's payments to the new borough would ramp up to \$2 million a year by 2008, or more if the value of the Pogo Mine increases. In addition, the PILT agreement provides that Teck-Pogo would pay additional funds in the event Borough voters approve and the Borough, directly or through a bond bank, issues general obligation bonds. Details regarding those additional prospective payments are set out in Section 6 of the PILT agreement.

Until a borough is created, PILT payments go to the City of Delta Junction. If the Deltana residents vote to incorporate as a borough and the second-class City of Delta Junction is dissolved, the PILT agreement is automatically assumed by the Deltana Borough.

The responsibility for areawide services would be shared equally among all residents of the Borough.

b) Upon Borough Incorporation, all assets, including the City of Delta Junction's permanent fund and revenue from the PILT agreement, will be transferred to the Deltana Borough

The Delta Junction City Council entered into a Payment in Lieu of Taxes (PILT) agreement with Teck-Pogo, Inc., on November 15, 2005. That agreement will be a major factor in funding operations of the proposed borough. If the region's voters vote to incorporate the proposed Deltana Borough, the Deltana Borough will automatically assume the PILT Agreement as a City of Delta Junction contract. Depending on the date of incorporation, the Deltana Borough will be bound by the contract for a period of seven to nine years.

c) Upon Borough Incorporation, the City of Delta Junction's Prison Debt Loan Will Be Forgiven by the State

In July 2004, the City of Delta Junction received a \$1.2 million, no-interest loan from the State of Alaska to pay off a lawsuit settlement regarding the establishment of a private prison at Fort Greely, under a bill signed into law by Governor Frank Murkowski. The City is required to make yearly \$50,000 payments to the State. Should the City of Delta Junction be incorporated into

a borough, the balance owing on the loan would be redesignated as a grant for the same purpose. After discussion with Delta Junction officials, Governor Murkowski said that he believed the area is capable of supporting a borough and should be encouraged to do so; he noted that the area has a significant tax base and was benefiting from the Pogo Mine and the missile defense site at Fort Greely.

The loan enabled the City to finish paying its breach-of-contract settlement with Allvest Inc. and Delta Corrections Corporation stemming from a failed effort to build a private prison that was to have been built by the City on lands made available if Fort Greely was reduced in size. The City previously paid \$100,000 to the company. The military base at Fort Greely was shut down, but came back to life as a missile-interceptor site for the national defense program.

The City of Delta Junction has made two \$50,000 payments on the loan. The City still owes \$1,500,000 on this no-interest loan from the State of Alaska.

d) The Petitioner Proposes that the Borough Would Levy a 3 Percent Home Heating Fuel and Vehicle Gas Sales Tax and a 10 Percent Energy Tax on the Sale of Electrical Power

The Petitioner projects revenue from a three percent home heating fuel and vehicle gas sales, a 10 percent tax on the sale of electrical power, and the 2005 PILT agreement between the City of Delta Junction and Teck-Pogo, Inc. The petition used the 2005 valuation of taxable real and personal property and these valuations are subject to change. If the borough is formed, the State Assessor will make a full value determination and the required local contribution for schools will be based on that updated valuation. The estimated values of taxable real property listed in the Petition that have the greatest potential to change are those of the Trans-Alaska Pipeline and the Pogo Mine. The value of the Pogo Mine may fluctuate depending upon a number of factors, including the predicted life of the mine and the estimated value of the probable reserve. Future technological developments such as better exploration, detection, and extraction techniques may extend the life of the mine and lead to increases in the annual production values.

E. Structure for Delivery of Municipal Services in the Proposed Deltana Borough Compared to Other Parts of Alaska

There are currently 16 organized boroughs in Alaska. Nine of those are home-rule boroughs, and the remaining seven are second-class boroughs. If the proposed Deltana borough is incorporated, there would then be ten home-rule boroughs and seven second-class boroughs.

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

These figures do not reflect the portion of Alaska outside the 16 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.

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

The LBC estimates that the proposed Deltana Borough was inhabited by 4,148 permanent residents in 2005. The justification for the LBC's estimated population, which differs from the figure originally offered by the Petitioner, is found in Part 2 of Chapter 2. See also Table 2-1.

Assuming there were 4,148 residents in the proposed borough in 2005, 1,047 residents live within the City of Delta Junction. In other words, approximately 25.2 percent of all residents of the proposed Deltana Borough lived within the boundaries of the City of Delta Junction in 2005.

Six of Alaska's 16 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).

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.

The six boroughs with no city governments within their boundaries (shown below in dark gray) are the Bristol Bay Borough, Municipality of Anchorage, City and Borough of Yakutat, Haines Borough, City and Borough of Juneau, and the City and Borough of Sitka.

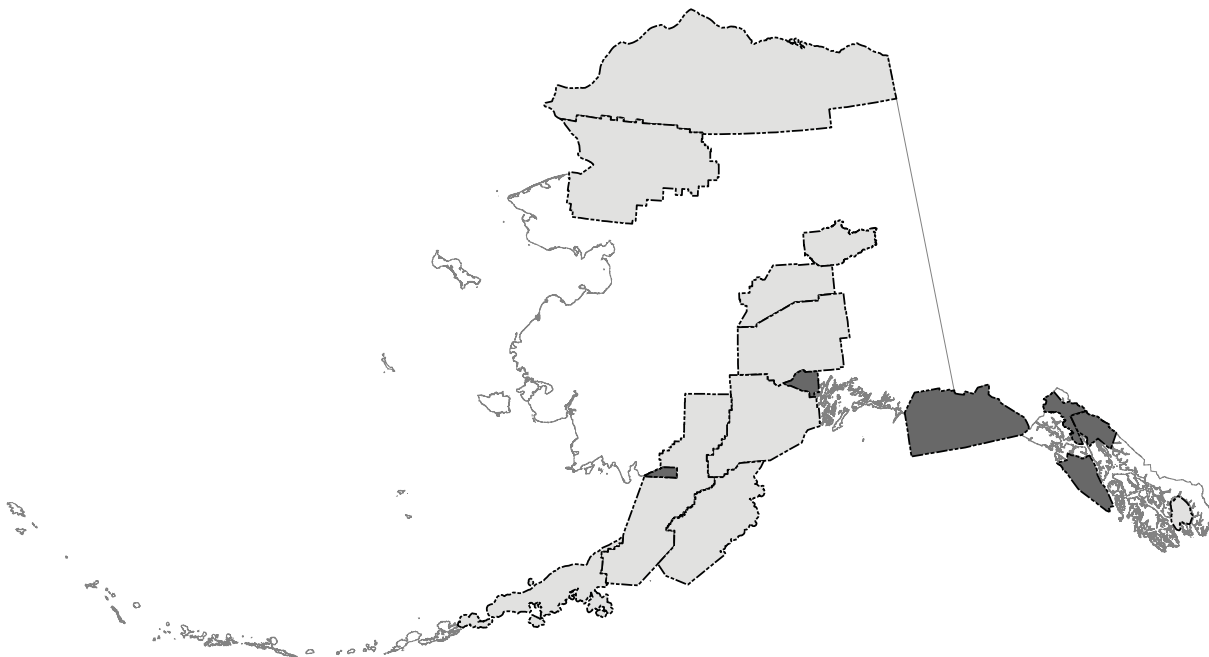


Table 1-5 lists the number of city governments within each borough. It also lists the 2005 total population within those cities. The percentage of residents living within cities is also provided for each borough.

Table 1-5. Number of Cities Within Boroughs - Percent of Borough Population Within Cities
(ranked in ascending order of percentage of organized borough population within cities)

Borough	Number of Cities within Borough	Number of Borough Residents within Cities	Percent of Borough Population within 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
Subtotal for organized boroughs	48	97,438 of 582,276	16.7
Unorganized borough	98	63,043 of 81,385	77.5
Totals	146	160,481 of 663,661	24.2

F. Significant Historical Developments Regarding Local Governments in Alaska and the Delta-Greely Region

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

1903: An overland trail was cut from Valdez to Fairbanks; subsequently a roadhouse was established at the junction of the Delta and Tanana Rivers.

1904: Fort Greely established as an Army telegraph station.

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.

1942: Construction of the Alaska Highway began.

Fort Greely developed as one of a series of airfields to refuel American-made fighter aircraft flown to Russia under the Lend-Lease program.

1945: Shortly after the end of WWII, Fort Greely became the Army's arctic center for testing military equipment and training soldiers. (WWII ended on Sept. 2, 1945 when the Japanese surrendered.)

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: Delta Junction incorporated as a second-class city.

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.)

1974: February 4 - Petition to incorporate as a third-class borough in Delta area submitted to LBC. LBC rejected the proposal to incorporate 7,380 square miles as the "Deltana Borough."¹¹

1974 - 1977: Construction of the Trans-Alaska Pipeline.

1978: State began Delta Agricultural Project I, creating 22 farms averaging 2,700 acres each. (Exhibit H, p. 3.)

1982: State began Delta Agricultural Project II, forming 15 additional farms averaging more than 1,600 acres each. (Exhibit H, p. 3.)

¹¹ In Regard to the Incorporation of the Proposed Deltana Borough: Petition for Incorporation as a Borough of the Third Class, p. 3 (1974).

1989 - 1992: Model borough boundaries project underway.

1995: Fort Greely was placed on the Base Closure and Realignment Commission (BRAC) list for realignment.

After the BRAC Commission recommended the Cold Regions Test Center and the Northern Warfare Training Center be relocated to Fort Wainwright, the Delta Greely Community Coalition (Coalition) was formed. The Coalition represented the City of Delta Junction, the Delta-Greely REAA, the Delta Chamber of Commerce, the Deltana Community Corporation, and the Delta Chapter of the Farm Bureau.

1999: The Delta Greely Community Coalition became the Delta Regional Economic Development Council (DREDC) charged with pursuing economic development in the entire Delta area.

2000: In January, DREDC approved a draft two-year economic development work plan.¹²

On March 20, 2000, a petition for incorporation of a borough in the Delta-Greely region was submitted to the Local Boundary Commission. After conferring with the State Attorney General's Office and the Chairman of the Local Boundary Commission, the Department of Community and Economic Development did not accept the petition for filing on technical grounds.

Census 2000 counted 381 people of Russian and Ukrainian ancestry in the Southeast Fairbanks census area, compared to 30 in 1990. This is indicative of a growing trend in the area.

2001: The City of Delta Junction declined to apply for ownership of the BRAC portion of Fort Greely.

The City of Delta Junction received a state of Alaska grant for a regional government study of the Delta-Greely REAA.

Fort Greely designated as a site for the national defense system.

Delta-Greely School District noted that 27 to 31 percent of the school's enrollment in the 2001/2002 school year were native Russian and Ukrainian speakers.

¹² A description of the work plan may be found on pages 5-6 of the *Delta Junction (Alaska) Region Comprehensive Economic Development Strategy*, prepared in November 2004 by the Delta Region Economic Development Council. This report is on the City's website at <http://www.ci.delta-junction.ak.us/city_information/economic_dev.htm>.

2002: The Department of Defense began construction of the main missile site for the national Missile Defense Program at Fort Greely.

In September, a Community Impacts Economic Adjustment Plan was prepared as the basis for funding from the Department of Defense to mitigate the impacts of missile defense activity at Fort Greely.

2003: The Delta Junction City Council appointed a nine-member charter commission representative of community groups to draft a charter for borough incorporation. The Commission's work formed the basis of a proposal submitted to LBC in late 2005.

The White House announced that the U.S. would begin deployment of a set of missile defense capabilities in 2004, including a missile complex at Fort Greely.

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 Upper Tanana Basin Model Borough (which contains the Delta-Greely REAA and the Alaska Gateway REAA) 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.

Senator Gary Wilken sponsored Senate Concurrent Resolution 12 (SCR 12). If it was approved by the State legislature and became law, SCR 12 would have required the LBC to consider borough incorporation for four of the areas determined to meet borough formation standards, including the Upper Tanana Basin Model Borough. The resolution passed in the Senate, but died in the House Committee on Community and Regional Affairs.

2004: In February, the first scheduled meeting of the Deltana Borough Charter Commission was held at City Hall.

Construction began at the Pogo Mine site.

2005: In November, Deltana Borough Charter Commission completed preparation of a borough charter that was later submitted to the LBC as part of the Petition to Incorporate the Deltana Borough.

2006: The Petition to Incorporate the Deltana Borough was received by LBC on January 3.

G. Proceedings Regarding the Deltana Borough Proposal

In 2003, the Delta Junction City Council appointed a commission comprised of representatives from community groups to promote borough incorporation, and called it the Deltana Borough Charter Commission. The purpose of the commission was to develop a charter to present to the Local Boundary Commission to establish the Deltana Borough.¹³ The Charter was completed in November 2005, and is included here as Appendix E. The following is a summary of the formal proceedings that have occurred from the time of the first meeting up to this point.

1. November 2003

11/18/03: Delta Junction City Council met.

Relevant motion carried:

- Authorization [for consultant] to prepare a written proposal, a format to form a commission, and to present it to the Council for action.

2. December 2003

12/16/03: Delta Junction City Council met.

[Consultant] made a presentation on the role and responsibilities of a charter commission. [Consultant] recommended “the Council seek community members from different interest groups who would be willing to participate in charter research.” Discussion by Council members followed. No formal action was taken.

3. January 2004

1/20/04: Delta Junction City Council met.

[Consultant] requested to defer the decision of electing and appointing members for the Charter Commission until February 3 when a full Council body would be present.

4. February 2004

2/03/04: Delta Junction City Council met.

¹³ Charter Commission meeting minutes. March 17, 2004.

Specific groups (City Council, DREDC and Deltana) had already appointed their representatives to the Charter Commission. City Council members voted to fill the remaining eight seats for the Commission. The school board opted to have a school board member report back to them, rather than designate a specific representative.

2/18/04: First scheduled meeting of Deltana Borough Charter Commission was held at city hall building in Delta Junction (hereafter, City Hall). Reasons for drafting a charter, and the type and contents of a charter were discussed. The process for conducting meetings and voting was established.

5. March 2004

3/17/04: Deltana Borough Charter Commission met at City Hall.

Relevant motions carried:

- Adoption of some sections of Haines Borough preamble, with substitution of Deltana Borough where appropriate.
- Keep Healy Lake in the Delta-Greely REAA and accept that as the Deltana Borough boundaries.
- Reaffirm the name of the Deltana Borough.
- Administrator form of government approved.
- Borough seat will be located within the boundaries of the current second-class city limits and will utilize the facilities which are presently occupied by the City of Delta Junction.
- In accordance with other provisions in the charter, "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, the United States, or any agency or instrumentality of these governments."
- Accepted wording regarding legislative powers vested in the Assembly that stated "the Borough Assembly shall be the sole legislative body of the Borough."

6. April 2004

4/21/04: Deltana Borough Charter Commission met at City Hall.

Relevant motions carried:

- The unapproved Charter Commission minutes will be posted on the City of Delta Junction website after a one-week comment period.

- Motion related to construction of draft Charter Article I - Name, Boundaries, Power and Article II - The Assembly.

7. May 2004

5/19/04: Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Motion related to construction of draft Charter Article II - The Assembly.

8. June 2004

6/16/04: Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Motion related to construction of draft Charter Article III - Legislation, Article IV - Executive, Article V - Elections, Article VI - Initiative and Referendum, and Article VII - Planning.

9. July 2004

7/21/04: Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Motion related to construction of draft Charter Article VIII - Education, Article IX - Finances, Article X - Taxes, Article XI - Borrowing, and Article XII - Service Areas.

10. August 2004

8/18/04: Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Motion related to construction of draft Charter Article IX - Finances, Article X - Taxation, Article XIV - Utilities, Article XV - Charter Amendment, Article XVI - General Provisions, and Article XVII - Transition.

11. September 2004

Deltana Borough Charter Commission met at City Hall.

Had discussion with Karl Hanneman, Alaska Regional Manager, Teck-Pogo, Inc.

Relevant motion carried:

- Motion related to construction of draft Charter Article XVII - Transition.

12. October 2004

Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Related to construction of draft Charter Article XVII - Transition.

13. November 2004

Deltana Borough Charter Commission met at City Hall.

Relevant motions carried:

- Related to construction of draft Charter Article I - Name, Boundaries, Powers, Article II - The Assembly, Article III - Legislation, Article IV - Executive, Article V - Election, Article IX - Finances, Article XVI - General Provision, and Article XVII - Transition.

14. December 2004

Deltana Borough Charter Commission met at City Hall.

15. January 2005

Deltana Borough Charter Commission met at City Hall.

16. February 2005

Deltana Borough Charter Commission met at City Hall.

17. March 2005

Deltana Borough Charter Commission met at City Hall.

18. April 2005

Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Related to language in Section 10.04 Mineral Severance and Processing Tax.

19. May 2005

Deltana Borough Charter Commission met at City Hall.

Relevant motion carried:

- Related to Charter Commission's decision to support approval of the preliminary draft PILT agreement between Teck-Pogo and the City of Delta Junction.

20. November 2005

Deltana Borough Charter Commission met at City Hall.

21. January 2006

Petition to incorporate Deltana Borough received by LBC on January 3.

Commerce completed its technical review of the form and content of the original Petition on January 20. Commerce accepted the Petition for filing on that date. The LBC Chair set March 31, 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.

22. March 2006

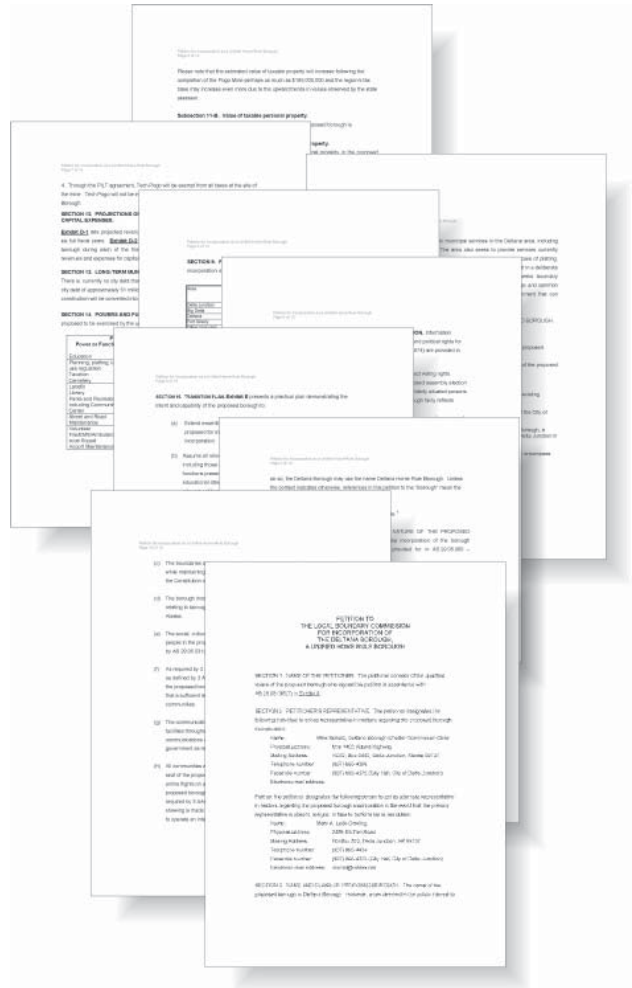
A total of 40 written public comments were received by the LBC in response to the borough petition. The comments are available online at the LBC website.

One of the responses received was a petition, signed by 239 individuals claiming to be local registered voters, that declared "the undersigned, qualified voters, for many and diverse reasons, view the purported (sic) Deltana charter as flawed in concept." In comparison, 255 qualified voters signed the petition for incorporation of the Deltana Borough.

23. April 2006

The Chair of the Deltana Borough Charter Commission submitted a written response to the LBC on the public comments regarding the petition.

Petition to Incorporate the Deltana Borough



24. June 2006

LBC received the Petitioner's affidavit of notice, service and filing of the petition to incorporate the Deltana Borough.

25. November 2006

Preliminary Report on the Petition to Incorporate the Deltana Borough completed by LBC Staff.

H. Future Proceedings Regarding the Pending Incorporation Proposal

1. Opportunity to Comment on Commerce's Preliminary Report

Commerce's Preliminary Report has been provided to the Petitioner and made available for public review at the Delta Junction City Hall and the Delta Community Library. The LBC Chair has set the deadline for the receipt of written comments on the Preliminary Report for December 13, 2006 at 5:00 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
Division of Community Advocacy
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907-269-4539
E-mail: LBC@commerce.state.ak.us

2. Public Informational Meeting

Commerce 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 Commerce to summarize the meeting in its final report to the LBC on the incorporation proposal.

3. Commerce's Final Report

After Commerce 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 Preliminary Report will also be available for public review at the Delta Junction City Hall and the Delta Community Library.

4. Pre-Hearing Requirements

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

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.

5. LBC Public Hearing

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

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 *Delta Wind* and the *Fairbanks Daily News Miner*. 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 draft hearing agenda is provided in Figure 1-3

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
HOME-RULE DELTANA BOROUGH

- 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 Home-Rule Deltana 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. Period of public comment by interested persons (limited to 3 minutes per person)
 - E. Petitioner's closing statement (limited to 10 minutes)
- VII. Decisional session regarding the Petition to Incorporate the Home-Rule Deltana Borough (optional at this time)
- VIII. Comments from Commissioners and staff
- IX. Adjournment

Members: Darroll Hargraves, Chair; Georgianna Zimmerle, First Judicial District; Robert Harcharek, Second Judicial District; Bob Hicks, Third Judicial District; Tony Nakazawa, Fourth Judicial District

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.

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.

6. LBC Decision

The LBC has the option of making a decision immediately upon conclusion of the hearing. Alternatively, if circumstances warrant, the LBC may defer its decision for a period not to exceed 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.

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.

7. 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.

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

8. 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 and assembly, who would take office only if voters approve the proposition for incorporation, and vote to approve the three percent fuel tax, the 10 percent tax on the sale of electrical power, and approve the PILT agreement. A new school board would not be elected until the Borough assumes responsibility for schools. The election of the new school board would be conducted by the Borough.

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.

9. 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 Deltana Borough Petition

This chapter presents Commerce's analysis of the extent to which the Deltana unified home-rule borough incorporation proposal meets the requirements of State law. A unified-home-rule borough is a municipality 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.

In this instance, there are additional conditions imposed by the Petitioner. In order to incorporate, voters must approve:

- a three percent home heating fuel and vehicle gas sales tax;
- a 10 percent tax on the sale of electrical power; and
- the PILT Agreement with Teck-Pogo, Inc.

Through the PILT agreement, Teck-Pogo will be exempt from all taxes at the site of the mine. Golden Valley Electric Association will provide electrical power to the mine; however, part 7.1 of the PILT agreement provides as follows:

7.1. The Taxpayer shall be obligated for sales, energy and use taxes purchased by the Taxpayer in the Borough, except that no sales, use, energy or use taxes shall be levied on sales made where delivery of goods or services is at the Taxpayer's mine property. (emphasis added.)

Thus, Pogo Mine will not pay taxes on electrical utility service nor fuel delivered to the mine. Teck-Pogo will not be exempt from any other taxes elsewhere in the Deltana Borough.

¹⁴ See Appendix A.

¹⁵ 42 U.S.C. § 1973.

According to Paragraph 11.3 of the PILT agreement, if the incorporation of the Borough is not approved by the voters in an incorporation election on or before December 31, 2008, the PILT agreement will be terminated, "except as provided with regard to payments to the City under Paragraph 3."

In addition, the Petition conditioned incorporation upon passage of HB 217 or its equivalent. This condition was satisfied in 2006 when the final version of HB 217 was signed into law on March 15, 2006 and became effective on June 14, 2006. The new law excludes the taxable value of oil and gas property from the calculation of the local contribution in support of schools required by AS 14.17.410, provided no property taxes are levied by the borough or by cities within the borough. In this case, since the Petitioner does not propose that the Deltana Borough levy property taxes, the assessed value of the portion of the pipeline that is within the boundaries of the proposed borough (which is identical to the boundaries of the Delta-Greely REAA) will be excluded from the required local contribution calculation under AS 14.17.510(a) and AS 14.17.410(b)(2).¹⁶

Commerce's analysis of the incorporation proposal with regard to the applicable standards is presented below.

Part 1. Whether Incorporation Promotes Maximum Local Self-Government

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

¹⁶ Appendix F contains the full text of HB 217. The taxable value of oil and gas properties is addressed in the following excerpt:

Section 1. AS 14.17.510(a) is amended to read: (a) To determine the amount of required local contribution under AS 14.17.410(b)(2) . . . in making the determination, the Department of Commerce, Community, and Economic Development shall make the determination of full and true value guided by AS 29.45.110 . . . Also, in making the determination for a municipality that is a school district . . . the assessed value of property taxable under AS 43.56 shall be excluded if a tax is not levied under AS 29.45.080 by the municipality that is the school district.

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.¹⁷

The class of the proposed Deltana borough is unified-home-rule. 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.

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

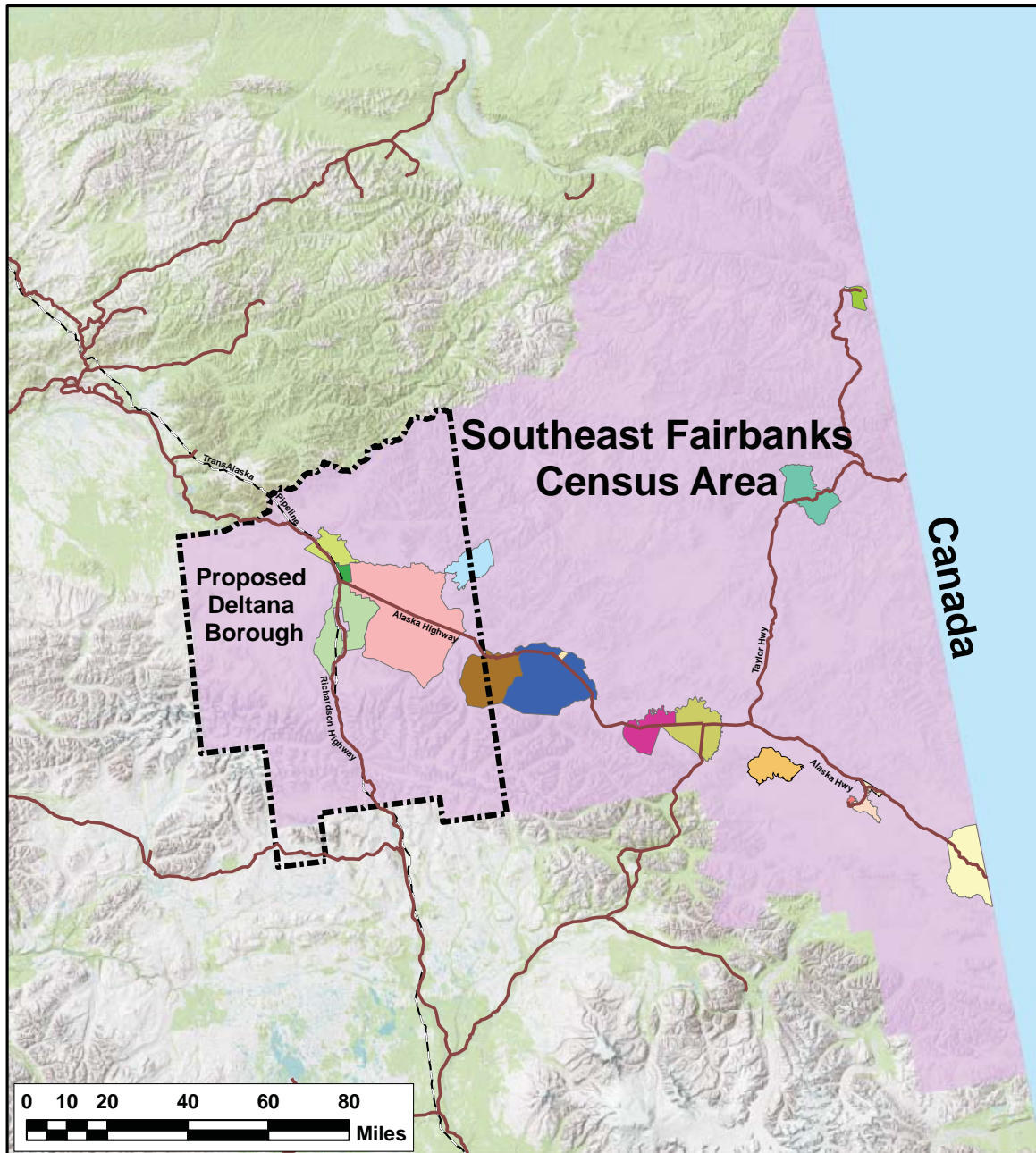
Part 2. Whether Borough Incorporation Promotes "A Minimum Number of Local Government Units"

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 second-class city of Delta Junction - currently serves any residents of the proposed Deltana Borough. The 1,047 residents of Delta Junction make up 25.2 percent of Commerce's estimate of the population of the proposed Deltana Borough. The geographic size of the City of Delta Junction (13.5 square miles) represents only 0.2 percent of the area within the proposed Deltana Borough (5,892 square miles). The general Deltana area, part of the unorganized borough, which has an area of 565.2 square miles, takes up a larger area and has a greater number of residents (1,939 residents or 46.8 percent of the proposed Deltana Borough population) than Delta Junction.

¹⁷ Commerce 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.)

Figure 2-1. Cities and Census Designated Places within the Southeast Fairbanks Census Area

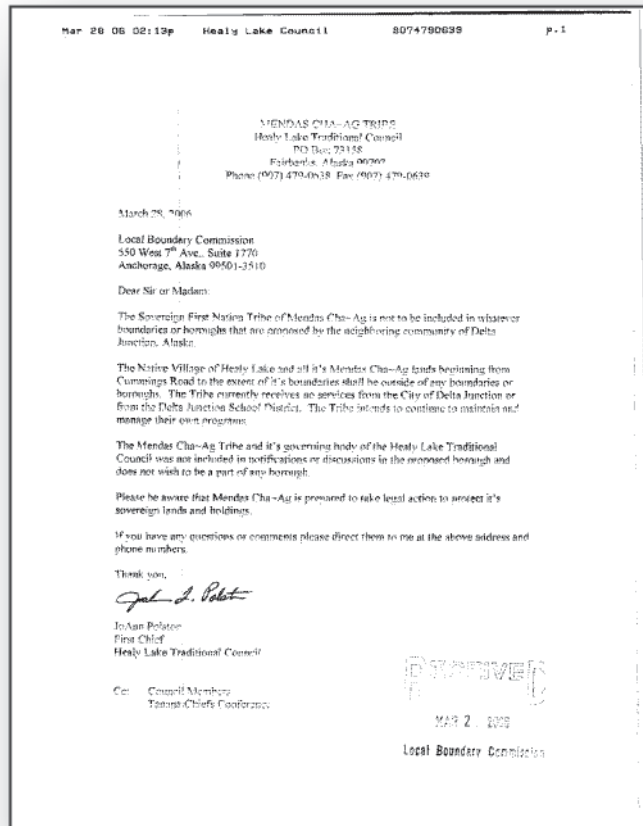


Cities and Census Designated Places

Alcan Border	City of Delta Junction	Dry Creek	Healy Lake	Tanacross
Big Delta	Deltana	City of Eagle	Northway	Tetlin
Chicken	Dot Lake	Eagle Village	Northway Junction	Tok
	Dot Lake Village	Fort Greely	Northway Village	

According to the State Demographer, there were 29 residents in the community of Healy Lake in 2005. The Healy Lake Census Designated Place (CDP¹⁸) is 74.4 square miles, or 1.3 percent of the geographic size of the proposed Deltana Borough. See Figure 2-1 illustrating the cities and CDPs within the Southeast Fairbanks Census Area.

A federally-recognized tribe, the Mendas Cha-Ag Tribe, governed by the Healy Lake Traditional Council, is located in the village of Healy Lake. The LBC received a letter from the Tribe dated March 20, 2006, opposing inclusion of tribal lands in the proposed Deltana borough. The Tanana Chiefs Conference (TCC), a tribal consortium representing 43 villages in interior Alaska, also opposed inclusion of Healy Lake in the creation of the Deltana borough; Healy Lake is a member tribe of the TCC and the Doyon Region. A TCC letter dated March 30, 2006 said that Healy Lake is a subsistence community that is socially, economically and culturally diverse from the "highway community" of Delta Junction.



March 31, 2006 Letter from the Healy Lake Traditional Council First Chief

¹⁸ 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>>.

Table 2-1. Geographic Size and Population of Localities within the Proposed Deltana Borough

Jurisdiction	Geographic Size ^a	2005 Population ^b
City of Delta Junction	13.5 square miles ^c (0.2 percent of Deltana Borough area)	1,047 residents (25.2 percent of Deltana Borough population)
Healy Lake CDP	74.4 square miles ^d (1.3 percent of Deltana Borough area)	29 residents (0.7 percent of Deltana Borough population)
Fort Greely CDP	169.8 square miles (2.9 percent of Deltana Borough area)	395 residents (9.5 percent of Deltana Borough population)
Big Delta CDP ^e	61.1 square miles (1.0 percent of Deltana Borough area)	738 residents (17.8 percent of Deltana Borough population)
Deltana CDP	565.2 square miles (9.6 percent of Deltana Borough area)	1,939 residents (46.8 percent of Deltana Borough population)
Proposed Deltana Borough	5,892 square miles	4,148 residents (sum of above)

^a "Geographic Size" in this table represents the area in square miles of the CDP. The CDP boundaries are established by the federal government and are drawn according to the geographic topography of the area rather than political boundaries or residential density. As a result, large areas within a CDP may lack permanent residences. Therefore, no population density calculations based on the number of permanent residents within a CDP are made here because those statistics would be inaccurate and misleading.

^b 2005 State Demographer estimates.

^c There is a discrepancy between the size of the City of Delta Junction in the LBC records (13.5 square miles) and its size as reported by the Census Bureau (17.3 square miles). The LBC records are used as the basis for analysis here.

^d According to a Research Analyst with the State of Alaska's Labor and Workforce Development, approximately half of the Healy Lake CDP containing 74.4 square miles lies outside of the boundary of the proposed Deltana Borough, but no permanent residents live there. Similarly, less than half of the Dry Creek CDP lies within the boundary of the proposed Deltana Borough, but no permanent residents live there.

^e The population of Whitestone is included in the population of Big Delta. The Whitestone Community Association census of May 17, 2003 showed 176 permanent residents in this five square mile area which resulted in a 2003 population density of 35.2 residents per square mile. The Whitestone Community Association, the governing body of the community, passed a resolution on May 18, 2003 adopting the results of the census for use by the Department of Community and Economic Development. The "Comprehensive Plan of Whitestone, Alaska," prepared by the Whitestone Development Committee in June 2004, on page 1 states, "The area encompasses 5 square miles of land and water."

The Local Boundary Commission Staff's estimate of 4,148 residents in the proposed borough in 2005 is based on the State Demographer's population estimates for the localities within the proposed borough, found above in Table 2-1. These figures differ from the Petitioner's June 1, 2005 estimate of 5,760 residents which is the sum of estimates for the City of Delta Junction (1,000), Big Delta (800), Deltana (1,800), Fort Greely (2,000), and "Other (included Healy Lake and other areas that are not included in the other categories)" (160). When asked to provide a source for the Petitioner's

estimates, a representative of the Petitioner reduced the estimate of the population of "Other" to the population of Healy Lake plus about "20-30 people on the road system" outside of Delta Junction, Big Delta, Deltana, and Fort Greely.¹⁹

Most of the disparity between the Petitioner's total population estimate (5,760) and the LBC staff's estimate used in this report (4,148) is due to the difference in the estimated population of Fort Greely. The Petitioner estimated Fort Greely's 2005 population to be 2,000 people, while the State Demographer estimate was 395 permanent residents. The State Demographer suggested that the Petitioner's population estimates included civilian contractors or support personnel that weren't permanent residents of Fort Greely. In contrast, the State Demographer's 2005 population estimates are based on Permanent Fund Dividend applications submitted by those claiming to be permanent residents.

The proposed Deltana Borough promotes maximum local self-government with a minimum of local government units by creating one local government to provide basic municipal services in the Deltana area, including education, planning, platting, land use regulation, cemetery, landfill, street and road maintenance, parks and recreation, including Community Center, library, volunteer fire/EMS/ambulance/rescue squad, airport maintenance, and collection of proposed gas and energy taxes along with the payments in lieu of taxes from the Pogo Mine. Most of those services were previously provided by three separate government entities: the City of Delta Junction, the Delta-Greely REAA, and in the case of platting, the State of Alaska.



City Park in Delta Junction

¹⁹ The Petitioner's population estimates are found on page 4 of the Petition and page 8 of Petition Exhibit H.

The Deltana Borough will assume the assets and liabilities of the Delta-Greely REEA sometime in the second year after incorporation as a borough. At that time, the Deltana Borough will conduct elections for the seven members of the school board.

Given these circumstances, Commerce concludes that the pending proposal serves to minimize the number of local governments serving the residents of the greater area of the proposed Deltana Borough.

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 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 Deltana Borough as a unified home rule borough and to dissolve the second-class City of Delta Junction. 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.^[20] 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

²⁰ [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.

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 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.)

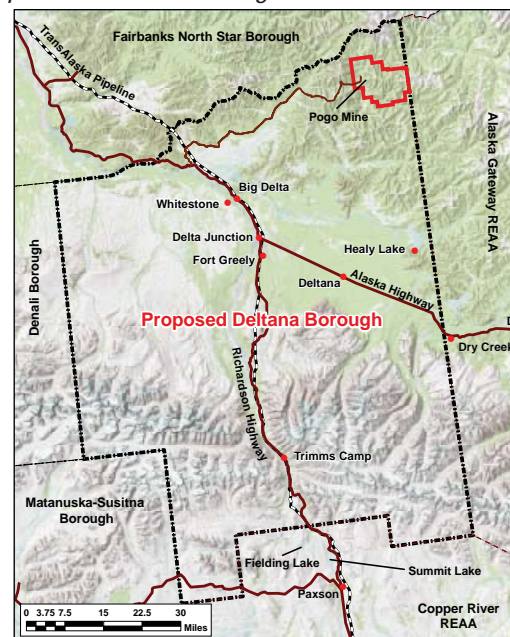
Boroughs were first formed in Alaska during the 1960s. The 1970 census indicated that nearly 50 percent of Alaskans who lived in organized boroughs also lived within city governments. Today, that figure stands at 16.7 percent. It is a testament to the effectiveness of Alaska's constitutional policy of 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.

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

Commerce concludes that the proposed boundaries of the Deltana borough meet the applicable boundary standards for incorporation. The boundaries of the proposed borough:

- embrace an area and population with common interests to the maximum degree possible as required by Article X, Section 3 of the Alaska Constitution;
- encompass a population that is inter-related 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);
- include at least two communities - here, the City of Delta Junction and the communities of Whitestone and Healy Lake - as required by 3 AAC 110.045(b);
- 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);
- do not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b);

The map below illustrates the proposed boundaries and localities within the proposed Deltana Borough



- conform to the boundaries of the existing regional (borough) school district - the Delta-Greely REAA - in accordance with 3 AAC 110.060(c)²¹;
- encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d); and
- do not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e).

Qualifying Communities

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. In other words, 3 AAC 110.045(b) requires that there be at least two communities in the proposed borough.

State law implies that any city government is a community.²² Therefore, the second-class city of Delta Junction automatically meets the standard for a community.

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:

The Deltana area is composed of two distinct communities: Delta Junction and Healy Lake, and possibly one more, Whitestone....

[T]here are two sub-areas, Big Delta and the general Deltana area. Both areas are represented by the Deltana corporation, a regional non-profit that periodically provides limited services and serves as an advocacy group for subregional needs.²³

²¹ The provisions of this regulation creates a presumption that the boundaries of any new borough will conform to those of the existing REAA. That is the case here, because the boundaries of the proposed Deltana borough are identical to the boundaries of the Delta-Greely REAA, established in 1975. 3 AAC 110.060 (c) reflects the fact that boundary standards set out in AS 14.08.031 for REAAs are similar to the boundary standards set out in AS 29.05.031 for organized boroughs.

²² See AS 29.05.011, AS 29.05.021 and 3 AAC 110.005.

²³ Quoted from page 5, Exhibit H of the Petition.

It is Commerce's position that of the six populated areas within the proposed Deltana Borough - Delta Junction, Big Delta, Deltana, Healy Lake, Whitestone and Fort Greely - three localities, Delta Junction, Whitestone and Healy Lake, qualify as communities under 3 AAC 110.920. Absent a specific and persuasive showing to the contrary, the city government of Delta Junction is reasonably presumed to be a community by law. 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.

Big Delta and Deltana are regions rather than communities, as defined by 3 AAC 110.920, even though Deltana is a state revenue sharing recipient.²⁴ There are no discrete population centers in Big Delta and Deltana. The scattered, rural populace of both Big Delta and Deltana suggests an organization that is more regional in nature, rather than discrete communities.

The military base of Fort Greely, which had 395 residents in 2005 according to the State Demographer, does not qualify as a "community" since the right to reside there is not unimpeded. Because of security precautions, public access at Fort Greely is also impeded. The regulations require that "communities" have unimpeded public access and the right to reside there.

Whitestone and Healy Lake are discussed in more detail below.

Whitestone

Whitestone encompasses 5 square miles of land and water.²⁵ It is located on the western side of the Delta and Tanana Rivers, eight miles northwest of Delta Junction. The settlement is connected by a series of public and private roads. However, Whitestone is not connected to the rest of the proposed Deltana Borough by road.

²⁴ The legislature has defined an unincorporated community in the unorganized borough for purposes of State revenue sharing. Specifically, AS 29.60.140(b) provides that, "'unincorporated community' means a place in the unorganized borough that is not incorporated as a city and in which 25 or more persons reside as a social unit." Commerce has adopted a definition of "social unit" in 3 AAC 130.093, which is similar to the definition adopted by the Commission under 3 AAC 110.920.

²⁵ Source: Page 1 of "Comprehensive Community Plan of Whitestone, Alaska" prepared by the Whitestone Development Committee in June 2004. This long-term community plan was developed so Whitestone could use it to seek and secure future sources of local, state, federal, and private foundation technical and financial support; to promote community development; and to foster diversification of the economic base. The Whitestone Development Committee

Footnote continued on following page

The settlement lies across the braided channels of the Delta River and is accessible only by boat during the summer months. Private vessels are used to travel to and from Whitestone; there are no water transportation systems in the area. People drive in over an ice road in the winter.

According to the January 2006 Comprehensive Community Plan of Whitestone:

In the summer, Whitestone is only accessible by boat on the Tanana River. Visitors utilize the boat launch at the Alyeska pipeline boat dock at Mile 276 of the Richardson Highway or the boat dock at Rika's Roadhouse and Landing. During the winter, a road is constructed crossing the frozen Delta River approximately a mile upstream of the Tanana River allowing residents and visitors road access for 4-6 months of the year. During the "transitional" periods commonly referred to as "freeze-up" and "break-up," access to the community is accomplished on foot, by horseback, or track vehicle." No airstrip is present at this time.

Nineteen individuals established Whitestone as a Christian settlement in 1982. The settlement's three-acre landfill is located in Section 12, Township 9 South, Range 9 East, Fairbanks Meridian. According to the Petition, there are currently over 200 residents, "represented by the Whitestone Community Association in its work with State agencies and other organizations. The Department [of] Commerce and Community Development certified the Whitestone Community Association as an unincorporated community for purposes of revenue sharing for FY04."²⁶

The population of Whitestone is included in the population of Big Delta. The Whitestone Community Association census of May 17, 2003 showed 176 permanent residents in this five square mile area,²⁷ which resulted in a 2003 population density of 35.2 residents per square mile.²⁸

Footnote continued from previous page

plans to continue to meet on a regular basis to develop cost estimates and funding applications to meet the group's goals and objectives. For example, the group wants to build a multiple use facility (a fitness and community center), and construct a docking facility.

26 Quoted from page 6, Exhibit H of the Petition.

27 On page 1, the June 2004 "Comprehensive Community Plan of Whitestone, Alaska," states "The area encompasses 5 square miles of land and water."

28 The Whitestone Community Association, the governing body of the community, passed a resolution on May 18, 2003 adopting the results of the census for use by the Department of Community and Economic Development. The census was submitted in support of the community's application for FY 04 State Revenue Sharing Program and Temporary Fiscal Relief Program funds.

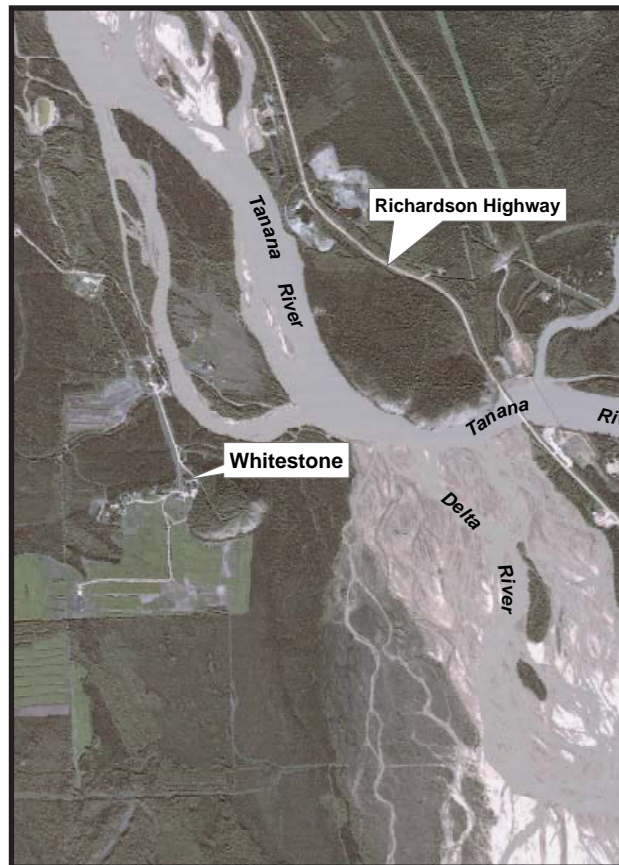
Whitestone received \$3,500 in FY 04 in "Temporary Fiscal Relief" which was the transitional money that replaced municipal revenue sharing (also called FY 04 State Revenue Sharing Program) which ended in FY 03. (Revenue sharing had been around since 1969.) This one-time payment of \$3,500 was to be used for any public purpose. They submitted a FY 04 approved budget. Whitestone was also determined to be eligible for capital matching grants, but they were done away with as well, so Whitestone never got any of that grant money.

Whitestone is a religious commune where members live in multifamily dwellings built by church volunteers. Members collectively pool their individual assets. In order for Whitestone to qualify as a "community" under 3 AAC 110.920, the public's right of access to and the public's right to reside there must not be restricted.

The Whitestone Community Association filed Articles of Incorporation with the Dept. of Commerce as a domestic nonprofit corporation on March 11, 2003. The organization's stated purpose was "to promote, research, fund, and provide services for the social welfare, infrastructure, education, economy, health and civic good, for the common good of all the people of the community by bringing about betterment and improvements." All residents of the community who are 18 or older are eligible to be members of the corporation.

In the Bylaws and the Amendment to the Bylaws, there are no church membership requirements. However, three directors of the six member Board of Directors are required to be members of the eldership of the Church of the Living Word, Inc.

Whitestone location



According to their 2003 municipal revenue sharing application, the Whitestone Community Association said they provided, or planned to provide the following services to the community: roads, clinic, fire protection service and facilities, garbage and solid waste collection, recreation facilities/community centers, electric, day care, and telephone systems.

Most of the residents in Whitestone are members of a religious group. Out of approximately 200 Whitestone residents, it is estimated that only 30 are not members of the Church of the Living Word. Church members collectively pool individual assets and income for the good of the community. Members work in enterprises where members work together. One of the businesses is called "Whitestone Farms;" it provides locally grown produce, hay, meat, milk, and cheese. There is a strong connection between Whitestone and the Church of the Living Word, Inc.²⁹

Whitestone Farms has a government contract to run Rika's Roadhouse,³⁰ a historical state park, and they sell their crafts to visiting tourists. In 2003, the group ran a greenhouse and a cleaning service in Fairbanks, nearly one hundred miles away.

According to Whitestone's Comprehensive Plan, "residents live in multifamily units, with individual heating and septic systems." The plan says, "The community is predominantly Judeo/Christian in faith. Community volunteers have collectively worked together to be self-sustaining and agriculturally based - providing locally grown produce and meat." It also says, "Volunteers have provided all infrastructure services since its establishment over 20 years ago...[T]he community has grown to accommodate the needs of its now 250 residents - a school, church, soccer and softball fields, boat dock, roads, power plant, and other infrastructure necessities."

In 2003, out of 23 total housing units, 19 were occupied and four were vacant.

²⁹ For example, the current solid waste permit for the Whitestone Farms Landfill, a 3-acre Class 3 (village) landfill, from the Department of Environmental Conservation's Division of Environmental Health, is held by the Church of the Living Word, Inc. It is permit no. 0333-BA001 issued November 24, 2003 and expires November 30, 2008.

³⁰ Rika's Roadhouse was added to the national register of historic places in 1976. It is also known as Big Delta State Historical Park and is located at Mile 252 on the Richardson Highway in Big Delta. In November 2002, the Alaska State Parks renewed the concession contract to operate Big Delta State Historical Park with Whitestone Farms, Inc. for another 10 years.

Solid waste is picked up weekly from private homes and local businesses, the church and school. There are no public water sources or treatment facilities. Homes use individual water wells. Multi-family housing units have individual septic systems and full plumbing. Electricity and phone services is provided and maintained by volunteers from the settlement. No EMS or fire service is provided. The nearest clinic is 12 miles south in Delta Junction. No postal service is provided. Roads are either dirt or gravel and are constructed and maintained by local volunteers. Likewise, local volunteers provide the electrical and communication system. A 3 to 4 acre landfill with an incinerator was completed in 2005 and may expand to 10 to 12 acres depending on future need. A bulk fuel facility for fuel delivery and transfer was also operational in 2005. The community has wireless internet and high speed internet, and cable.



Rika's Roadhouse, a historical state park, is operated by Whitestone Farms. Photo Credit: <http://www.dnr.state.ak.us/parks/units/deltajct/bigdelta.htm>

The economy of the private sector is based on retail businesses, tourism, agriculture, general contracting, and mechanical engineering.

Businesses in Whitestone include Heritage Homes (general contractors); Hasz Consulting (mechanical engineering); Tanana Adventure Sports (sells boats, RVs, ATVs); Whitestone Care Services (convalescent care); a public building management firm; and a machine tool industry.

There is a gas station, boat/ATV/snowmachine dealership and repair facility. A greenhouse supplies Fairbanks and Delta households with potting and bedding plants. Local honey is produced, as well as milk and cheese from a small dairy operation. Local farmers also raise animals for pork and beef and grow root vegetables. Hay production is also a part of the agricultural component.

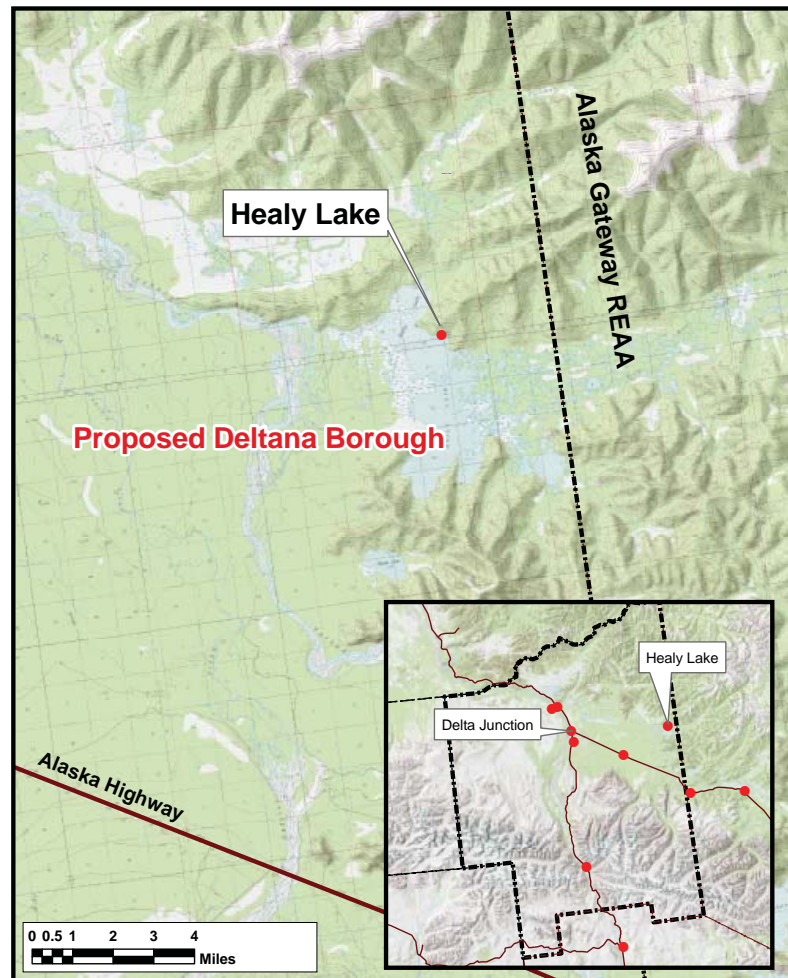
Whitestone meets the requirements of 3 AAC 110.920. The settlement is inhabited by at least 25 individuals and the inhabitants reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living. Inhabitants residing permanently at the location are a discrete and identifiable social unit, as indicated by such factors as school enrollment, number of

sources of employment, permanency of dwelling units, voter registration, precinct boundaries, and the number of commercial establishments and other service centers. Neither public access nor the right to reside in the community is restricted.

Healy Lake

The village of Healy Lake is located in the eastern portion of the proposed Deltana Borough, about 30 miles east of Delta Junction in Section 23, Township 11 South, Range 15 East, Fairbanks Meridian.³¹ The CDP that includes the village of Healy Lake encompasses 66.3 square miles of land and 8.1 square miles of water. Most of the 29 permanent residents live in the village of Healy Lake. However, the Healy Lake CDP includes large areas of uninhabited land outside the village. Therefore, a population density is not calculated using the 74.4 square mile Healy Lake CDP, since it would be a misleading figure and would not accurately reflect the population density of the village.

Location of Healy Lake



There are 11 households in Healy Lake that are inhabited year-round. The 2005 State Demographer's population estimate is 29 residents, which is 0.7 percent of the proposed Deltana Borough's population of 4,148 residents.

³¹ Approximately 64 degrees (North) Latitude and minus 144 degrees (West) Longitude.

The population of the community consists of 73 percent Alaska Native or part Native. Healy Lake is a mixed Athabascan and non-Native community. A federally recognized tribe, the Mendas Cha-Ag Tribe, is located in the community. The Healy Lake Traditional Council is the governing body of the Mendas Cha-Ag Tribe. The Tribe does not want to be part of any organized borough.³²

The Tribe owns and operates a washeteria, community hall, clinic, Council Office, and maintenance shops.

Healy Lake has a water treatment plant and watering point. Only 4 of the 11 year-round households in Healy Lake have complete plumbing. Limited health service is available through the Healy Lake Clinic. Emergency services have air access.

Currently, there is no REAA-operated school in the community. The public school closed in 1999 due to declining enrollment.³³ In the past, the residents occasionally used the facility for public meetings and such. However, the utilities were recently cut off due to the high cost of fuel and electricity so it is unlikely residents will continue to use the facility.

The Delta-Greely School District provides educational services to Healy Lake residents. Other public services are provided through the local tribe and the regional non-profit agency - the Tanana Chiefs Conference.

Healy Lake is east of the Alaska Highway, but there is no direct road access from the Alaska Highway to Healy Lake. There are approximately 2.5 miles of road in the community from the airport to the boat landing. There are also three small side streets. In the summer months Healy Lake may be accessed by

³² See the letter to the LBC from the Healy Lake Traditional Council of the Mendas Cha-Ag Tribe dated March 20, 2006, received during the public comment period that says, "The Native Village of Healy Lake and all its Mendas Cha-Ag lands beginning from Cummings Road to the extent of its boundaries shall be outside of any boundaries or boroughs."

³³ According to a Juneau Empire article dated August 28, 2002, a \$1.7 million school built to serve the Interior community of Healy Lake closed after just one year of serving students. The school was built in 1999 with a federal grant but remained empty until 2001 when the Delta Greely School Board decided to open it. According to the article, "The board was hoping the new facility would attract enough students to fulfill the state requirement that every school educated at least 10 students. But by the end of the school year, just four students remained."

boat or airplane. The Tanana River provides boat access to Healy Lake at Big Delta. During the winter, residents fly in by ski plane or drive in by ice road. There is a winter road open from January to March.

The village of Healy Lake is connected to the rest of the proposed Deltana Borough by charter air service. Healy Lake has an air strip, which is located on private land and 40 Mile Air Service comes in three times a week. The village does not have an official federal Post Office, but 40 Mile Air Service brings in mail and delivers it to the tribal office; they have locked boxes in the tribal office. Communication is by mail, telephone, cell phones, fax machine, and the Internet.

Healy Lake meets the standard of "community" because there are at least 25 residents, community services exist (washeteria, water treatment plant, communal watering point, community hall, and health clinic), and because there is no impeded public access or right to reside there. In other words, members of the public are free to come and go, to recreate, to visit the village or to reside there.

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).)

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 2005 estimated population of the proposed Deltana Borough is 4,148 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).

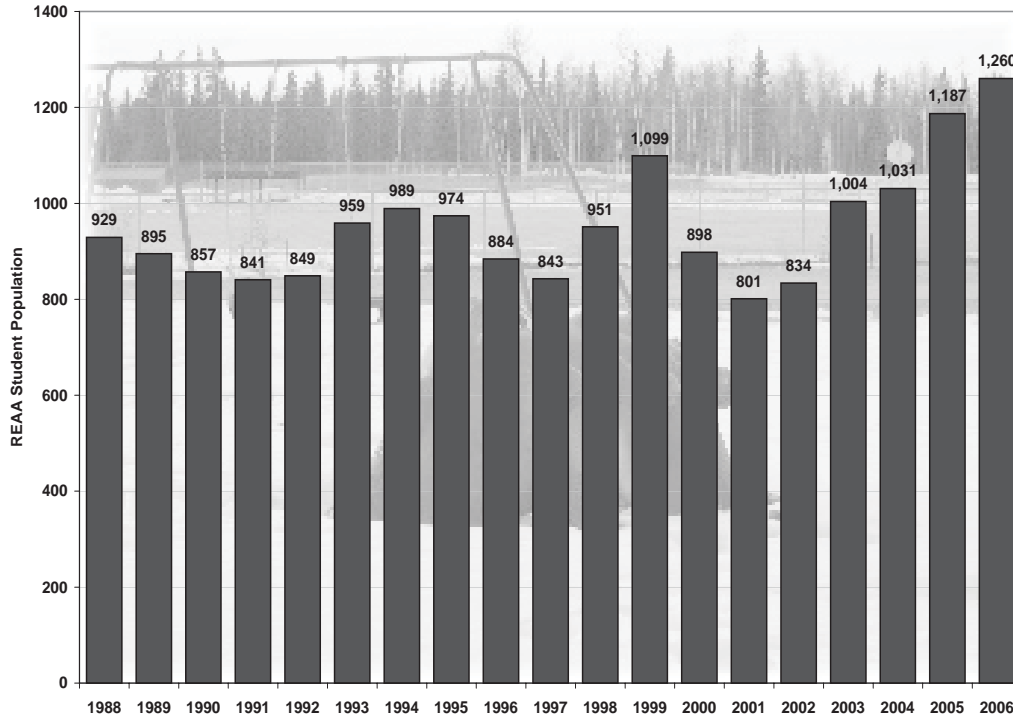
The 2005 mean population of the 16 organized boroughs was 36,392. That figure was skewed by the Anchorage borough, which accounted for 47.8 percent of Alaska's organized borough population. Without the Anchorage borough, the 2005 mean population of the remaining 15 organized boroughs was 20,269. The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

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

As noted earlier, the boundaries of the proposed borough are identical to that of the Delta-Greely REAA School District. As a further indicator of population stability, Table 2-2 on the following page lists the average daily membership³⁴ of students in the Delta-Greely REAA for each year between 1988 and 2006. During that period, the average daily membership (ADM) ranged from a low of 801 students in 2001, to a high of 1,260 students in 2006. The estimated 801 students in 2001 was 459, or 36 percent less than the 2006 peak.

³⁴ According to AS 14.17.990(1), "'ADM or average daily membership' means the aggregate number of full-time equivalent students enrolled in a school district during the student count period for which a determination is being made, divided by the actual number of days that school is in session for the student count period for which the determination is being made." The student count period is governed by AS 14.17.600. In other words, the ADM count is an average based on a 20-day count period. For ADMs, see <<http://www.eed.state.ak.us/stats/QuickFacts/ADM.pdf>>. In contrast, school district enrollment figures may be different than the ADMs for the same years. This is because enrollment figures are a 'snapshot' where a student was enrolled on October 1; in other words, enrollment is a one-day count of the number of students as of October 1, as reported by the Department of Education and Early Development. See 4 AAC 06.895(j)(1) and, as an example of school district enrollment figures for 2004, <<http://www.eed.state.ak.us/stats/DistrictEnrollment/2004DistrictEnrollment.pdf>>.

Table 2-2. Average Daily Membership of Students in the Delta-Greely REAA 1988-2006.



However, you can't conclude that the population in the proposed borough is growing based on the growth in the ADM in the Delta-Greely REAA because 405 of the 1,260 students (32 percent) enrolled in the Delta-Greely School District in 2005-2006 were in the "Delta Cyber Charter School." This is a statewide correspondence school that has its headquarters in Delta Junction, so most, if not all of those 405 students do not live in the Delta-Greely REAA School District. However, you can conclude that the number of students attending school in the proposed Deltana Borough over the last 18 years is at least steady.

Based on the population figures for the Deltana Borough and the student populations figures, Commerce 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.

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

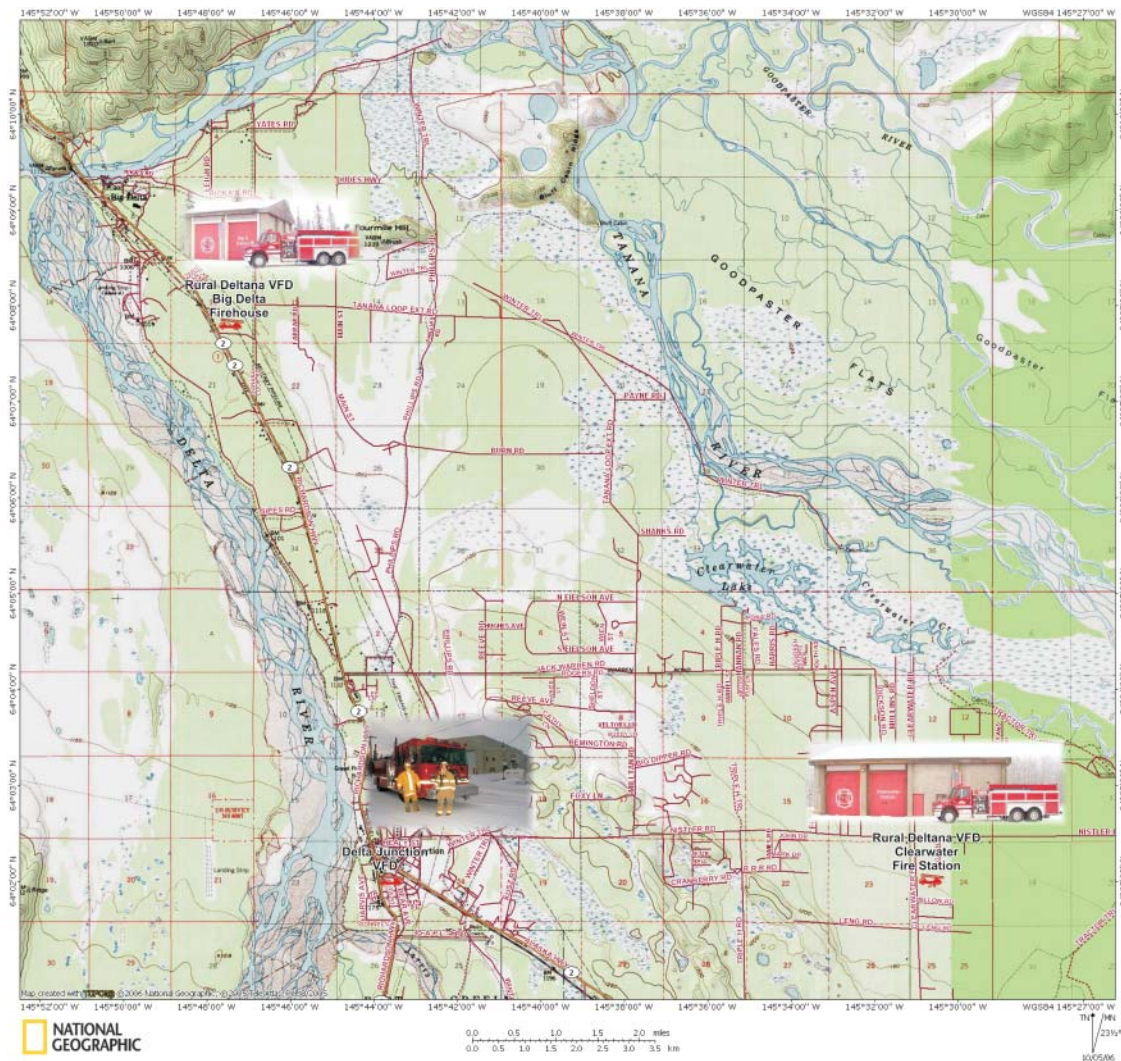
AS 29.05.031(a)(3) provides that the LBC may approve the borough incorporation petition only if it determines that the economy of the proposed borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must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

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.

The Reasonably Anticipated Functions of the Proposed Borough

According to the petition, the City of Delta Junction currently provides the following to all residents of the Deltana region: cemetery, landfill, road and airport maintenance, parks and recreation, and community buildings including a library and Community Center. Currently, the City of Delta Junction provides planning services only to the City. In addition, the Delta Junction Volunteer Fire Department provides fire, Emergency Medical Services (EMS), rescue squad, and ambulance services only to city residents. However, the City volunteer fire, EMS and ambulance department has a mutual aid agreement with the Deltana Volunteer Fire Department, which serves Deltana residents outside city limits. Under this mutual aid agreement, the Delta Junction Volunteer Fire Department provides dispatch services for the Rural Deltana Volunteer Fire Department's two fire stations, the Big Delta Firehouse and the Clearwater Fire Station. Upon incorporation of the Deltana Borough and the

Location of Fire Stations in the Proposed Deltana Borough



concurrent dissolution of the second-class City of Delta Junction, all services formerly provided by the City to residents of the Deltana region will continue to be provided to areas currently served.

Within the second year of incorporation, the Deltana Borough will assume the assets and liabilities of the Delta-Greely REAA and will begin providing educational services.

Missile Defense Impact Mitigation

In 2001, Fort Greely was designated part of the national ballistic missile defense shield. It was planned for Fort Greely to become a ground-based facility to test technology for destroying hostile missiles in mid-course. The

Missile Defense Agency (MDA), in coordination with the State of Alaska and the City of Delta Junction, spent two years studying the local economy to determine the impacts that would result from a large-scale construction program at Fort Greely. It was determined that the City of Delta Junction, located five miles from Fort Greely, was the municipality most likely to provide services for test bed personnel. The MDA recommended that \$24.8 million be allocated to mitigate potential community impacts resulting from the MDA Ground-Based Midcourse Defense (GMD) program. Today, there are nine GMD interceptors based at Fort Greely. The annual federal defense spending bill approved in late September, 2006 appropriated \$200 million to the national missile defense system operations at Fort Greely.³⁵

The Department of Defense has provided approximately \$9.5 million for the construction of the new elementary school and approximately \$15 million to the City of Delta Junction for mitigation of impacts relating to the missile defense facility. The City's impact mitigation projects include:

- A new regional land-fill, at mile 257 on the Richardson Highway.
- New fire and emergency equipment, including 2 fire trucks for the Deltana volunteer fire department, 1 fire truck for the City, and 1 ambulance for the City.
- A new fire station.
- Renovation of the old fire station to serve as a public works facility, including heavy equipment storage and space for the Local Emergency Planning Committee and storage of emergency supplies.
- Communication upgrades, currently planned to include the re-construction of the transmission tower on Donnelly Dome for television signals.
- A new library.



City of Delta Junction's New Fire Truck

³⁵ Source: *Anchorage Daily News* and *Associated Press* article "Defense Bill Contains Millions Set for Alaska," published October 2, 2006.

- A program of social services, and support for job training and adult education.
- Renovation of the existing Liewer-Olmstead Ice Arena, planned to include providing heat for the building and installation of restrooms and other amenities.

Approximately \$300,000 has been set aside to replace the tower on Donnelly Dome; work will commence once the BLM gives the City of Delta Junction site control for the tower. Another two million dollars has been set aside for improvements to the hockey rink. A small part of the social services grant money hasn't been spent, but other than these amounts, the missile defense impact defense funds have all been spent. The equipment purchases, infrastructure, and expanded public services supplied by the missile defense impact mitigation funds will accommodate future population growth in the proposed borough.

Part 6. Whether Facilities in the Proposed Borough Allow the Communication and Exchange Necessary for Integrated Borough Government

In order to grant the borough incorporation proposal, AS 29.05.031(a)(4) requires the LBC to determine that the land, water, and air transportation facilities in the area allow the communication and exchange necessary for the development of integrated borough government. The provisions of 3 AAC 110.045(c) require that the LBC also consider communications media in terms of communication and exchange. Additionally, 3 AAC 110.045(c) lists a number of factors that may be considered by the LBC in judging whether the communications and exchange standard is satisfied. Those include transportation schedules and costs, geographic and climatic impediments, telephonic facilities, and public electronic media. Further, 3 AAC 110.045(d) establishes the presumption that all communities within the proposed consolidated borough are connected by roadway, boat, or air service.

The existing transportation network within the proposed borough includes the Richardson and Alaska highways; the oil pipeline; and many roads, trails, and navigable rivers. The transportation, pipeline and utility corridor is in public ownership. To gain access and develop the Pogo Mine, Teck-Pogo built a 50-mile road to the mine.

A. Land Transportation Facilities

Portions of the Richardson and Alaska Highways run through this region, providing access to much of the area. Numerous roads and trails provide additional access. The Trans-Alaska Pipeline System runs along the Richardson Highway for the most part, bisecting the proposed borough.

Delta Junction, Big Delta, Fort Greely, Trimms Camp, and Deltana are all highway accessible. There is private bus service in the Deltana region with Fairbanks as the main destination.

As noted earlier, the proposed borough encompasses three "communities" - Delta Junction, Whitestone, and Healy Lake - that meet the particular characteristics set out in 3 AAC 110.920. Delta Junction has a well-developed road system.

The village of Healy Lake is not accessible by road, but it is accessible by boat and airplane. There are approximately 2.5 miles of road in the community from the airport to the boat landing and three small side streets. During the winter, residents fly in by ski plane or drive in by ice road. There is a winter road open from January to March.

Whitestone lacks year-around road access, but is accessible by boat during the summer months. During the winter, an ice road is constructed crossing the Delta River approximately a mile upstream of the Tanana River, which allows residents and visitors road access for 4-6 months of the year. During the transitional periods commonly referred to as "freeze-up" and "break-up," people get to Whitestone by foot, horseback, or track vehicle.

B. Water Transportation Facilities

According to the Tanana Basin Area Plan for State Lands:

There are several navigable rivers that provide access to the more remote areas within the proposed Deltana Borough. Many people travel the Delta and Tanana Rivers which provide access to their settlement lands, and for recreation, hunting and fishing. The State planning area for the Delta-Salcha region, within the Tanana River drainage, contains 11 named rivers, 19 named lakes, and 67 named creeks. Over 13 lakes are stocked on a regular basis with rainbow

trout and coho salmon. Sport and subsistence fishing for king, chum, and coho salmon, burbot, grayling, lake trout, rainbow trout, northern pike, and whitefish occurs throughout this planning area.³⁶

Whitestone is located on the west side of the Delta and Tanana Rivers, 10 miles north of Delta Junction. In the summer, Whitestone is only accessible by boat on the Tanana River. Visitors utilize the boat launch at the Alyeska pipeline boat dock at Mile 276 of the Richardson Highway, or the boat dock at Rika's Roadhouse and Landing. There are no water transportation systems within the area other than the private vessels used to travel to and from Whitestone.

In the summer months you can go by boat or fly to Healy Lake.

C. Air Transportation Facilities

There are two air taxi services located in the Deltana region: M&M Charters and Golden Eagle Outfitters. There are currently no scheduled flights between Tok or Fairbanks and the Deltana region.

Whitestone does not have an airstrip, but Delta Junction and Healy Lake have airstrips. The airstrip in Healy Lake is on private land.

The community of Healy Lake is connected by charter air service. Healy Lake has an air strip, which is located on private land and 40 Mile Air Service comes in three times a week. The village doesn't have an official federal Post Office, but 40 Mile Air Service brings in mail and delivers it to the tribal office.

In the winter, airplanes land on the frozen ice of Healy Lake. One must contact the community before coming in by plane in the winter because most of the time the lake is blown over and snow must be scraped off the frozen lake before people can get across.

³⁶ The Delta-Salcha State planning region includes over 2 million acres centered at Delta Junction, bordered on the north by Eielson Air Force Base, on the west by federal reserve lands, on the south by the crest of the Alaska Range, and on the east by the limit of State land. This area is referred to as Delta-Salcha Subregion 7 in the Tanana Basin Area Plan for State Lands, adopted in 1985 and updated in 1991.

D. Communications Media

According to the Petition, p. 4 of Exhibit H:

Regional communications are provided by the local bi-weekly newspaper, *Delta Wind*, the local public radio station, and the Ft. Greely radio station. Healy Lake uses a booster system to increase television and radio reception. In addition, all communities have access to phone and internet services. These media will also serve the proposed borough area. The City of Delta Junction uses a website, the local newspaper and the public radio station to communicate with area residents.

All five media outlets - radio stations, newspapers, television, telephone and internet services - serve the proposed borough area. The City of Delta Junction uses the local newspaper and public radio station, along with a website, to communicate with area residents. The proposed borough would also use these communication systems. Additionally, the area receives the Fairbanks Daily News-Miner newspaper on a daily basis and Fairbanks television programming via a relay dish system.

Table 2-15 on the following page lists the communications media serving the proposed consolidated borough.

Table 2-15. Communications Media Serving the Proposed Borough

Radio Stations	KDHS Delta School 95.5 in Delta Junction; KUAC/UAF Public Radio 91.7 in Fairbanks*; Armed Forces Network 93.5 in Fort Greely
Newspapers	<i>Delta Wind; Fairbanks Daily News-Miner</i>
Other	Legislative Information Office teleconferencing; Fairbanks television programming via a relay dish system; Cable TV through private cable, dish or private provider; telephone, cell phone, fax and internet services

* KUAC serves both the Delta-Greely and the Alaska Gateway REAA regions with translators in Tok and Eagle.

E. Conclusion

The land, air, and water transportation facilities in the proposed borough are well-developed and integrated. The three communities in the proposed borough - the City of Delta Junction, Whitestone, and Healy Lake - are linked by land, air or water transportation, thus satisfying the standard set out in 3 AAC 110.045(d). With the exception of Whitestone and Healy Lake, all regional residents are linked by a modern, mostly paved, road system. Whitestone is accessible by ice road four to six months of the year. The communications media serving the residents of the proposed borough are adequate.

The transportation facilities and communications media clearly allow the communication and exchange necessary for the development of integrated borough government. Consequently, Commerce concludes that the standards set out in AS 29.05.031(a)(4) and 3 AAC 110.045(c) - (d) are satisfied.

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 Commerce's extensive analysis of whether the proposed borough incorporation proposal promotes maximum local self-government. Based on that analysis, Commerce 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 Delta Junction (who comprise 25.2 percent of proposed borough population) exercise the powers of self-government in this second-class city.³⁷ Under the proposal, all the residents of the proposed unified borough will have the opportunity to enjoy home-rule status.

³⁷ See Table 2-1.

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

In addition to the two critical constitutional principles, Commerce 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. Such 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, Commerce concludes that the Deltana 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. Thus, 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

Reproduced below in Table 2-3 are the projected expenditures of the proposed borough during the first six full fiscal years, set out in Exhibit D-2 of the Petition:

Table 2-3: Petitioner's Proposed Expenditure Budget for the First Six Full Fiscal Years

Educational Expenditures	Expenditures					
	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Education (Source: State Aid)	NA	NA	\$9,611,194	\$8,789,028	\$8,423,565	\$8,263,846
Education (Source: Required Local Contribution for Schools (AS 14.17.410(b)(2))	NA	NA	\$0	\$822,166	\$1,187,629	\$1,347,348
Education (Source: Federal Impact Aid for Schools)	NA	NA	\$4,512	\$4,512	\$4,512	\$4,512
Education (Source: Quality Schools)	NA	NA	\$31,174	\$31,174	\$31,174	\$31,174
Subtotal	NA	NA	\$9,646,880	\$9,646,880	\$9,646,880	\$9,646,880
Non-Educational Expenditures						
Administration	\$194,548	\$201,884	\$209,441	\$217,224	\$225,241	\$233,498
Cemetery	\$12,037	\$12,398	\$12,770	\$13,153	\$13,547	\$13,954
Community Center	\$19,973	\$20,572	\$21,189	\$21,825	\$22,479	\$23,154
Rescue Squad	\$59,976	\$61,775	\$63,628	\$65,537	\$67,503	\$69,528
Fire Department	\$63,042	\$64,933	\$66,881	\$68,888	\$70,955	\$73,083
911 Activities *	\$26,607	\$27,405	\$28,227	\$29,074	\$29,946	\$30,845
Library	\$141,091	\$145,324	\$149,684	\$154,174	\$158,800	\$163,564
Facility Maintenance	\$38,755	\$39,917	\$41,115	\$42,348	\$43,619	\$44,927
Parks & Recreation	\$33,893	\$34,910	\$35,957	\$37,036	\$38,147	\$39,291
Land Sales	\$11,452	\$11,795	\$12,149	\$12,513	\$12,889	\$13,275
Landfill	\$320,285	\$329,893	\$339,790	\$349,984	\$360,483	\$371,298
Streets	\$153,161	\$157,756	\$162,489	\$167,363	\$172,384	\$177,556
Runway Maintenance	\$10,609	\$10,927	\$11,255	\$11,593	\$11,941	\$12,299
Hockey Rink	\$13,074	\$13,466	\$13,870	\$14,286	\$14,715	\$15,156
Planning Department	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
E 911 Activity	\$18,582	\$19,140	\$19,714	\$20,305	\$20,914	\$21,542
Subtotal	\$1,167,085	\$1,202,095	\$1,238,159	\$1,275,303	\$1,313,563	\$1,352,970
Total Expenditures	\$1,167,085	\$1,202,095	\$10,885,039	\$10,922,183	\$10,960,443	\$10,999,850
Total Revenues	\$2,022,016	\$2,450,668	\$13,207,055	\$12,135,288	\$11,801,131	\$11,673,656
Annual Surplus (Deficit)	\$854,931	\$1,248,573	\$2,322,016	\$1,213,105	\$840,688	\$673,806
Cumulative Surplus (Deficit)	\$854,931	\$2,103,504	\$4,425,520	\$5,638,625	\$6,479,313	\$7,153,119

* The difference between "E 911 Activity" (\$18,582 in 2007) and "911 Activities" (\$26,607 in 2007) is that the former includes all the mapping and geodatabase updates to get set up to implement Enhanced 911. The latter includes all the telephone line expenses and the cost of dispatching out of Fairbanks.

State law requires that all petitions to the LBC include budget projections (3 AAC 110.420) for at least the first three years. LBC Staff asked the Petitioner for a six year budget projection, rather than the three year projection normally requested, because the borough would not begin to make its annual required contribution towards education until 2010, when it would phase in the increase gradually, only reaching its four mill equivalent required contribution in 2012. 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. For example, a newly formed borough has the ability under AS 29.05.130 - 29.05.140 to defer responsibility for assumption of schools for as long as two years. Moreover, once the new borough assumes responsibility for education, it has the ability under AS 14.17.410(e) to phase in required local contributions for schools. Additionally, a new borough is entitled to organization grants during each of the first three years of operation.



The new elementary school in Delta Junction was built with \$9.5 million of the Missile Defense Impact Mitigation funds provided by the Department of Defense.

The Petition provides that the Deltana Borough will assume responsibility for schools within two years from the date of incorporation. In this case, if the Deltana Borough incorporates in 2007, the borough will assume responsibility for education in 2009.

According to the table of projected expenditures above, the new borough will phase in required local contributions for schools (AS 14.17.410(b)(2)). The new borough will phase in contributions beginning with the equivalent of a two-mill tax levy on the borough's full and true value of taxable property in 2010, the contribution increasing to the equivalent of a three mill tax in 2011 and to the equivalent of a four mill tax in 2012.

In other words, in fiscal year 2010, the second year of operation of the schools, the borough's required local contribution under AS 14.17.410(b)(2) will be equivalent to a two-mill tax levy on the full and true value of the taxable real and personal property in the borough as of January 1, 2008 which the Petition assumed would be \$411,083,000. Based on that assumption, the total borough contribution for that year will be \$822,166. It is noted, however, that the projected value of \$411,083,000, reflected an estimated value of the Pogo Mine of \$260 million (see Exhibit D-1, page 3, note 10). The State Assessor recently pegged the estimated taxable value of the Pogo Mine at \$330 million.

In fiscal year 2011, the third year of operation of the schools, the borough's local contribution will be equivalent to a three-mill tax levy on the taxable property as of January 1, 2009, estimated to be worth \$395,876,314. The total borough contribution for that year will be \$1,187,629. Again, those figures reflect a lower projected value for the Pogo Mine compared to the current estimate.

In the fourth year of operation of the school, fiscal year 2012, the borough's local contribution will be equivalent to a four-mill tax levy on the taxable property as of January 1, 2010, which the Petitioner estimates to be \$336,837,000. The total borough contribution for that year will be \$1,347,348. Once again, those figures reflect a lower projected value for the Pogo Mine compared to the current estimate.

The revenue and expenditure tables reflects the Petitioners assumptions³⁸ that Teck-Pogo property values will be \$260 million in 2008 and decline in a straight line in value to 71 million in 2015. The tables also reflect the assumption that with the exception of the Teck-Pogo properties, the residential, commercial and industrial properties will increase in value three percent annually.

The value of Pogo Mine may be greater than what the Petitioner has represented. Teck Cominco's "2004 Year in Review" at <http://www.teckcominco.com/operations/pogo/review.htm> indicated the final projected



POGO Mine. Photo Credit: http://www.schulch.ualgary.ca/CSCE-Students/Images/Cold_Region/Pogo.jpg

³⁸ See comments numbered 9 and 10 on page 3 of Exhibit D-1 of the Petition.

cost of the mine had increased to \$320 million. The company attributed the increased costs to "higher than expected fuel and steel prices and equipment and field costs." Construction of the mine and associated facilities was substantially complete by the end of 2005. The mine reached full commercial production by mid-2006. On October 5, 2006, Teck Cominco estimated the Pogo Mine final project capital cost at \$347 million.³⁹ On November 2, 2006, using Teck Cominco's estimate of the cost as a starting figure, the State Assessor increased his original 2005 estimate from \$250 million to a current completed mine value estimate of \$330 million. He added that this number is subject to change based upon a review of the mines actual book costs. The State Assessor will review and the Petitioner's earlier mine valuation figures upon borough incorporation.

The State Assessor noted in a March 16, 2005 memorandum that "the values... are based upon 2004 observable data. This means that they do not reflect the upward trend in values that has occurred the past several months due to the activity at both Fort Greely and at the Pogo mine site. . . . therefore, it is quite conceivable that if another value estimate were to be completed within the next couple of years, the values contained in this report will be very conservative."

In summary, the estimated taxable value of the Pogo Mine has increased to \$330 million following its completion and the tax base may increase even more due to "the upward trend in values" observed by the State Assessor.

C. The Reasonably Anticipated Income of the Proposed Borough

Table 2-4 on the following page, shows the projected revenues of the proposed borough during the first six full fiscal years are set out in Exhibit D-1 of the Petition:

The Petitioner included ten assumptions and comments pertinent to the operating revenue projection table at pages 2 and 3 of Exhibit D-1. According to comment number 8, "The revenue tables assume HB 217 passes and therefore exempts AS 43.56 properties from the property values used to determine the local contribution towards education." This assumption was satisfied when House Bill 217 was signed into law on March 16, 2005, with an effective date of

³⁹ See Teck Cominco, Ltd. website at <<http://www.teckcominco.com/operations/pogo/index.htm>>.

Table 2-4: Petitioner's Proposed Revenue Budget for the First Six Full Fiscal Years

Revenues						
Education Revenues	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
State Aid for Schools (AS 14.17.410(b)(1))	NA	NA	\$9,611,194	\$8,789,028	\$8,423,565	\$8,263,846
Federal Impact Aid for Schools (90% portion deducted from basic need in determining State aid per AS 14.17.410(b)(1))	NA	NA	\$4,061	\$4,061	\$4,061	\$4,061
Federal Impact Aid for Schools (10% portion)	NA	NA	\$451	\$451	\$451	\$451
Quality Schools (AS 14.17.480)	NA	NA	\$31,174	\$31,174	\$31,174	\$31,174
Subtotal	NA	NA	\$9,646,880	\$8,824,714	\$8,459,251	\$8,299,532
Taxes/Federal & State Monies						
Fuel Tax	\$296,640	\$305,539	\$314,705	\$324,147	\$333,871	\$343,887
Power Tax	\$288,400	\$297,052	\$305,964	\$315,142	\$324,597	\$334,335
Payment in Lieu of Taxes	\$500,000	\$1,000,000	\$2,180,000	\$2,000,000	\$2,000,000	\$2,000,000
Organization Grant	\$300,000	\$200,000	\$100,000	-	-	-
Federal PILT	\$267,000	\$267,000	\$267,000	\$267,000	\$267,000	\$267,000
Subtotal	\$1,652,040	\$2,069,591	\$3,167,669	\$2,906,289	\$2,925,468	\$2,945,222
Other Revenue Sources						
Fire Service & Subscriptions	\$15,450	\$15,914	\$16,391	\$16,883	\$17,389	\$17,911
Ambulance Services	\$41,200	\$42,436	\$43,709	\$45,020	\$46,371	\$47,762
Community Services	\$5,150	\$5,305	\$5,464	\$5,628	\$5,796	\$5,970
Conference Room	\$515	\$530	\$546	\$563	\$580	\$597
Library Revenue	\$6,489	\$6,684	\$6,884	\$7,091	\$7,303	\$7,523
Cemetery Revenue	\$2,060	\$2,122	\$2,185	\$2,251	\$2,319	\$2,388
Copies	\$309	\$318	\$328	\$338	\$348	\$358
Faxes	\$103	\$106	\$109	\$113	\$116	\$119
Pop Sales	\$103	\$106	\$109	\$113	\$116	\$119
Interest Income Revenue	\$8,240	\$8,487	\$8,742	\$9,004	\$9,274	\$9,552
Landfill Revenue	\$209,090	\$215,363	\$221,824	\$228,478	\$235,333	\$242,393
Airport Tie Downs	\$3,914	\$4,031	\$4,152	\$4,277	\$4,405	\$4,537
Park Revenue	\$25,853	\$26,629	\$27,427	\$28,250	\$29,098	\$29,971
Passports	\$3,090	\$3,183	\$3,278	\$3,377	\$3,478	\$3,582
Address Street Mapping	\$3,090	\$3,183	\$3,278	\$3,377	\$3,478	\$3,582
E911 Revenues	\$45,320	\$46,680	\$48,080	\$49,522	\$51,008	\$52,538
Subtotal	\$369,976	\$381,077	\$392,506	\$404,285	\$416,412	\$428,902
Total Revenues	\$2,022,016	\$2,450,668	\$13,207,055	\$12,135,288	\$11,801,131	\$11,673,656

June 14, 2006. HB 217 was an amendment of State law to exclude the taxable value of oil and gas property included in local contribution calculation if no property taxes are levied by the borough or by cities within the borough.

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

Since its incorporation in 1960, the City of Delta Junction has been responsible for the assessment and collection of revenues and fees within its boundaries, such as fees for airport tie-downs, landfill, parks, ambulance and other community services. The City has successfully operated and managed the cemetery, landfill, parks, library and other community buildings, and has maintained the airport and roads that are used by all residents of the Deltana region. The City of Delta Junction has long demonstrated its capacity to generate and collect local revenue, and to serve the residents of the Deltana region. Upon incorporation of the Deltana Borough and the dissolution of the City of Delta Junction, all services formerly provided by the City to the residents of the Deltana region will continue to be provided to the areas currently served.



Entrance to the City of Delta Junction landfill.

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

The analysis of the budget will focus on the sixth year of incorporation, since that is the year the required local contribution for schools will be four-mills. The tables that follow use the figures from the sixth year (2012) from the Petitioner's Revenue and Expenditure tables presented in Exhibits D-1 and D-2.

Most of the projected revenue of the proposed consolidated borough is from Teck-Pogo's Payment in Lieu of Taxes. The Teck-Pogo PILT payment is projected to be will be \$2 million in 2012, which represents 17 percent of the year's total revenues. The actual Teck-Pogo's Payment in Lieu of Taxes is governed by the provisions in Section 5 of the formal agreement governing such payments. Section 5.3 of that agreement provides that the PILT shall be calculated in each year as the greater of (10 the product of the annual assessed value multiplied by ten mills; or the sum of Two Million and 00/100 Dollars. In addition, Teck-Pogo may be required to make additional payments in the event that the

Borough voters approve and the Borough, directly or through a bond bank, issues general obligation bonds. Those potential additional payments are governed by Section 6 of the PILT agreement. The PILT agreement is included with this report as Appendix D.

The fuel and power tax in Year Six will be \$678,222, which is 5.8 percent of the year's total revenues. Total revenues for Year Six are projected to be \$11,673,656. A summary of those projected revenues is provided in Table 2-5.

Table 2-5: Petitioner's Proposed Revenue Budget for the Year Six.

Revenues	
Education Revenues	Year Six
State Aid for Schools (AS 14.17.410(b)(1))	\$8,263,846
Federal Impact Aid for Schools (90% portion deducted from basic need in determining State aid per AS 14.17.410(b)(1))	\$4,061
Federal Impact Aid for Schools (10% portion)	\$451
Quality Schools (AS 14.17.480)	\$31,174
Subtotal	\$8,299,532
Taxes/Federal & State Monies	
Fuel Tax	\$343,887
Power Tax	\$334,335
Payment in Lieu of Taxes	\$2,000,000
Organization Grant	-
Federal PILT	\$267,000
Subtotal	\$2,945,222
Other Revenue Sources	
Fire Service & Subscriptions	\$17,911
Ambulance Services	\$47,762
Community Services	\$5,970
Conference Room	\$597
Library Revenue	\$7,523
Cemetery Revenue	\$2,388
Copies	\$358
Faxes	\$119
Pop Sales	\$119
Interest Income Revenue	\$9,552
Landfill Revenue	\$242,393
Airport Tie Downs	\$4,537
Park Revenue	\$29,971
Passports	\$3,582
Address Street Mapping	\$3,582
E 911 Revenues	\$52,538
Subtotal	\$428,902
Total Revenues	\$11,673,656

As reflected below in Table 2-6 on the following page, expenditures in Year Six are projected to total \$10,999,850. Revenues are projected to be \$11,673,656. The difference between those two figures represents an overall projected surplus of \$673,806 for the sixth full year of operation of the Deltana Borough. The cumulative surplus for Year One through Year Six will be \$7,153,119.

Table 2-6: Petitioner's Proposed Expenditure Budget for the Year Six.

Expenditures	
Educational Expenditures	Year Six
Education (Source: State Aid)	\$8,263,846
Education (Source: Required Local Contribution for Schools (AS 14.17.410(b)(2))	\$1,347,348
Education (Source: Federal Impact Aid for Schools)	\$4,512
Education (Source: Quality Schools)	\$31,174
Subtotal	\$9,646,880
Non-Educational Expenditures	
Administration	\$233,498
Cemetery	\$13,954
Community Center	\$23,154
Rescue Squad	\$69,528
Fire Department	\$73,083
911 Activities	\$30,845
Library	\$163,564
Facility Maintenance	\$44,927
Parks & Recreation	\$39,291
Land Sales	\$13,275
Landfill	\$371,298
Streets	\$177,556
Runway Maintenance	\$12,299
Hockey Rink	\$15,156
Planning Department	\$50,000
E 911 Activity	\$21,542
Subtotal	\$1,352,970
Total Expenditures	\$10,999,850
Total Revenues	\$11,673,656
Annual Surplus	\$673,806
Cumulative Surplus(Year One Through Year Six)	\$7,153,119

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

F. The Economic Base of the Proposed Borough

Table 2-7 presents 2000 census data regarding the occupations of employed civilians at least 16 years of age within the proposed Deltana Borough area. Information is compiled for the Southeast Fairbanks Census Area (of which the proposed borough comprises 60 percent of the population), and by localities in

Table 2-7. Occupations of Employed Civilian Population 16+ Years Old in 2000 – In Proposed Deltana Borough Compared to Southeast Fairbanks Census Area and State of Alaska – (2000 Census Data)

Occupation	SE Fairbanks Census Area	Big Delta CDP* (1)	Delta Junction city (2)	Deltana CDP (3)	Fort Greely CDP (4)	Healy Lake CDP (5)	Proposed Deltana Borough (1 - 5)	Alaska State
Total Employed	1,932 (100%)	204 (100%)	304 (100%)	575 (100%)	61 (100%)	23 (100%)	1,167 (100%)	281,532 (100%)
Management, professional, and related occupations	630 (32.6%)	54 (26.5%)	109 (35.9%)	169 (29.4%)	22 (36.1%)	9 (39.1%)	363 (31%)	96,839 (34.4%)
Service occupations	337 (17.4%)	49 (24.0%)	39 (12.8%)	85 (14.8%)	23 (37.7%)	5 (21.7%)	201 (17%)	43,940 (15.6%)
Sales and office occupations	443 (22.9%)	49 (24.0%)	71 (23.4%)	129 (22.4%)	14 (23.0%)	3 (13.0%)	266 (23%)	73,550 (26.1%)
Farming, fishing, and forestry occupations	28 (1.4%)	9 (4.4%)	2 (0.7%)	13 (2.3%)	- -	- -	24 (2%)	4,168 (1.5%)
Construction, extraction, and maintenance occupations	268 (13.9%)	21 (10.3%)	51 (16.8%)	93 (16.2%)	- -	4 (17.4%)	169 (14%)	32,702 (11.6%)
Production, transportation, and material moving occupations	226 (11.7%)	22 (10.8%)	32 (10.5%)	86 (15.0%)	2 (3.3%)	2 (8.7%)	144 (12%)	30,333 (10.8%)

* CDP stands for Census Designated Place - a geographic entity that serves as the statistical counterpart of an incorporated place for the purpose of presenting census data for an area with a concentration of population, housing, and commercial structures that is identifiable by name, but is not within an incorporated place.

the proposed borough for which census data was available. The localities include Big Delta CDP, City of Delta Junction city, Deltana CDP, Fort Greely CDP, and Healy Lake CDP. Data for the entire state is provided for comparison.

In addition to the information provided in Table 2-7, the following excerpt from the *Delta Junction Region Comprehensive Economic Development Strategy*, Delta Regional Economic Development Council, November 2004, p. 4, provides the following contemporary overview of the economic base for the proposed Deltana Borough.

The economy of the Delta region has long been diversified among the sectors of agriculture, highway tourism, and the military. . .

The Delta Junction region has been through tremendous economic change in the past ten years. The proposed closure of Fort Greely in 1995 led to a loss of population and jobs, and a downturn in economic activity. In 2001, the military base was designated as a site for the national missile defense system. Construction projects at Fort Greely have drawn hundreds of workers, and in 2004 the operational staff began moving to the area. 2004 also saw the beginning of construction at the Pogo Mine site, north of Delta Junction. Gold mining operations are expected to begin in early 2006.

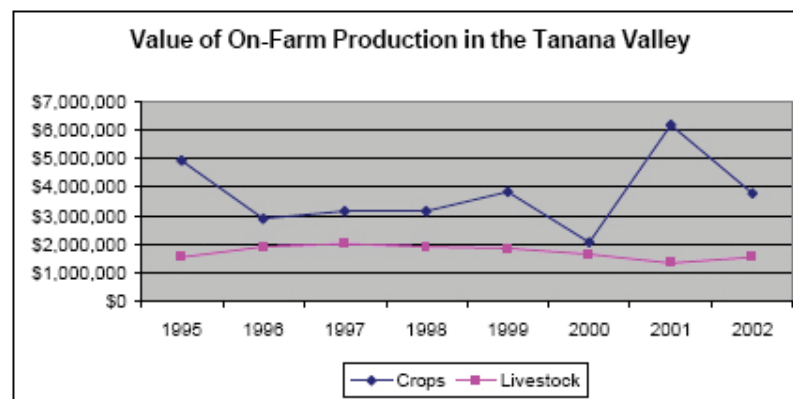
. . . .

Recent growth has led to a demand for the services and infrastructure that ensure the quality of life long treasured by local residents. Issues currently under further study are the availability of health care, housing, recreational opportunities, and school expansion. Past dependence on the amenities of Fort Greely limited the private sector development of recreational facilities such as a movie theatre or bowling alley, shopping, and health care. While the base closure led to a spurt in business start-ups, many of those businesses failed to thrive, and new business development continues to be a priority.

Highway travelers are a valued part of the local economy. The Delta Chamber of Commerce operates the Delta Visitors Center and the Sullivan Roadhouse Museum, and actively promotes local tourism. Current projects that would support the visitor industry include the designation of the Richardson Highway as a scenic byway, and the development of new historic and cultural attractions.

Agricultural production offers other economic boosts to the Delta area. The Delta region of the Tanana Valley is considered one of Alaska's two farming regions, the other being the Mat-Su Valley. According to the 2004 *Delta Junction Region Comprehensive Economic Strategy*, p. 15:

The Alaska Division of Agriculture's 2001 Alaska Food and Farm Products Directory lists 27 producers in the Southeast Fairbanks region, with products ranging from livestock to vegetables to native grasses. The Tanana Valley region leads the state in the production of feed crops and grain. The total value of on-farm production for the Tanana Valley was reported at \$5,263,900 in 2002 down from 2001's total of \$7,481,900. The following graph shows the recent history of on-farm production:



Appendix G presents a 2000 composite ranking of economic factors by boroughs and REAAs,³⁸ including the Delta-Greely REAA. Data from the last census was compiled across several variables dealing with employment and income. According to the 2000 census, the Delta-Greely REAA population was 3,723. The estimated per capita household income was \$17,843. There was a 12.9 percent unemployment rate in the region with 48.1 percent of the adults identified as not working. The estimated average household income was \$51,876, the estimated average owner-occupied housing value was \$164,226, and 17.6 percent of households were at the poverty level. The composite score of the Delta-Greely REAA was 107 out of 196, with a ranking of 19 out of 35 total Alaska boroughs and REAAs.

³⁸ REAA stands for Regional Educational Attendance Area. Each REAA is a school district in a rural area of Alaska. Elections of the school boards are conducted by the Division of Elections since they are in unincorporated areas of the state. For more information on REAAs, or school districts in general, visit the Department of Education Web site at <http://www.educ.state.ak.us/Alaskan_Schools/Public/home.html>

G. Property Valuations for the Proposed Borough

The 2005-estimated assessed value of taxable property in the Delta-Greely area was \$182.1 million, which excludes the Pogo Mine and Alyeska pipeline. The state assessor estimated those values separately. Table 2-8 shows the estimated values for the Delta/Greely (Area) REAA with and without the Alyeska pipeline and Pogo Mine included. The table also presents values for the remainder of the Upper Tanana Area Model Borough, and an Estimated Education Local Funding Requirement for comparison.

Table 2-8. Estimated Assessed Value of Property in the Upper Tanana Area

Area/Property	Estimated Assessed Value	Estimated Education-Local Funding Requirement	Amount
(DELTA Area) Delta/Greely REAA			
Delta Commercial	\$24,483,300		
Delta Residential	\$131,514,100		
Personal Property	\$26,080,600		
Sub-Total Delta/Greely (Area) REAA	\$182,078,000		
Pogo Mine Est. 50% complete as of 1-1-2005*	\$125,000,000		
AS 43.56 Prop. 75 Miles @ \$1.9 million/mi. plus 1 pump station (9) at \$52 million (P.S. 10 zero \$)	\$194,500,000	Total Upper Tanana Basin Model Borough	(\$577,162,500)
Total Delta/Greely (Area) REAA	\$501,578,000	Local Contribution Requirement	\$2,308,650
		Delta/Greely REAA w/o pipeline	(\$307,078,000)
		Local Contribution Requirement	\$1,228,312
(TOK Area) Alaska Gateway REAA			
Tok Commercial	\$10,652,900	Delta/Greely REAA with pipeline	(\$501,578,000)
Tok Residential	\$40,331,900	Local Contribution Requirement	\$2,006,312
Personal Property	\$7,648,700		
Sub-Total (Tok Area) Alaska Gateway REAA	\$58,633,500	Alaska Gateway REAA w/o Villages	(\$58,633,500)
Chicken/Mentasta Lake/Tanacross	4,951,000	Local Contribution Requirement	\$234,534
Northway/Tetlin/Eagle	12,000,000		
Total Alaska Gateway REAA	\$75,584,500	Alaska Gateway REAA	(\$75,584,500)
Total Value of Upper Tanana Basin	\$577,162,500	Alaska Local Contribution Requirement	\$302,338

Source: State Assessor

* The figure for Pogo Mine represents 50 percent completion based on the March 2005 estimated assessed value of the mine. On November 2, 2006, the State Assessor increased his original March 2005 estimate from \$250 million to a current completed mine assessed value estimate of \$330 million.

The State Assessor provided the following explanation on how the estimated assessed value of property in the Upper Tanana Area was calculated.

The final number, \$577,162,500, represents the estimated value of the entire proposed model borough boundary. We have been informed that the City of Delta [Junction] will most likely ask that the boundary lines of the proposed model borough be changed to reflect the REAA boundary lines. Consequently, our value models

conformed to this anticipated request and we were able to provide values for both borough models.

Map of the Proposed Deltana Borough showing locations of pump stations 9 and 10 of the Trans Alaska Pipeline.



The value of the Delta/Greely area is \$182.1 million, which excludes the Alyeska pipeline and Pogo Mine. We have estimated those values separately at \$194.5 million and \$125 million respectively. Either model borough includes approximately 75 miles of pipeline and pump stations 9 and 10. Pump station 10 has been shut down and no value allocated to it, per conversations with Department of Revenue, Oil and Gas Assessor, Randy Hoffbeck. The Pogo Mine is estimated to cost approximately \$250 million upon completion but was approximately only 50% complete as of

January 1, 2005, according to Karl Hanneman with Teck Cominko. The value of Pogo, should increase to the \$250 million in a year or so. . . .

. . . It should also be pointed out that due to the lack of adequate mapping in the unorganized borough, it is impossible to account for all vacant land lying within any proposed borough. Without adequate mapping we are unable to determine accurate status of the ownership and taxability of land unless it has been improved. Raw, unimproved land can easily escape inclusion in any value estimate.³⁹

The previous table shows the values for the entire Upper Tanana Area. Delta Junction, a second-class city, is the only incorporated community in the proposed borough. Table 2-9 shows the full value determination of taxable property in Delta Junction in each year since 2000. Changes from each prior year are also provided.

Table 2-9. Full Value Determination of Property in the City of Delta Junction 2000 - 2005

Year	Assessed Value	Change From Prior Year	Percentage Change From Prior Year
2000	\$48,344,300	NA	NA
2001	\$48,815,800	\$471,500	0.98%
2002	\$48,712,700	-\$103,100	-2.1%
2003	\$47,268,300	-\$1,444,400	-2.97%
2004	\$47,268,300	0	0.00%
2005	\$47,268,300	0	0.00%

Source: State Assessor

The assessed values shown in the preceding two tables 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).

Given the broad discretion among municipalities in terms of the optional property tax exemptions allowed under AS 29.45.050, Commerce 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

³⁹ Memo from State Assessor to Director, Division of Community Advocacy, dated March 16, 2005.

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 2005*, p. 7.)

Table 2-10 compares the 2005 full and true value of taxable property among the 16 organized boroughs. Data for all organized 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.

Table 2-10. 2005 Full Value for All Organized Boroughs in Alaska (ranked in descending order of per capita value)

Borough	2005 Full Value Determination	2005 Population	2005 Per Capita Full Value
North Slope Borough	\$10,359,130,075	6,894	\$1,502,630
Bristol Bay Borough	\$132,182,200	1,073	\$123,189
City and Borough of Juneau	\$3,522,159,000	31,193	\$112,915
Kenai Peninsula Borough	\$5,766,580,547	51,224	\$112,576
Haines Borough	\$245,183,300	2,207	\$111,093
Municipality of Anchorage	\$25,077,495,890	278,241	\$90,129
City and Borough of Sitka	\$804,947,500	8,947	\$89,968
Ketchikan Gateway Borough	\$1,178,492,700	13,125	\$89,790
Denali Borough	\$159,351,900	1,823	\$87,412
City and Borough of Yakutat	\$52,065,800	618	\$84,249
Matanuska-Susitna Borough	\$6,049,408,756	74,041	\$81,703
Kodiak Island Borough	\$1,095,488,400	13,638	\$80,326
Fairbanks North Star Borough	\$6,458,961,200	87,650	\$73,690
Northwest Arctic Borough	\$382,139,300	7,323	\$52,183
Aleutians East Borough	\$96,072,577	2,659	\$36,131
Lake and Peninsula Borough	\$53,513,000	1,620	\$33,033
Total	\$61,433,172,145	582,276	\$105,505

Sources: 2005 full value determination from *Alaska Taxable 2005*, Commerce, January 2006
2005 population figures from Alaska Department of Labor and Workforce Development

With more than \$10.3 billion in taxable property related to the oil industry - nearly 17 percent of the total full value for all organized boroughs in Alaska - the North Slope Borough skews the per capita value figures. Additionally, Commerce notes that four boroughs (Denali, Northwest Arctic, Aleutians East, and Lake and Peninsula) do not levy property taxes. Similarly, the proposed Deltana borough will not levy property taxes.

Table 2-11 provides full value comparisons of the 11 organized boroughs in 2005, exclusive of the North Slope Borough and the four boroughs that do not levy property taxes.

Table 2-11. 2005 Full Value Selected Organized Boroughs in Alaska (ranked in descending order of per capita value)

Borough	2005 Full Value Determination	2005 Population	Per Capita Full Value
Bristol Bay Borough	\$132,182,200	1,073	\$123,189
City and Borough of Juneau	\$3,522,159,000	31,193	\$112,915
Kenai Peninsula Borough	\$5,766,580,547	51,224	\$112,576
Haines Borough	\$245,183,300	2,207	\$111,093
Municipality of Anchorage	\$25,077,495,890	278,241	\$90,129
City and Borough of Sitka	\$804,947,500	8,947	\$89,968
Ketchikan Gateway Borough	\$1,178,492,700	13,125	\$89,790
City and Borough of Yakutat	\$52,065,800	618	\$84,249
Matanuska-Susitna Borough	\$6,049,408,756	74,041	\$81,703
Kodiak Island Borough	\$1,095,488,400	13,638	\$80,326
Fairbanks North Star Borough	\$6,458,961,200	87,650	\$73,690
Total	\$50,382,965,293	561,957	\$89,656
Sources: 2005 full value determination from <i>Alaska Taxable 2005</i> , Commerce, January 2006 2005 population figures from Alaska Department of Labor and Workforce Development			

If the Deltana borough is formed, the State Assessor will make a full value determination at that time, including a per capita valuation. It may also be helpful for the LBC to consider full value data for cities in the unorganized borough, including the City of Delta Junction. That information is provided on the following page in Table 2-12: Full Value Determination of Cities in the Unorganized Borough.

Table 2-12. Full Value Determination of Cities in the Unorganized Borough as of January 1, 2005

Cities in the Unorganized Borough	AS 29.45 Local Taxable Full Value	AS 43.56 State Taxable Oil & Gas Full Value	Full Value Determination	Population	Per Capita Full Value
Bethel	\$187,251,400	\$0	\$187,251,400	5,888	\$31,802
Cordova	\$174,362,300	\$2,815,370	\$177,177,670	2,298	\$77,101
Craig	\$98,870,400	\$0	\$98,870,400	1,127	\$87,729
Delta Junction	\$47,268,300	\$0	\$47,268,300	984	\$48,037
Dillingham	\$142,547,300	\$0	\$142,547,300	2,422	\$58,855
Eagle	\$11,305,600	\$0	\$11,305,600	115	\$98,310
Emmonak	\$6,530,500	\$0	\$6,530,500	762	\$8,570
Galena	\$18,588,300	\$0	\$18,588,300	717	\$25,925
Hoonah	\$36,094,900	\$0	\$36,094,900	841	\$42,919
Hooper Bay	\$7,599,200	\$0	\$7,599,200	1,124	\$6,761
Hydaburg	\$8,181,400	\$0	\$8,181,400	349	\$23,442
Kake	\$19,302,600	\$0	\$19,302,600	663	\$29,114
Klawock	\$30,783,700	\$0	\$30,783,700	848	\$36,302
Mt. Village	\$3,843,600	\$0	\$3,843,600	769	\$4,998
Nenana	\$21,910,200	\$0	\$21,910,200	394	\$55,610
Nome	\$221,284,500	\$0	\$221,284,500	3,473	\$63,716
Pelican	\$13,638,100	\$0	\$13,638,100	118	\$115,577
Petersburg	\$302,023,100	\$0	\$302,023,100	3,123	\$96,709
St. Mary's	\$4,893,700	\$0	\$4,893,700	539	\$9,079
Saint Paul	\$55,194,100	\$0	\$55,194,100	494	\$111,729
Skagway	\$258,322,400	\$0	\$258,322,400	870	\$296,922
Tanana	\$5,673,100	\$0	\$5,673,100	304	\$18,662
Togiak	\$13,,983,200	\$0	\$13,,983,200	805	\$17,370
Unalakleet	\$18,850,600	\$0	\$18,850,600	728	\$25,894
Unalaska	\$404,671,800	\$0	\$404,671,800	4,366	\$92,687
Valdez	\$576,954,900	\$652,470,440	\$1,229,425,340	3,749	\$327,934
Whittier	\$44,861,900	\$475,760	\$45,337,660	172	\$263,591
Wrangell	\$148,401,600	\$0	\$148,401,600	2,023	\$73,357

Source: State Assessor

H. Land Use in the Proposed Borough

The proposed borough boundaries include 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

Figure 2-3: Proposed Deltana Borough Land Ownership map on the following page. The state and federal governments (including the military) are the largest landowners in the region. Farming is the major land use in the region, especially on private lands.

The transportation, pipeline and utility corridor is in public ownership.

The existing transportation network within the proposed borough includes the Richardson and Alaska highways; the Trans Alaska Pipeline; many roads and trails, and navigable rivers. In order to develop recreation lands or to extract the natural resources of the area, which includes timber and minerals, there will need to be access construction. For example, to gain access and develop the Pogo Mine, Teck-Pogo built a 50-mile road.

The source of most of the information below regarding agriculture, forestry, minerals, recreation, and fish and wildlife is the Tanana Basin Area Plan for State Lands, adopted in 1985 and updated in 1991, pages 3-207 to 3-209 and 3-224 to 3-225.

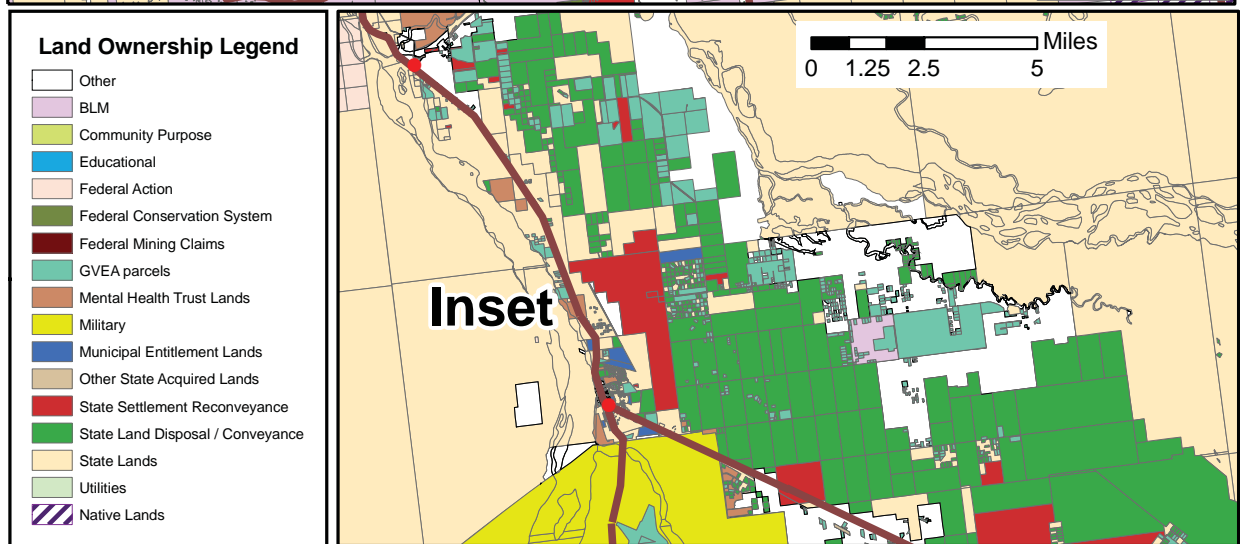
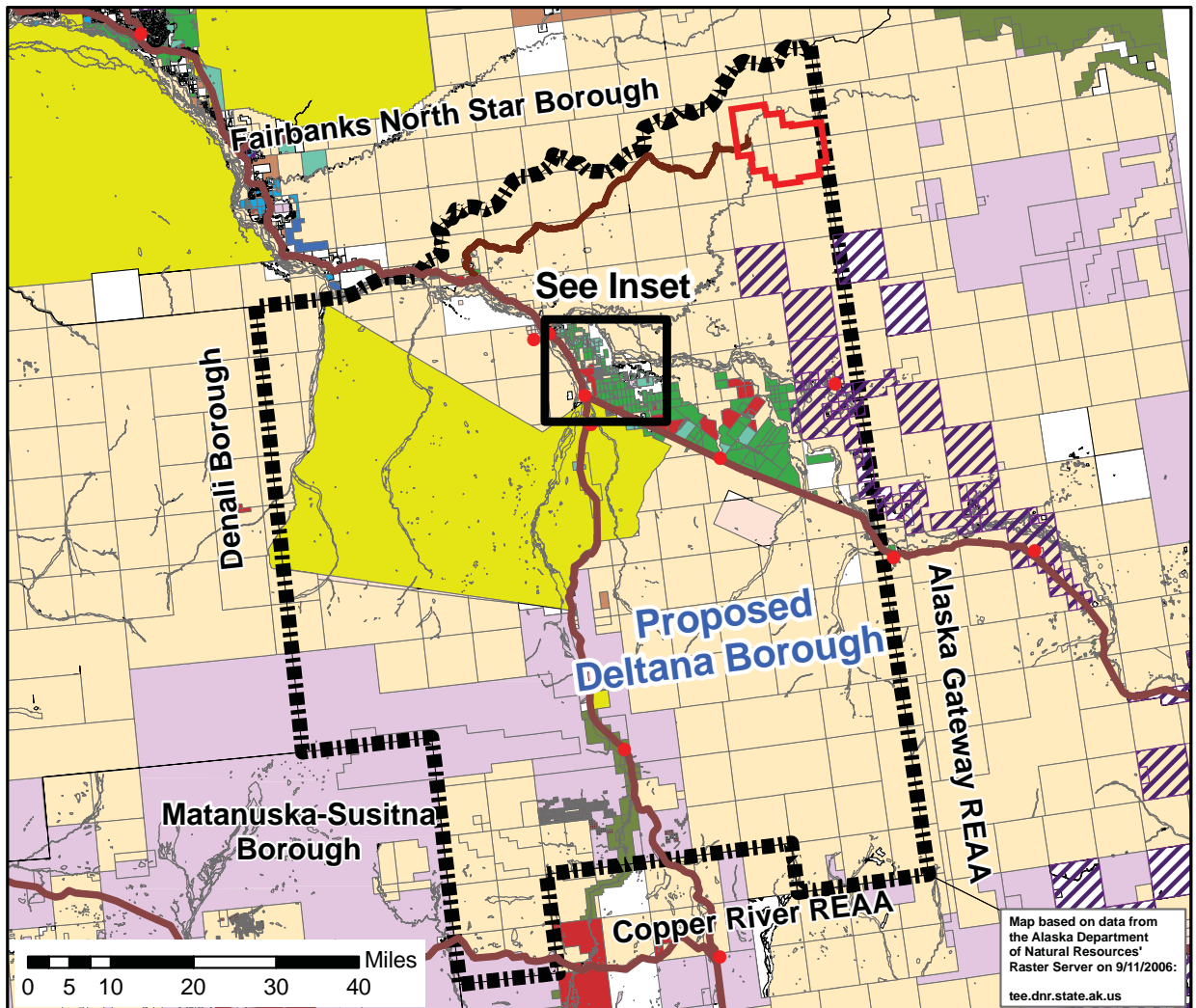
Agriculture

Two of the State of Alaska's three agricultural projects are located near Delta Junction. The Delta I Agricultural Project totals 60,000 acres and the Delta II Agricultural Project totals 25,000 acres. Between 1978 and 1991, an additional 27,000 acres were sold for agricultural purposes in small farm sales in various areas of the region.

Aerial photography of the area southeast of Delta Junction shows some of the extensive agricultural land use.



Figure 2-3. Land Ownership in the Proposed Deltana Borough



The Delta region of the Tanana Valley has over 75 farms. Farming is popular in the Delta region because significant acreage of affordable, accessible land is available for purchase.

Agricultural products range from livestock to vegetables to grain, and include feed crops, and forage and bedding straw

Forestry

According to the Tanana Basin Area Plan at page 3-208:

The timber resource in this region consists predominately of mixed stands of birch in association with aspen, cottonwood, and white spruce. Occasionally, stands containing primarily aspen, cottonwood, or spruce are found adjacent to stream and river banks. Nearly all forested land lies north and east of the Richardson and Alaska highways. Prominent exceptions include a band of timber paralleling the west bank of the Delta River and centering along the south bank of the Tanana River and a series of white spruce stands east of the Goodpaster River, along the banks of the Tanana River and Gerstle River.

The Alaska Department of Natural Resources will offer over 5,907 acres for timber harvest in the Tanana Basin Area Plan (which covers approximately 2.6 million acres of State lands in the Delta area) in Fiscal Years 2006 to 2010. The five year sale plan provides for a total harvest of 9 million cubic feet of white spruce; and 3 million, 25 thousand cubic feet of birch and aspen. In addition to harvesting the timber, the Delta area is planning to construct a total of 7.8 miles of all-season and winter roads in 2006 and an average of seven miles of construction each year for the following 4 years.

Minerals

Mining has been an activity within the region for a long time. There are potential lode deposits of gold, lead, and copper. Several areas of placer gold production are located within the region. Of principal importance are the areas around Ober Creek, Jarvis Creek and the tributaries of the Johnson River. A small coal field is present in the vicinity of Jarvis Creek.

According to the Area Plan, "The Alaska Range has been a focus for hard rock mineral exploration, especially gold.... Since 1976 exploration efforts have discovered two important new mineral belts on the northern flank of the Alaska Range."

Recreation

Recreational settings vary from the high peaks and glaciers in Alaska Range, to river bottom lands and major watercourses. Quartz Lake has public road access, making it especially important for public recreation. With the exception of the Delta-Clearwater, navigable clearwater streams are limited to those flowing into the north side of the Tanana River. The upper Delta River is the only readily floatable "whitewater" stream found in the region.

The primitive and scenic qualities of much of the subregion, plus other attributes such as wildlife and relative accessibility, make it especially valuable for a multitude of outdoor recreation pursuits such as hunting, fishing, hiking, boating, cross-country skiing, climbing, and photography. There are some established public recreation facilities in the Tanana Basin region, including campgrounds, and wayside and rest areas with picnic facilities.

Military Lands

Fort Greely consists of about 7, 200 acres, including the Allen Army Airfield and the Ground-based Midcourse Defense (GMD) missile defense complex. Other Army training lands bordering Fort Greely, including the Donnelly Training Area, are under the control of Fort Wainwright.

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. According to the Petition at page 12 of Exhibit H, Department of Natural Resources staff estimated there are 167, 353 acres of vacant, unappropriated, unreserved State land. In other words, the State would transfer as much as 16,735 acres to the proposed Deltana Borough as its general grant land entitlement.

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

At the time of the 2000 census, the employed civilian workforce over 16+ years old in the Southeast Fairbanks Census Area was 1,932 (44.1 percent of census area population). The census identified a total civilian workforce of

2,347 (53.5 percent) in this age range. Table 2-13 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 2-13. Occupation by Industry of Employed Civilian Population 16+ Years Old in 2000 in Proposed Deltana Borough Compared to Southeast Fairbanks Census Area and State of Alaska (2000 Census Data)

Industry	Employed Civilian Population Number (Percentage)							
	SE Fairbanks Census Area	Big Delta CDP (1)	Delta Junction City (2)	Deltana CDP (3)	Fort Greely CDP (4)	Healy Lake CDP (5)	Proposed Deltana Borough (1 5)	Alaska State
Total Employed	1,932 (100%)	204 (100%)	304 (100%)	575 (100%)	61 (100%)	23 (100%)	1,167 (100%)	281,532 (100%)
Agriculture, Forestry, Fishing, Hunting, and Mining	91 (4.7%)	17 (8.3%)	10 (3.3%)	56 (9.7%)	- -	2 (8.7%)	85 (7%)	13,774 (4.9%)
Construction	122 (6.3%)	7 (3.4%)	25 (8.2%)	42 (7.3%)	- -	- -	74 (6%)	20,534 (7.3%)
Manufacturing	53 (2.7%)	7 (3.4%)	5 (1.6%)	16 (2.8%)	- -	2 (8.7%)	30 (3%)	9,220 (3.3%)
Wholesale trade	24 (1.2%)	4 (2.0%)	- -	13 (2.3%)	- -	- -	17 (1%)	7,215 (2.6%)
Retail Trade	179 (9.3%)	10 (4.9%)	29 (9.5%)	52 (9.0%)	4 (6.6%)	- -	95 (8%)	32,638 (11.6%)
Transportation and warehousing, and utilities	196 (10.1%)	23 (11.3%)	30 (9.9%)	60 (10.4%)	- -	- -	113 (10%)	25,043 (8.9%)
Information	25 (1.3%)	- -	5 (1.6%)	7 (1.2%)	2 (3.3%)	- -	14 (1.2%)	7,652 (2.7%)
Finance, insurance, real estate, and rental and leasing	60 (3.1%)	- -	11 (3.6%)	22 (3.8%)	3 (4.9%)	- -	50 (4.3%)	12,934 (4.6%)
Professional, scient- ific, management, administrative, and waste management services	100 (5.2%)	22 (10.8%)	23 (7.6)	28 (4.9%)	2 (3.3%)	2 (8.7%)	77 (6.6%)	21,322 (7.6%)
Educational, health and social services	416 (21.5%)	46 (22.5%)	75 (24.7%)	94 (16.3%)	14 (23.0%)	6 (26.1%)	235 (20.1%)	61,165 (21.7%)
Arts, entertainment, recreation, accom- modation and food services	192 (9.9%)	24 (11.8%)	20 (6.6%)	46 (8.0%)	9 (14.8%)	3 (13.0%)	102 (8.7%)	4,099 (8.6%)
Other services (except public administration)	134 (6.9%)	17 (8.3%)	14 (4.6%)	30 (5.2%)	5 (8.2%)	- -	66 (5.7%)	15,866 (5.6%)
Public administration	340 (17.6%)	27 (13.2%)	57 (18.8%)	109 (19.0%)	22 (36.1%)	8 (34.8%)	223 (19.1%)	30,070 (10.7%)

Table 2-14 shows the classification (e.g., private wage and salary, and government) of the civilian workers in the proposed Deltana Borough at the time of the last census. Data for the entire state is also provided for comparison.

Table 2-14. Class of Worker of Employed Civilian Population 16+ Years Old in Proposed Deltana Borough Compared to SE Fairbanks Census Area and State of Alaska (2000 Census Data)

Classification	Employed Civilian Population Number (Percentage)							Alaska State
	SE Fairbanks Census Area	Big Delta CDP (1)	Delta Junction City (2)	Deltana CDP (3)	Fort Greely CDP (4)	Healy Lake CDP (5)	Proposed Deltana Borough (1 - 5)	
Total Employed	1,932 (100%)	204 (100%)	304 (100%)	575 (100%)	61 (100%)	23 (100%)	1,16 (100%)	281,532 (100%)
Private wage and salary workers	953 (49.3%)	100 (49.0%)	144 (47.4%)	299 (52.0%)	29 (47.5%)	11 (47.8%)	583 (50%)	13,774 (4.9%)
Government workers	765 (39.6%)	82 (40.2%)	122 (40.1%)	240 (41.7%)	32 (52.5%)	12 (52.2%)	488 (41.8%)	20,534 (7.3%)
Self-em- ployed workers in own not in- corporated business	208 (10.8%)	22 (10.8%)	38 (12.5%)	34 (5.9%)	- -	- -	94 (8.1%)	9,220 (3.3%)
Unpaid fam- ily workers	6 (0.3%)	- -	- -	2 (0.3%)	- -	- -	2 (0.2%)	7,215 (2.6%)

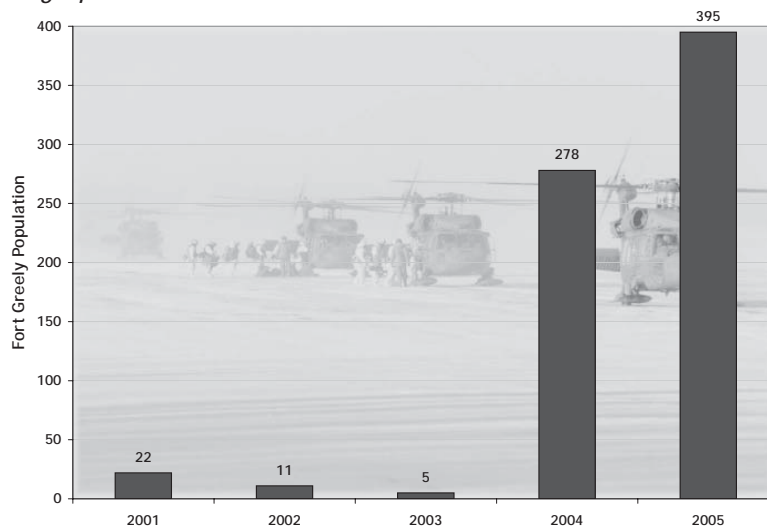
The economic forecast for the Delta Region is guardedly optimistic. Existing and reasonably anticipated development in the proposed Deltana Borough is summarized in the following excerpt from *Alaska Economic Trends, The Delta Region* p.11, Alaska Department of Labor and Workforce Development, published in November 2002:

An expansive future may lie ahead for the Delta area. A gold mine and the new test missile site are the conduits for change. Construction crews, defense-related workers and uniformed personnel will revive the military post. If all goes well, a new gold mine within commuting distance of Delta Junction will further stimulate the local economy. Families may accompany uniformed and base support staff personnel. Miners with families may take up residence in the area as well. The influx of immigrants should continue. The area will gain jobs, and doors of opportunity will open for current and new residents.

Indicative of this, population is once again increasing at Fort Greely. The military and dependent population for Fort Greely for the past five years, as provided by the Department of Labor, reflects the Pentagon's closure of the base and the subsequent decision to transform Fort Greely into a missile defense site.

Changes in population at Fort Greely from 2001 to 2005 are shown in Figure 2-2.

Figure 2-2. Fort Greely Population - 2001 - 2005. Source: State Demographer



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).

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

Table 2-15 compares 2000 census data regarding educational attainment of the proposed Deltana Borough population and population of the entire state (25 years of age and older). The data shows that a slightly higher percentage of residents completed high school, while a slightly lower percentage received a Bachelor's degree or higher.

Table 2-15. Educational Attainment of Population 25+ Years Old in Proposed Deltana Borough in 2000 Compared to Southeast Fairbanks Census Area and State of Alaska (2000 Census Data)

Educational Attainment	SE Fairbanks Census Area	Population 25+ Years Old (Percentage)						Alaska State
		Big Delta CDP (1)	Delta Junction City (2)	Deltana CDP (3)	Fort Greely CDP (4)	Healy Lake CDP (5)	Proposed Deltana Borough (1 5)	
Population 25+ years old	3,693 (100%)	414 (100%)	486 (100%)	975 (100%)	215 (100%)	30 (100%)	2,120 (100%)	379,556 (100%)
Less than 9 th grade	185 (5.0%)	12 (2.9%)	18 (3.7%)	41 (4.2%)	2 (0.9%)	2 (6.7%)	75 (3.5%)	15,663 (4.1%)
9 th to 12 th grade, no diploma	302 (8.2%)	22 (5.3%)	20 (4.1%)	95 (9.7%)	3 (1.4%)	4 (13.3%)	144 (6.8%)	28,619 (7.5%)
High school graduate (includes equivalency)	1,296 (35.1%)	153 (37.0%)	180 (37.0%)	332 (34.1%)	49 (22.8%)	11 (36.7%)	725 (34.2%)	105,812 (27.9%)
Some college, no degree	960 (26.0%)	106 (25.6%)	138 (28.4%)	250 (25.6%)	75 (34.9%)	4 (13.3%)	573 (27%)	108,442 (28.6%)
Associate degree	277 (7.5%)	26 (6.3%)	44 (9.1%)	63 (6.5%)	48 (22.3%)	4 (13.3%)	233 (11%)	27,213 (7.2%)
Bachelor's degree	477 (12.9%)	73 (17.6%)	59 (12.1%)	145 (14.9%)	27 (12.6%)	5 (16.7%)	309 (14.6%)	61,196 (16.1%)
Graduate or professional degree	196 (5.3%)	22 (5.3%)	27 (5.6%)	49 (5.0%)	11 (5.1%)	-	109 (5.1%)	32,611 (8.6%)
Percent high school graduate or higher	86.8%	91.8%	92.2%	86.1%	97.7%	80.0%	92%	88.3%
Percent bachelor's degree or higher	18.2%	22.9%	17.7%	19.9%	17.7%	16.7%	20%	24.7%

For most of the areas in the region, boundary changes between 1990 and 2000 make it difficult to identify population trends over the past decade. However, it is apparent that outside of Fort Greely the population numbers have not fallen dramatically, as indicated in Table 2-16: Change in Population 2000-2005.

Table 2-16. Change in Population 2000-2005

Area Name	Year Incorp	DOLWD Estimate 2005	DOLWD Estimate 2004	DOLWD Estimate 2003	DOLWD Estimate 2002	DOLWD Estimate 2001
S. E. Fairbanks Census Area		6,471	6,147	5,992	5,948	5,931
Big Delta CDP		738	756	733	782	787
Delta Junction city	1960	1,047	975	973	887	872
Deltana CDP		1,939	1,798	1,727	1,670	1,645
Fort Greely CDP		197	98	0	0	71
Healy Lake CDP		29	34	33	42	39

Area Name	Census 2000	Change 2004-05	Change 2000-05	Average Annual % Change	
				2004-05	2000-05
S. E. Fairbanks Census Area	6,174	324	297	5.1	0.9
Big Delta CDP	749	-18	-11	-2.4	-0.3
Delta Junction city	885	72	162	7.1	3.3
Deltana CDP	1,570	141	369	7.5	4.2
Fort Greely CDP	461	99	-264	67.1	-18.0
Healy Lake CDP	37	-5	-8	-15.9	-4.3

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

The City of Delta Junction, the only local government in the area, and the Delta Greely REAA have successfully operated for many years. According to the Petition, Exhibit H, at p.9:

The proposed borough would essentially provide the same services that the City of Delta Junction and the Delta Greely REAA currently provide, but as one government. The City of Delta Junction has been in existence since 1960. The Delta-Greely REAA and the

regional SOS system have provided educational services for over 30 years. Both entities have attracted top caliber staff and elected officials over the years.

It is evident that residents of the region have the level of commitment and interest necessary to sustain a borough government.

M. 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 sixth 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), whose provisions also formed the basis of the home-rule charter (Exhibit I, Sections 17.01 - 17.11).

The Petitioner was required to develop the transition plan in consultation with officials of the City of Delta Junction and other relevant entities. According to an excerpt from Exhibit E, p. 3:

This transition plan was developed in consultation with officials of municipal governments, regional educational attendance areas, and other relevant entities within the area proposed for incorporation.

The Delta City Council appointed a nine-member charter commission composed of members throughout the proposed borough area. Members represent, or are standing members of community groups such as the Delta/Ft. Greely REAA, Delta Chamber of Commerce, the agriculture community, Deltana Corporation, the City Council, and Delta Regional Economic Development Council. All charter commission meetings are public and notice of meeting times and places have been placed on the City website and in the local newspaper. All information provided to charter commission members is available to the public. Additionally, charter commission minutes are available at the meeting and on the City Website.

The transition plan demonstrates to Commerce'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 Delta Junction. 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 Delta Junction. As such, 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. Commerce considers such unnecessary in this case, particularly given provisions in the Alaska Statutes regarding incorporation and the provisions in the Charter of the proposed Deltana Borough.

The Charter of the proposed Deltana Borough, which would become the organic law of the borough, prescribes the following transition provisions:

Section 17.01 Effective Date.

This Charter takes effect upon the incorporation of the Deltana Borough. In accordance with AS 29.05.140(d), upon incorporation of the Deltana Borough, a unified home-rule Borough, the Charter operates to dissolve the City of Delta Junction.

Section 17.02 Unification Election.

The election for ratification of this Charter and for incorporation of the Deltana Borough shall be held in accordance with Alaska Statutes.

Section 17.03 Initial Terms of Assembly and School Board Members

For purposes of the election of the initial Assembly members and school board members: Seats A and B shall be designated as one-year seats; Seats C and D shall be designated as two-year seats; Seats E, F and G shall be designated as three-year seats.

Section 17.04 Prior Law Preserved.

All ordinances, resolutions, regulations, orders and rules in effect in the former City of Delta Junction shall continue in full force and effect to the extent that they are consistent with this Charter, until repealed or amended in accordance with this Charter.

Section 17.05 Conflict in Prior Law.

In the event of conflict between the ordinances, resolutions and regulations of the former City of Delta Junction and resolutions and regulations of the Delta-Greely Regional Educational Attendance Area, affecting the orderly transition of government, the Mayor shall designate in writing which governs. The designation is effective immediately and shall be communicated to the Assembly and school board. The designation is approved unless the Assembly, within twenty-one days, adopts by resolution a contrary designation.

Section 17.06 Code of Ordinances.

Not later than 18 months following the date of consolidation, the Assembly shall enact a code of ordinances. Enactment of the Deltana Borough Code shall repeal all ordinances of the former City of Delta Junction not included in the code. Repeal is not retroactive and does not affect any pending court action.

Section 17.07 Existing Rights and Liabilities Preserved.

Except as otherwise provided in this Charter, all rights, titles, actions, suits, franchises, contracts, and liabilities and all civil, criminal or administrative proceedings shall continue unaffected by the

ratification of this Charter. The Deltana Borough shall be the legal successor to the City of Delta Junction and the Delta-Greely Regional Educational Attendance Area for this purpose.

Any bond of the City of Delta Junction authorized but un-issued on the date of ratification of this Charter remains authorized and may be issued at the discretion of the Assembly without additional ratification, subject to the procedures provided by law.

Section 17.08 Prior Organizations.

All boards and commissions of the former City of Delta Junction or the Delta-Greely Regional Educational Attendance Area shall continue to function until altered in accordance with this Charter.

Section 17.09 Organization of the Executive Branch.

Not later than 60 days following the effective date of unification, the Mayor shall submit to the Assembly a plan of organization of the executive branch. The plan shall provide for elimination of unnecessary duplication. The proposed plan shall become law twenty days after submitted unless sooner adopted, with or without amendment, or rejected by the Assembly. If the proposed plan is rejected, the Mayor shall submit an alternative plan to the Assembly within fifteen days of the rejection. If, prior to 20 days following submittal by the Mayor of an alternate plan, the Assembly has adopted no such plan of organization the alternate proposal submitted by the Mayor becomes law.

Prior governing bodies shall retain their function and serve until the new Assembly is sworn in.

Section 17.10 Employees of Former City of Delta Junction.

- (A) Upon ratification of this Charter, employees of the former City of Delta Junction shall become employees of the Deltana Borough, subject to a probationary period of 180 days. The Deltana Borough shall determine employment beyond that time period for former City of Delta Junction employees. Transitional or holdover employees may be terminated for cause during the 180-day period. At-will employees will serve at the pleasure of the Assembly.
- (B) Any employees whose positions are eliminated by the plans of organization described in Section 17.09 shall be eligible for reassignment to available positions for which they are

qualified. Such assignment shall be made in the order of seniority based on date of hire by the City of Delta Junction or the Deltana Borough.

- (C) The vested rights of current employees under pension plans, retirement plans and other benefits, whether under personnel rules or under other legal or contractual provisions, shall not be diminished by ratification of this Charter.
- (D) Participation by the Deltana Borough in State-administered employee retirement systems shall continue for the former employees of the City of Delta Junction for the first 180 days following the incorporation of the Deltana Borough. At a time prior to the 180th day the Assembly shall determine if the new government will participate in the Alaska Public Employees' Retirement System.
- (E) Employees of the Delta-Greely Regional Educational Attendance Area shall be covered by AS 29.05.130, and AS 29.05140.

Section 17.11 Assets and Liabilities.

The new government shall succeed to all assets and liabilities of the City of Delta Junction and the Delta-Greely Regional Educational Attendance Area, including an agreement between Teck-Pogo, Inc., and the City of Delta Junction for payments by Teck-Pogo, Inc., to the City and the Borough as the City's successor, which agreement shall be an agreement for payments in lieu of taxes to which the provisions of Section 10.04(D) of this Charter apply. The assumption of school powers shall comply with A.S. 29.05.130, Integration of Special Districts and Service Areas, and A.S. 29.05.140, Transition.

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 consolidation. Additionally, State law (3 AAC 110.910) pro-

vides 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."

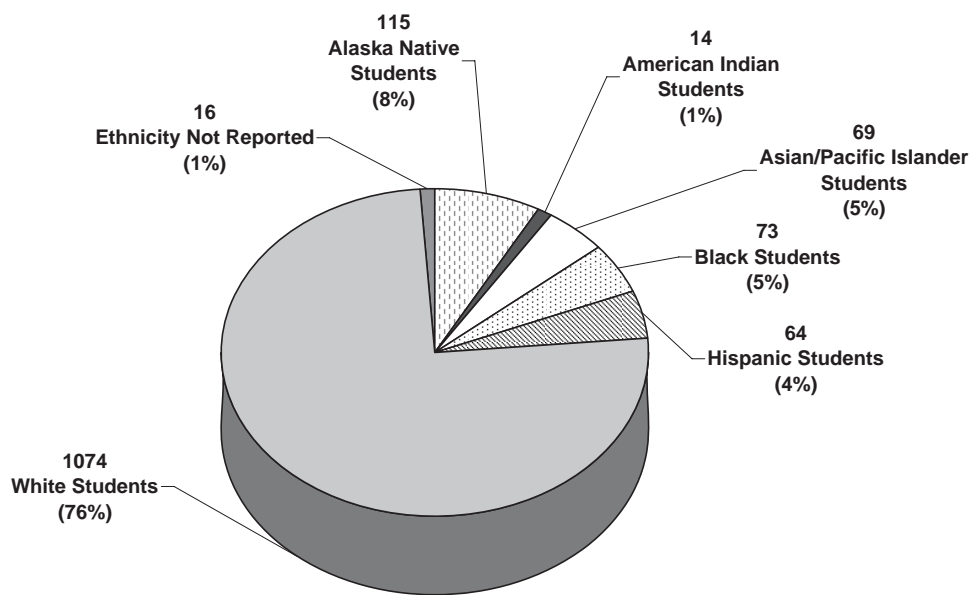
The federal Voting Rights Act was enacted in 1965. Standards were established to determine which jurisdictions nationwide would be required to preclear changes in voting rights and practices under Section 5 of the Act. If the U.S. Justice Department determined that a state or political subdivision maintained a "test or device"⁴⁰ 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.

⁴⁰ "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."

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 the pie chart in Table 2-17, nine percent of the students enrolled in the Delta-Greely School District in Fiscal Year 2006 were Alaska Native or American Indian.

Table 2-17. 2006 Delta/Greely Schools Enrollment by Ethnicity of Pre-Elementary Through 12th Grade Students**



* Source: Alaska Dept. of Education and Early Development, Assessment and Accountability Enrollment by District, Ethnicity and Grade as of Oct. 1, 2005, Fiscal Year 2006

According to Table 2-18 on the following page, 2.5 percent of the population in the CDPs within the proposed Deltana Borough were Alaska Native or American Indian in 2000. Additional study of the census data reveals that 4% of the population in the proposed Deltana Borough were Alaska Native or American Indian alone or in combination with one or more races.

Table 2-18. 2000 U.S. Census Population by Race

Census Designated Place (CDP) or City	Total	White	Alaska Native or American Indian*	Black	Asian	Hawaiian Native or Other Pacific Islander	Other Race	2 or more Races*
Big Delta CDP	747	715	11	1	4	0	0	18
Healy Lake CDP	37	10	27	0	0	0	0	0
City of Delta Junction	840	768	34	9	8	0	1	20
Deltana CDP	1570	1438	14	19	17	0	6	76
Fort Greely CDP	461	303	6	91	6	9	17	29
Sum of Above	3655	3234	92	120	35	9	24	143

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
Big Delta CDP	16	2%
CDP	27	73%
City of Delta Junction	47	6%
Deltana CDP	60	4%
Fort Greely CDP	9	2%
Sum of Above	159	4%

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.

Chapter 3 Summary of Conclusions and Recommendation

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

A. Summary of Conclusions

The following summarizes the fundamental conclusions reached by Commerce 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 5,892 square miles and 4,148 residents. Of that, 13.5 square miles and 1,047 residents are already within the second-class City of Delta Junction. A borough is a higher level of local government with broader powers and duties than a second-class city.
- Upon incorporation of the Deltana Borough, the second-class City of Delta Junction will be dissolved. The Deltana Borough incorporation proposal promotes maximum local self-government with a minimum of



Deltana Borough employees will occupy office space currently used for city offices in City Hall, and can expand into the space in City Hall formerly occupied by the library.



The Community Center is used by residents of the entire Delta region, not just City residents.

local government units by creating one local government to provide basic municipal services in the Deltana area, including education, planning, land use regulation, platting, cemetery, landfill, road and airport maintenance, parks and recreation, operation and

maintenance of community buildings including the Community Center and library, and volunteer fire/EMS/ambulance/rescue squad. Most of these services were previously provided by three separate government entities: the City of Delta Junction, the Delta-Greely REAA, and in the case of platting, the State of Alaska. The new borough will also collect the proposed gas and energy taxes along with the payments in lieu of taxes from the Pogo Mine.

- The boundaries of the proposed borough are identical to those of the Delta-Greely REAA. Those boundaries satisfy all of the constitutional, statutory, and regulatory borough boundary standards.
- The existing population of the proposed borough meets the size and stability requirements for borough incorporation.
- The borough incorporation proposal is fiscally viable. The Deltana economy is certainly capable of supporting the borough. Delta Junction incorporated as a second-class city 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 thirty years include use of the City park, landfill, Community Center, Visitor's Center, fire hall and rescue squad. The



The Chamber of Commerce operates the Visitor's Center.

Delta-Greely REAA has provided educational services since its formation in 1975. 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.
- 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 Deltana Borough 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.

Thus, Commerce concludes that Petition satisfies all legal standards applicable to borough incorporation. Those 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

Because the Petition meets all applicable legal standards, the LBC may approve the Petition with or without conditions and/or further amendments.

At this point, Commerce does not offer any particular amendments or conditions regarding the pending incorporation proposal. Commerce notes that if borough incorporation occurs and the second-class City of Delta Junction dissolves, the Charter, found in Appendix E, 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 Deltana Borough.

The fiscal viability of the prospective borough is reasonably assured. Commerce concludes that incorporation of the Deltana Borough would serve the best interests of the state. Commerce also concludes that the Deltana uni-

fied home-rule borough incorporation proposal meets the requirements of State law. Therefore, Commerce recommends the LBC approve the Deltana Borough incorporation Petition. Note that the Petition proposes that incorporation be conditioned upon voter approval of propositions providing for:

- a 3% home heating fuel and vehicle gas sales tax;
- a 10% tax on the sale of electrical power; and
- the PILT Agreement with Teck-Pogo, Inc.

Approval of the Petition by the LBC would make incorporation of the Deltana Borough subject to voter approval of each of those propositions.

According to the PILT agreement with Teck-Pogo, Inc., if the incorporation of the Borough is not approved by the voters on or before December 31, 2008, the PILT agreement will be terminated.

In addition, upon borough incorporation, the City of Delta Junction's prison debt loan will be forgiven by the State. In other words, should the City of Delta Junction be incorporated into a borough, the balance owing on the loan would be redesignated as a grant for the same purpose. Currently, the City is required to make yearly \$50,000 payments to the State and has made two such payments on the \$1.2 million, no-interest loan from the State of Alaska since July 2004. Therefore, the balance currently owing on this loan is \$1.1 million.

Appendix A

Standards Applicable to the Deltana 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

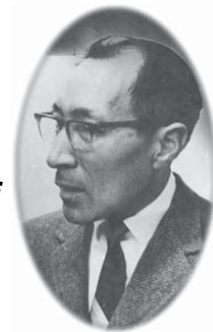
January 2005

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.

Continued on back

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

Background on the LBC

A. Local Boundary Commission

The Local Boundary Commission is a State commission that will decide whether to grant the Petition as presented, amend the petition, impose conditions, or deny it altogether. The Commission consists of five members appointed by the Governor for overlapping five-year terms. Members are appointed “ . . . on the basis of interest in public affairs, good judgment, knowledge and ability in the field . . . and with a view to providing diversity of interest and points of view in the membership.” (AS 39.05.060)



Residents and the Local Boundary Commission at a recent hearing.

The Commission was created under Alaska’s Constitution to render objective, independent decisions from a statewide perspective regarding proposals for the creation, alteration, or abolition of city governments and organized boroughs. Of the 130 or so State boards and commissions, the LBC is one of only five with constitutional origins.¹

All petitions for establishing or altering the boundaries of local governments in Alaska are subject to approval by the LBC. The Commission is a State board with jurisdiction throughout Alaska. (See Article X, § 12, Alaska Constitution; AS 29.04, AS 29.05, AS 29.06, and AS 44.33.810 - 44.33.828.) In addition to petitions for annexation to municipal governments, the LBC acts on petitions for the following:

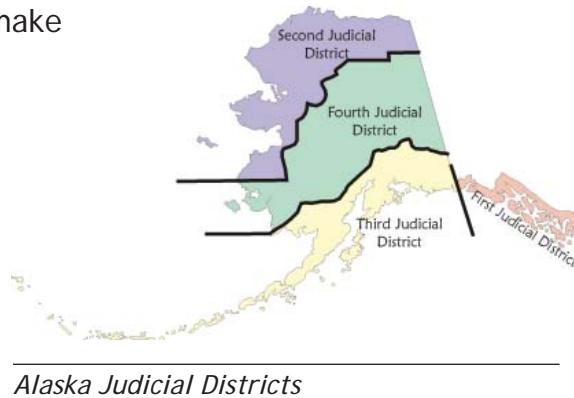
- consolidation of cities and boroughs;

¹ The others are the University of Alaska Board of Regents, the Judicial Council, the Commission on Judicial Conduct, and the Redistricting Board.

- incorporation of cities and boroughs;
- detachment from cities and boroughs;
- merger of cities and boroughs;
- dissolution of cities and boroughs; and
- reclassification of cities.

Additionally, the LBC has the duty to make studies of local government boundary problems.

Commission members serve at the pleasure of the Governor. The Chairman is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation.



The following is biographical information on the current members of the LBC:

Darroll Hargraves, Chair, At-Large Appointment. Governor Murkowski appointed Darroll Hargraves of Wasilla as Chair of the LBC in March 2003. Commissioner Hargraves holds a Masters degree and an Education Specialist degree from the University of Alaska Fairbanks. Additionally, Oakland City University awarded him the Doctor of Humane Letters. Commissioner Hargraves has been school superintendent in Nome, Ketchikan, and Tok. He was the Executive Director of the Alaska Council of School Administrators from 1998 - 2002. He is currently a management/communications consultant working with school districts and nonprofit organizations. Commissioner Hargraves previously served as Chair of the LBC from 1992 - 1997 under Governors Hickel and Knowles. His current term on the LBC ends January 31, 2008.



Georgianna Zimmerle, First Judicial District. Georgianna Zimmerle serves from the First Judicial District. She is a resident of Ketchikan. Governor Murkowski appointed Commissioner Zimmerle to the LBC on March 25, 2003. An Alaska Native, Commissioner Zimmerle is Tlingit and Haida. She 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. Her current term on the LBC ends January 31, 2011.



Robert Harcharek, Second Judicial District. Robert Harcharek serves from the Second Judicial District. Then-Governor Knowles appointed him to the LBC on July 18, 2002. Governor Murkowski reappointed him to the LBC on March 24, 2004. Mr. 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 and a member of the North Slope Borough School Board since 1999. He is currently the Community and Capital Improvement Projects (CIP) Planner for the recently created North Slope Borough Department of Public Works. Mr. 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, Sociocultural 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. Mr. 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.



Bob Hicks, Vice-Chair, Third Judicial District. Governor Murkowski appointed Bob Hicks to the LBC from the Third Judicial District in March 2003. His fellow commissioners elected him as Vice-Chair of the LBC. Commissioner Hicks is a graduate of Harvard Law School. From 1972-1975, he served as Executive Director of the Alaska Judicial Council. He practiced law in Alaska from 1975-2001. One of the fields in which he specialized as an attorney was the field of local government, including LBC matters. Since 2001, Commissioner Hicks has served as the Director of Corporate Affairs and the Dive Officer at the Alaska SeaLife Center in Seward. Commissioner Hicks' current term on the LBC ends January 31, 2007.



Dr. Anthony Nakazawa, Fourth Judicial District. Anthony "Tony" Nakazawa serves from the Fourth Judicial District and is a resident of Fairbanks. He was appointed to the LBC on February 14, 2003. Commissioner Nakazawa is employed as the State Director of the Alaska Cooperative Extension Service, USDA/University of Alaska Fairbanks, which includes district offices in fifteen communities throughout Alaska. He previously served as the Director of the Division of Community and Rural Development for the Alaska Department of Community and Regional Affairs under Governor Walter J. Hickel. Commissioner Nakazawa, an extension economist and UAF professor, has been with the Cooperative Extension Service since 1981 and with the Hawaii Cooperative Extension system in 1979-1980. From 1977-1979, he served as the Economic Development Specialist for the Ketchikan Gateway Borough. His past activities include board service with the Alaska Rural Development Council, RurAL CAP, Alaska Job Training Council, and Asian-Alaskan Cultural Center. Commissioner Nakazawa received his B.A. in economics from the University of Hawaii Manoa in 1971 and his M.A. in urban economics from the University of California Santa Barbara in 1974. He received his M.S. (1976) and Ph.D. (1979) in agriculture and resource economics from the University of California Berkeley. His current term on the LBC ends January 31, 2010.



B. Limitations on Direct Communications with the Commission

When the LBC acts on a petition for a municipal boundary change, it does so in a quasi-judicial capacity. LBC proceedings regarding a municipal boundary change must be conducted in a manner that upholds the right of everyone to due process and equal protection. Ensuring that communications with the LBC concerning municipal boundary proposals are conducted openly and publicly preserves rights to due process and equal protection.



Testimony before the Commission during a hearing.

To regulate communications, 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.

C. Staff to the Commission

The Alaska Department of Commerce, Community, and Economic Development (Commerce) serves as staff to the LBC. Commerce staff to the Commission is required by law to evaluate petitions filed with the LBC and to issue reports and recommendations to the Commission concerning such. The Commerce staff serving the Local Boundary Commission may be contacted at:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
Division of Community Advocacy
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Telephone: (907) 269-4501
Fax: (907) 269-4539
Alternate Fax: (907) 269-4563
E-mail: LBC@commerce.state.ak.us

Appendix D PILT Agreement

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

The City,

CITY OF DELTA JUNCTION, ALASKA
P.O. Box 229
Delta Junction, Alaska 99737

and the Taxpayer,

TECK-POGO, INC.
3520 International Street
Fairbanks, Alaska 99701

recite and declare that:

RECITALS

A. The City is a second class, general city organized and existing under the laws of the State of Alaska.

B. The Taxpayer is an Alaska domestic corporation, qualified to do business in Alaska, is manager of the Pogo Joint Venture, established pursuant to that Earn-In and Joint Venture Agreement between Teck Resources Inc., Teck Corporation, Sumitomo Metal Mining America Inc. and SC Minerals America Inc. dated as of December 16, 1997, as amended (the "Pogo Joint Venture"), and enters this Agreement in its capacity as Manager of the Pogo Joint Venture.

C. The Deltana Home Rule Borough ("the Borough") is a proposed home rule borough, whose boundaries are proposed to be the present current Delta/Greely School District.

D. The Taxpayer is constructing Pogo Mine approximately 37 miles northwest of the City, outside the boundaries of the City but within the boundaries of the Borough.

E. The City would benefit from payments from the Taxpayer to compensate the City, in part, for the impact of development and operation of Pogo Mine on the City, even though Pogo Mine is outside the city limits of the City.

F. The Borough would benefit from payment of fair, stable, predictable taxes from the Taxpayer, and the Borough's incorporation effort would be assisted by demonstrating that the Borough will have a substantial economic base.

G. The Taxpayer will benefit from fair, stable, predictable taxes through the predicted life of the Pogo Mine.

H. The City and the Taxpayer acknowledge as their mutual understanding and as part of the consideration for this Agreement that an obligation exists on the part of citizens and business generally in the Borough to support local government services by payment of reasonable taxes.

I. The City and the Taxpayer further agree that the Taxpayer shall not become the sole taxpayer in the Borough.

NOW, THEREFORE, in consideration of those Recitals and for other good and sufficient consideration, receipt of which is acknowledged, the City and the Taxpayer agree:

1. Parties to Agreement. The parties to this agreement are the City and the Taxpayer. The parties acknowledge and agree that this agreement is made in contemplation of the incorporation of the Borough, and that this agreement is intended to be binding upon the Borough, and that the failure of incorporation of the Borough will terminate this agreement, as provided in Paragraph 11 below. No other person or entity is intended to be a party to this agreement, or to receive rights or privileges under this agreement.
2. Term of Agreement. This agreement shall have a term of ten (10) years commencing at date of adoption by the City, unless terminated earlier under Paragraph 11, and subject to certain extended obligations of the Taxpayer under Paragraph 6.
3. Payments to the City. The Taxpayer shall make the following payments to the City, at the dates and in the amounts set out below.
 - 3.1. On the later to occur of July 1, 2005 or adoption by the City under Paragraph 8, the Taxpayer shall pay to the City the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00). The payment under this subparagraph shall be unrestricted and without condition, and shall be and remain the property of the City without regard to subsequent events.
 - 3.2. If the Borough has not yet been incorporated on July 1, 2006, then on that date the Taxpayer shall pay to the City the sum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00). One-half of the payment under this subparagraph shall be unrestricted and without condition, and shall be and remain the property of the City without regard to subsequent conditions. The other half of the payment under this subparagraph shall be placed in an escrow account, on the following terms and conditions:
 - 3.2.1. The escrowed funds shall be held in one or more interest-bearing accounts with a third party escrow agent.

- 3.2.2. If the Borough is incorporated on or before December 31, 2008, then the escrowed funds shall be disbursed to the Borough on its incorporation. Once disbursed under this subparagraph, the monies shall be and remain the property of the Borough.
 - 3.2.3. If the Borough is not incorporated on or before December 31, 2008, then the escrowed funds shall be released and paid to the Taxpayer, and this agreement shall terminate as provided in Paragraph 11.3.
 - 3.3. If the Borough has not yet been incorporated on July 1, 2007, then on that date the Taxpayer shall pay to the City the sum of One Million and 00/100 Dollars (\$1,000,000.00). One-half of the payment under this subparagraph shall be unrestricted and without condition, and shall be and remain the property of the City without regard to subsequent conditions. The other half of the payment under this subparagraph shall be placed in an escrow account, on the following terms and conditions:
 - 3.3.1. The escrowed funds shall be held in one or more interest-bearing accounts with a third party escrow agent.
 - 3.3.2. If the Borough is incorporated on or before December 31, 2008, then the escrowed funds shall be disbursed to the Borough on its incorporation. Once disbursed under this subparagraph, the monies shall be and remain the property of the Borough.
 - 3.3.3. If the Borough is not incorporated on or before December 31, 2008, then the escrowed funds shall be released and paid to the Taxpayer, and this agreement shall terminate as provided in Paragraph 11.
 - 3.4. Nothing in this agreement bars or limits the authority of the City to negotiate with the Taxpayer for voluntary payments by the Taxpayer to the City.
4. Payments in Lieu of Taxes to the Borough. The Taxpayer shall make the following Payments in Lieu of Taxes ("PILT") to the Borough, at the dates and in the amounts set out below.
 - 4.1. If the Borough has been incorporated on or before July 1, 2006, then the payment otherwise made to the City under subparagraph 3.2 shall be paid to the Borough, except that no escrow shall be established and instead all monies paid by the Taxpayer shall be unrestricted and without condition, and shall be and remain the property of the Borough without regard to subsequent events. If the Borough has not been incorporated on or before July 1, 2006, then it shall not receive any direct payment under this subparagraph, and instead shall receive a

- distribution from escrow pursuant to subparagraph 3.2.2, if applicable.
- 4.2. If the Borough has been incorporated on or before July 1, 2007, then the payment otherwise made to the City under Paragraph 3.3 shall be paid to the Borough, except that no escrow shall be established and instead all monies paid by the Taxpayer shall be unrestricted and without condition, and shall be and remain the property of the Borough without regard to subsequent events. If the Borough has not been incorporated on or before July 1, 2007, then it shall not receive any direct payment under this subparagraph, and instead shall receive a distribution of all escrowed funds pursuant to subparagraph 3.2.2 and 3.3.2, if applicable.
- 4.3. If the Borough has been incorporated on or before December 31, 2008, then the Borough shall receive a distribution of all escrowed funds pursuant to subparagraph 3.2.2 and 3.3.2, and the Taxpayer shall pay to the Borough in 2008 and in subsequent years the PILT described in Paragraph 5 of this agreement. If the Borough has not been incorporated on or before December 31, 2008, then the Taxpayer shall have no obligation to pay monies to the Borough in that year or any subsequent year, and this agreement shall terminate as provided in Paragraph 11.3.
- 4.3.1. One-half of the annual PILT shall be paid by the Taxpayer on July 1 of each year; the balance shall be paid on October 1 of each year.
- 4.3.2. A failure to make timely payments required by this Paragraph shall be a breach of this agreement. Past due payments shall be subject to interest and late fees at rates set by the City or the Borough. A payment more than sixty (60) days delinquent shall be grounds for termination of this agreement under Paragraph 15.
5. Calculation of Payments in Lieu of Taxes. PILT payable under this agreement shall be calculated under this Paragraph.
- 5.1. The Initial Assessed Value of the Pogo Mine shall be determined as the total cost of capital improvements for real property, personal property and fixtures expended by the Taxpayer, but not less than Two Hundred Sixty Million and 00/100 Dollars (\$260,000,000.00).
- 5.2. The Annual Assessed Value of the Pogo Mine shall be calculated as the Initial Assessed Value, depreciated using straightline depreciation methodology over a term of ten (10) years, plus, in years after 2006, the total cost of additional capital improvements to real property, personal property and fixtures made in any subsequent tax

- year, also depreciated using straightline depreciation methodology over a term of ten (10) years.
- 5.3. The PILT obligation of the Taxpayer in any year shall be calculated in each year as the greater of
- 5.3.1. The product of the Annual Assessed Value multiplied by ten (10) mills; or
- 5.3.2. The sum of Two Million and 00/100 Dollars (\$2,000,000.00).
- 5.4. The Taxpayer agrees that its books and records shall be open and available to the Borough or its designated agent for inspection and copying so that the Borough may determine in any year the capital improvements made to real property, personal property and fixtures at the Pogo Mine in the preceding calendar year.
6. Payments under General Obligation Bond Issued by Borough. In addition to the payments due under other paragraphs of this agreement, in the event that the Borough voters approve and the Borough, directly or through a bond bank, issues general obligation bonds, the Taxpayer shall be obligated for payments under those general obligation bonds in amounts calculated under this Paragraph.
- 6.1. The Taxpayer shall pay as debt service on any general obligation bonds issued, directly or through the municipal bond bank, sums in addition to the PILT described in Paragraphs 4 and 5. Those sums shall be calculated by multiplying the Effective Mill Rate paid by the taxpayers of the Borough by the Annual Assessed Value calculated under Paragraph 5.2 for the year in which the general obligation bonds are issued, subject to the Maximum Bond Payment described below.
- 6.2. "Effective Mill Rate" is the sum of all New Taxes paid by the citizens of and visitors to the Deltana Borough, excluding the Taxpayer, divided by the then current total assessed value of all real property located in the Borough, excluding the Taxpayer's property and excluding oil and gas property subject to taxation under AS 43.56.
- 6.2.1. "New Taxes" are the taxes paid by citizens of and visitors to the Deltana Borough, including new sales, use and energy taxes, user fees, as well as traditional property taxes, where those taxes are imposed by reason of issuance of, or as debt service for, general obligation bonds by the Borough.
- 6.2.2. The New Taxes paid by the citizens of the Deltana Borough shall include draws made by the Borough from savings accounts, permanent funds and

- reserves, reflecting revenues earned by the City or the Borough in previous years from any source. New Taxes shall not include state or federal grants or revenues received after the date of Borough formation except as provided in Paragraph 6.2.3.
- 6.2.3. To the extent that a tax burden has been imposed on the citizens of and visitors to the Deltana Borough under Paragraph 6.2.1, New Taxes in the discretion of the Borough shall include federal payments in lieu of taxes payable under 31 USC §6901, to the lesser of half of those federal PILT payments or \$175,000.
- 6.3. The Taxpayer shall pay annually as debt service on general obligation bonds issued by the Borough the lesser of
- 6.3.1. The product of the Effective Mill Rate determined under subparagraph 6.2 and the Annual Assessed Value existing at the date of issuance of the general obligation bonds; or
- 6.3.2. The Bond Payment Limit calculated under subparagraph 6.4.
- 6.4. The Taxpayer shall not be required to pay monies for bonded indebtedness under this Paragraph in excess of the Bond Payment Limit. The Bond Payment Limit is the greater of
- 6.4.1. Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00); or
- 6.4.2. If the Annual Assessed Value of the Pogo Mine at any time during the term of this agreement exceeds the Initial Assessed Value, then the Bond Payment Limit shall be calculated as One and 35/100ths mills (0.00135%) multiplied by the Annual Assessed Value of the Pogo Mine.
- 6.5. Payments under this Paragraph shall be due at the dates provided in the general obligation bonds or enabling ordinances.
- 6.6. In the first year following imposition of a general obligation bond levy under this Paragraph, the Taxpayer agrees that the parties will proceed by estimates as to the Effective Mill Rate, and that adjustments for actual revenues paid by citizens and visitors to the Borough and the Effective Mill Rate under subparagraph 6.3 will be made in subsequent years.
- 6.7. The obligation of the Taxpayer to make payments under this paragraph shall survive the Term of this agreement,

and shall extend for five (5) additional years following expiration of the Term.

- 6.8. A failure to timely make payments required by this Paragraph shall be a breach of this agreement. Past due payments shall be subject to interest and late fees at rates set by the Borough. A payment more than sixty (60) days delinquent shall be grounds for termination of this agreement under Paragraph 15.
7. Other Tax Obligations of the Taxpayer. During the term of this agreement, no property tax, mineral severance tax, sales tax, value added tax, mineral processing tax or other levy of any kind or type shall be imposed by the Borough on the Taxpayer, except as narrowly and specifically provided in this agreement.
- 7.1. The Taxpayer shall be obligated for sales, energy and use taxes purchased by the Taxpayer in the Borough, except that no sales, use, energy or use taxes shall be levied on sales made where delivery of goods or services is at the Taxpayer's mine property.
- 7.2. The Taxpayer shall be liable for special assessments and service district taxes to which the Taxpayer agrees in writing. In the event that State of Alaska ceases to maintain the public portion of Shaw Creek Road from the Richardson Highway to the Taxpayer's gate, the Taxpayer shall maintain the public section as reasonably necessary to service local residents and the Taxpayer.
- 7.3. Nothing contained in this agreement is intended to limit the authority of the Borough to levy taxes in the special circumstances described in AS 29.47.200.
- 7.4. Nothing in this agreement limits the authority or right of the State of Alaska or the United States to levy taxes on the Taxpayer.
8. Adoption by the Taxpayer. The Taxpayer shall duly adopt this agreement by corporate resolution. A copy of the authorizing resolution and suitable evidence of its due adoption shall be provided to the City.
9. Adoption by the City. The City shall duly adopt this agreement as a municipal ordinance, enacted in accordance with Alaska law and municipal ordinances. A copy of the adopting ordinance and suitable evidence of its due adoption shall be furnished to the Taxpayer.
10. Adoption by the Borough. The Borough shall adopt this agreement as a part of the obligations of the City to be assumed by the Borough upon incorporation of the Borough. The assumption of this agreement shall be a part of the incorporation question presented to the voters in the incorporation election. It is the express intent of the

parties that to the greatest extent permitted by law, upon incorporation of the Borough, this agreement shall be binding upon the Borough as an existing obligation of the City.

11. Effect of Failure of Incorporation of Borough. While the Taxpayer and the City have every expectation that the voters will approve the incorporation of the Borough, the Taxpayer and the City recognize there is a risk that the incorporation election or elections will fail. The parties contract for that risk under this Paragraph.
 - 11.1. If the incorporation of the Borough is not approved by the voters in an incorporation election on or before July 1, 2006, then the payment to the City under Paragraph 3.2 shall be made and distributed as provided in that Paragraph.
 - 11.2. If the incorporation of the Borough is not approved by the voters in an incorporation election on or before July 1, 2007, then the payment to the City under Paragraph 3.3 shall be made and distributed as provided in that Paragraph.
 - 11.3. If the incorporation of the Borough is not approved by the voters in an incorporation election on or before December 31, 2008, then the term of this agreement shall expire, this agreement shall be terminated and, except as provided with regard to payments to the City under Paragraph 3, no party shall have further rights under this agreement.
 - 11.4. If the incorporation of the Borough is rejected by the voters of the Borough, this agreement shall remain in force and effect, subject to the deadline for incorporation in subparagraph 11.3, provided that under AS 29.06.360(d) a new proposed charter is submitted to the voters at a borough election within one (1) year of the date of the election at which incorporation failed.
12. Deadline for Adoption by the City. The City shall adopt this agreement on or before November 15, 2005 or the Taxpayer, at its option, may withdraw from this agreement.
13. Deadline for Adoption by the Taxpayer. The Taxpayer shall adopt this agreement on or before November 15, 2005 or the City, at its option, may withdraw from this agreement.
14. Breach by City or Borough; Remedies. If the City or the Borough materially breaches this agreement, the Taxpayer shall be entitled to seek equitable relief, including an injunction, damages, and such other relief as may be available under Alaska law.
15. Breach by Taxpayer; Remedies. If the Taxpayer breaches this agreement, including a failure to timely make payments required under this agreement, then the City or the Borough,

as the case may be, shall be entitled to seek equitable relief, including an injunction, damages, and such other relief as may be available under Alaska law, including, without limitation, termination of this agreement for cause.

16. Other Terms and Conditions.

16.1. If the laws or Constitution of the State of Alaska are amended in a way that adversely and materially impacts the economic utility of this agreement in a way that was not contemplated by the parties, then upon sixty (60) days notice to other party, a party may petition the court to have this agreement declared terminated. However, it shall be a breach of this agreement for either party to actively seek such a change of law or the Constitution. At any time during the pendency of such court proceeding, either party may ask the court to provide for the court-supervised escrow of payments made by or required to be made by the Taxpayer under this agreement.

16.2. In the event that any term or provision of this agreement is found by a court to be illegal or unenforceable, the court shall then assess whether the impact of that decision adversely and materially impacts the economic utility of this agreement in a way that was not contemplated by the parties.

16.2.1. If the court concludes that the decision is not adverse to the intent of the parties, or that the value of the agreement to the parties is not materially impaired, then the agreement shall be and remain enforceable except for the offending term or provision.

16.2.2. If the court concludes that the decision is adverse to the intent of the parties, or that the value of the agreement to the parties is materially impaired, then the agreement shall be declared terminated.

16.2.3. In the event section 7 of this Agreement is found by a court to be illegal or unenforceable, and a final judgment is entered to that effect, and a stay is not entered pending an appeal, the Taxpayer may any time thereafter, at its sole election, terminate this agreement upon sixty (60) days notice.


16.3. This agreement and the relationship of the City, the Borough, and the Taxpayer shall be governed by and construed in accordance with the laws of the State of Alaska. Any disputes arising under this agreement shall be adjudicated in the Superior Court for the State of Alaska, Fourth Judicial District, at Delta Junction,

- Alaska. If the Superior Court does not then sit at Delta Junction, Alaska, then venue shall be in Fairbanks, Alaska.
- 16.4. No assignment of this agreement by any party shall be made or be effective without the prior, written consent of the other, except that:
- 16.4.1. The assignment to the Borough contemplated by this agreement is excepted from this requirement; and
- 16.4.2. The assignment by the Taxpayer of its rights and responsibilities to any parent, affiliate or subsidiary is excepted from this requirement.
- 16.4.3. The assignment by the Taxpayer of its rights and responsibilities to an entity who is also assigned the Taxpayer's rights to the Pogo Mine, is qualified to assume or acquire all permits and authorizations necessary to operate the Pogo Mine, and has committed in writing to be bound by this agreement to the same extent and upon the same terms as the Taxpayer.
- 16.5. This agreement represents the complete agreement of the parties. This agreement supersedes all contracts, arrangements, discussions, commitments and offers of any kind or nature, oral or written, made by the parties at any time prior to the date of this agreement.
- 16.6. The headings in this agreement are for reference purposes only and shall not affect the meaning or interpretation of this agreement or any provision of this agreement.
- 16.7. This agreement may not be modified, altered or amended, and no rights under this agreement may be waived, except by a written amendment signed by the then-current parties.
- 16.8. Any specific right or remedy set forth in this agreement, legal or equitable, shall not be exclusive but shall be cumulative to all other rights and remedies allowable by this agreement or by law.
- 16.9. The failure by any party to exercise any of its rights under this agreement in the event of a breach of this agreement shall not be deemed a waiver of those rights nor a waiver of any subsequent breach.
- 16.10. This Agreement is entered into as a compromise of all legal rights of the parties concerning present or future rights of the Borough to impose taxes of any

kind on the Taxpayer. The Parties are aware of the consideration during the 2005-2006 Legislature of HB 280 and other related legislation, and the parties agree that this Agreement is intended to compromise and waive and replace, during the term of this Agreement, any legal rights or immunities whatsoever relating to taxes which they may presently have or which they may acquire in the future under that or similar legislation, whether or not such rights or immunities would result in greater or lesser taxes imposed on Taxpayer by the Borough than are provided for in this Agreement.

DATED this 14 day of OCTOBER, 2005.

TECK-POGO, INC.
Taxpayer


By: 
Rick Zimmer, Vice President



DATED this 15th day of November, 2005.

CITY OF DELTA JUNCTION, ALASKA

By: 
Title: Thomas "Roy" Gilbertson, Mayor

ATTEST:

City Clerk

Agreement for Payment in Lieu of Taxes
Delta/Teck-Pogo, Inc.
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Proposed Deltana Borough Charter

Deltana Borough Charter

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Deltana Borough Charter

PREAMBLE

We, the people of the Deltana Borough, exercising the powers of home-rule granted by the Constitution of the State of Alaska, in order to provide for local government responsive to the will and values of the people, and to the continuing needs of communities within the Deltana Borough, hereby establish this Deltana Borough Home Rule Charter.

ARTICLE I. GOVERNMENT STRUCTURE, NAME, FORM OF GOVERNMENT, BOUNDARIES, POWERS, AND INTERGOVERNMENTAL RELATIONS**Section 1.01****Governmental Structure and Name**

The Deltana Borough is a municipal corporation, unified home-rule Borough known as the Deltana Borough. Whenever it's deemed in the public interest to do so, the Deltana Borough may use the name Deltana Home Rule Borough or Borough.

Section 1.02**Form of Government**

There shall be a Borough Administrator appointed by the Assembly with the concurrence of the Mayor.

Section 1.03**Boundaries**

The boundaries of the Borough shall be those of the current Delta-Greely School District as those boundaries are hereafter legally modified. The Borough seat shall be located within the former corporate boundaries of the City of Delta Junction as those boundaries existed at the time of incorporation of the Borough.

Section 1.04**Powers**

The Borough may exercise all powers of a home-rule Borough not prohibited by law or this Charter. All powers of the Borough shall be exercised in the manner prescribed by this Charter or applicable laws or, if the manner is not thus prescribed, then in a manner as the Assembly may prescribe.

Section 1.05**Intergovernmental Relations**

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, the United States, or any agency or instrumentality of those governments.

ARTICLE II. THE ASSEMBLY**Section 2.01****Powers**

The Borough Assembly is the sole legislative body of the Borough.

Section 2.02**Form of Representation**

Assembly Members shall be elected at-large by the qualified voters of the Borough.

Section 2.03**Composition, Terms, and Election of Assembly Members**

The Borough Assembly shall be composed of seven members, elected to staggered terms. Except for the first Assembly elected, the term of an Assembly member is three years.

Although the Mayor serves as presiding officer and may vote in the case of a tie, the Mayor is not a member of the Assembly.

Section 2.04**Qualifications**

A candidate for the office of Assembly Member shall be a qualified voter of the Borough and a resident for at least one year immediately preceding the election. 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 an ordinance ratified by the voters of the Borough. No Assembly Member may represent a client before any Borough department or agency.

Section 2.05**Vacancies and Forfeiture of Office**

The Assembly shall, by ordinance, provide procedures for filling of vacancies. An elected Borough official shall forfeit office if the official 1) is convicted of a felony, 2) fails to comply with all qualifications prescribed by this Charter or applicable law, 3) knowingly violates any prohibitions of this Charter, 4) fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly, 5) fails to take office within thirty days after election or appointment, or 6) establishes residency outside the Borough.

Section 2.06**Organization and Rules of Assembly**

(A) Chair. The Mayor shall serve as the presiding officer of the Assembly but is not a member of the Assembly. A Deputy Mayor, chosen by the Assembly Members from among the Assembly Members, shall preside when the Mayor is absent.

(B) Meetings. The Assembly shall meet in regular session as determined by ordinance. The Mayor or three other Assembly Members may call special meetings. The Assembly, by ordinance, shall determine its own rules and order of business, including provisions for reasonable notice of regular and special meetings.

(C) Journal. The Assembly shall maintain a journal of its proceedings as a public record.

(D) Votes. Voting shall be by roll call, show of hands or other public method as defined by ordinance. The votes of all Assembly Members shall be recorded in the journal.

(E) Quorum. A majority of Assembly Members constitutes a quorum; however, a smaller number may meet in public and reschedule a meeting that a quorum will be compelled to attend, as prescribed by ordinance.

Section 2.07**Officers**

The Assembly may appoint officers who serve at the pleasure of the Assembly, advising and assisting the Assembly and Mayor, and whose duties of office are prescribed by the Deltana Borough Code. Officers of the Borough may

include, but not be limited to, the following: (A) Borough Administrator, (B) Borough Clerk, (C) Borough Attorney, and (D) Chief Fiscal Officer.

Section 2.08

Investigations

The Assembly may, by ordinance, create boards and commissions pursuant to this section for the purpose of inquiries and investigations. The Assembly shall appoint the members of such boards and commissions.

ARTICLE III. LEGISLATION

Section 3.01

Acts Required to be by Ordinance

In addition to other actions that require an ordinance, the Assembly shall use ordinances to take the following actions: (1) adopt or amend an administrative code; (2) grant, renew or extend a franchise; (3) provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed; (4) adopt, amend or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes or similar land use control measures; (5) sell, convey, or lease—or authorize the sale, conveyance, or lease—of any interest in lands or other real property of the Borough, in accordance with requirements of the comprehensive plan; (6) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of Borough public works projects within the limitations set out in Alaska Statute; (7) establish, alter, or abolish Borough departments; (8) establish, alter, consolidate, or abolish service areas; (9) make appropriations, including supplemental appropriations or transfer appropriations; (10) regulate the rate charged by a Deltana Borough utility; or (11) exercise a power.

Section 3.02

Ordinance Procedure

Introduction and Enactment of Ordinances shall include (A) Introduction. An ordinance shall be introduced in writing in the form required by the Borough Code. An ordinance may be introduced by an Assembly Member or the Borough Mayor at a regular or special meeting of the Assembly. (B) Notice and Hearing. Upon approval of four Assembly Members, the Borough Clerk shall 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 shall be held seven or more days following publication of the notice. (C)

Enactment. A simple majority vote of the total membership of the Assembly may pass an ordinance. An ordinance takes effect upon adoption or at a later date specified in the ordinance. An adopted ordinance must be placed in the form required by Deltana Borough Code. Unless vetoed by the Mayor, ordinances shall be signed by the Mayor and attested to by the Borough Clerk.

Section 3.03

Emergency Ordinance

To meet a public emergency affecting life, health, welfare, or property, the Assembly may introduce and adopt emergency ordinances at the same meeting.

A reasonable attempt shall be made to notify the Mayor and all Assembly Members immediately upon introduction of an emergency ordinance.

An emergency ordinance shall contain a finding that an emergency exists and shall state the facts constituting the emergency.

An emergency ordinance is adopted upon the affirmative vote of all members present, or by five of the seven members of the total membership, whichever is less. An emergency ordinance is repealed by resolution or automatically expires in sixty days.

Section 3.04

Code of Regulation

(A) Adoption by Reference. The Assembly, by ordinance, 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 a manner prescribed by ordinance.

(B) Codification. The Assembly shall provide for indexing and codification of all permanent ordinances adopted by the Assembly. Following preparation of the initial Deltana Borough Code, all proposed permanent ordinances shall be adopted as amendments or additions to the code.

ARTICLE IV. EXECUTIVE

Section 4.01

The Mayor

(A) Terms. The Mayor is elected at-large for a three-year term.

(B) **Qualifications.** A candidate for the office of Mayor shall be a: (1) qualified voter of the Borough and (2) resident of the Borough for at least one-year immediately preceding his election.

(C) **Residency.** If the person holding the office of Mayor establishes residency outside the Borough, the person shall immediately forfeit the position.

(D) **Compensation.** The compensation of the Mayor shall be fixed by the Assembly and may not be reduced during his term office without his consent.

(E) **Powers of the Mayor.**

Executive - The executive powers of the Deltana Borough are vested in the Mayor. The Mayor presides at Assembly meetings, acts as ceremonial head of the Deltana Borough and is responsible for additional duties and powers prescribed by this Charter or the Deltana Borough Code. The Mayor may participate in all Assembly meeting discussions, presiding over the meetings. The Mayor shall only vote only in the case of a tie.

Representative - The Mayor shall execute official documents of the Deltana Borough on the authorization of the Assembly.

Veto - The Mayor may veto an ordinance, resolution or other action of the Assembly and may strike or reduce appropriation items. A vetoed ordinance, resolution or other action of the Assembly, or stricken or reduced appropriation must be returned to the Assembly with a written explanation prior to or at the next regularly scheduled Assembly meeting. The Assembly, by at least 5 votes of the total membership, may override a veto or restore a stricken or reduced appropriation within twenty-one days after the matter is returned to the Assembly. The Mayor's failure to sign a legislative measure shall not constitute a veto.

Section 4.02

Administrative Procedures in Borough Code

The Assembly, by ordinance, shall adopt provisions regarding: (A) The methods of appointment and dismissal of Borough officers and other personnel; (B) The powers, duties, and limitations of Borough officers and the Assembly in regard to personnel matters; (C) The identity, function, and responsibility of each executive department and agency; (D) Rules of practice and procedure governing

administrative proceedings; (E) Personnel policy and rules regarding employee evaluations for promotions and raises according to merit.

Section 4.03

Boards

(A) Types of boards. The Assembly, by ordinance, may provide for advisory, regulatory, administrative, appellate or quasi-judicial boards or commissions. For boards with regulatory, appellate or quasi-judicial functions the ordinance shall also specify the method of appointment, approval and dismissal.

(B) Membership. The Mayor appoints the members of boards and commissions, unless otherwise specifically provided in this Charter or by ordinance. Appointments are subject to confirmation by the Assembly. Persons appointed by the Mayor serve at the pleasure of the Mayor.

(C) Advisory Role. Boards and commissions may make recommendations to the Assembly, the Mayor, the Borough Administrator, and heads of executive departments on matters specified in the ordinance creating the board or commission.

ARTICLE V. ELECTIONS

Section 5.01

Regular Elections

A regular election shall be held annually on the first Tuesday in October, unless otherwise specified by ordinance.

Section 5.02

Special Elections

The Assembly, by ordinance or resolution, may call special elections and submit questions to voters.

Section 5.03

Notice

Not more than six weeks and at least three weeks before an election, the Borough Clerk shall publish in full every ordinance, charter amendment, and other question, which is to be submitted to the voters for approval at that election.

Section 5.04**Election Procedures**

All Borough elections shall be nonpartisan. The Assembly, by ordinance, shall establish procedures for regular and special Borough elections, including provisions for absentee voting. If no candidate receives more than 40 percent of the votes cast for that office, the seat will be filled by the winner of a runoff election between the two candidates receiving the most votes. In case of a tie vote for Borough office, the Assembly shall determine the successful candidate by lot.

Section 5.05**Qualifications of Voters**

To vote in any Borough election, a person must be registered to vote in Alaska State elections at a residence address within the Deltana Borough at least 30 days before the election in which the person seeks to vote.

Section 5.06**Recall**

An elected official may be recalled by the voters in the manner provided by Alaska Statutes, which among other provisions states that the Borough Clerk may allow petitions only on the basis of misconduct in office, incompetence, or failure to perform prescribed duties. A petition to place the recall of the elected official before voters shall be signed by a number of qualified voters as required by law.

ARTICLE VI. INITIATIVE AND REFERENDUM**Section 6.01****Reservation of Powers**

The powers of initiative and referendum are reserved to the residents of the Deltana Borough, except the powers do not extend to matters restricted by Article XI, Section 7 of the State Constitution.

Section 6.02**Application for Petition**

(A) 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 referred and the name and address of a contact person and an alternate to whom all correspondence relating to the petition may

be sent. An application shall be signed by at least 10 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 Borough Clerk. Within two weeks the Borough Clerk shall certify the application if the Borough Clerk finds that it is in proper form and, for an initiative petition, that the matter: (1) is not restricted by AK 20.26.180; (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.

(B) A decision by the Borough Clerk on an application for petition is subject to judicial review.

Section 6.03

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 must contain:

- (1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the Borough Clerk;
- (4) notice that signatures must be secured within 90 days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;
- (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) space for indicating the total number of signatures on the petition.

(B) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(C) The Borough Clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the Borough Clerk to each sponsor who appears in the Borough Clerk's office and requests a petition, and the Borough Clerk shall mail the petition to each sponsor who requests that the petition be mailed.

Section 6.04

Signature Requirements

(A) The signatures on an initiative or referendum petition shall be secured within 90 days after the Borough Clerk issues the petition. The statement provided under Section 6.03(a)(6) of this Charter shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.

(B) The Borough Clerk shall determine the number of signatures required on a petition and inform the contact person in writing. Except as provided in (e) of this section, a petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date written notice is given to the contact person that the petition is available, equal to 25 percent of the votes cast.

(C) Illegible signatures shall be rejected by the Borough Clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(D) A petition signer may withdraw the signer's signature on written application to the Borough Clerk before certification of the petition.

(E) If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of the Deltana Borough, only voters residing in the affected may sign the petition. The Borough Clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available equal to 25 percent of the votes cast.

Section 6.05**Sufficiency of Petition**

(A) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the Borough Clerk shall:

- (1) certify on the petition whether it is sufficient; and
- (2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

(B) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is 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 10 days after a supplementary filing the Borough Clerk shall re-certify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Section 6.06**Protest**

If the Borough Clerk certifies that an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the Mayor within seven days after the certification. The Mayor shall present the protest at the next regular meeting of the Assembly. The Assembly shall hear and decide the protest.

Section 6.07**New Petition**

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

Section 6.08**Initiative Election**

(A) Unless substantially the same measure is adopted, when a petition seeks an initiative vote, the Borough Clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled

to occur within 75 days after the certification of a petition and the Assembly determines it is in the best interest of the Deltana Borough, the Assembly may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(B) If the Assembly adopts substantially the same measure, the petition is void, and the matter initiated may not be placed before the voters.

(C) The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

(D) 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 6.09

Referendum Election

(A) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the Borough Clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after certification of a petition and the Assembly determines it is in the best interest of the Deltana Borough, the Assembly may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(B) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the Assembly may not enact an ordinance or resolution substantially similar to the suspended measure.

(C) 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.

(D) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

Section 6.10

Effect

(A) The effect of an ordinance or resolution may not be modified or negated with two years after its effective date if adopted in 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 six months after the election results are.

ARTICLE VII. PLANNING

Section 7.01

Planning

There shall be a Planning Commission consisting of five members appointed by the Mayor and confirmed by the Assembly. The powers and duties of the Planning Commission, and the terms, qualifications and compensation of its members shall be provided by ordinance. Until such time as the Assembly determines the necessity of a Planning Commission, the Assembly shall serve as such. The Assembly, by ordinance, shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives, and policies governing the future development of the Borough. There shall be a platting authority constituted as provided by the Assembly. The Assembly, by ordinance, shall provide for the regulation of the subdivision of land within the Borough.

ARTICLE VIII. EDUCATION

Section 8.01

Public School System

There shall be a system of public education for the Borough, conducted in the manner provided by law. The system of public education shall be operated by a school board of seven members.

Section 8.02

School Board

(A) Qualifications. A school board member shall be a qualified Borough voter and a resident of the Borough. No school board member may hold any compensated school district employment while serving on the school board.

(B) Term. Except for the initial school board, which shall be elected in accordance with Section 17.03 of this Charter, the term of a school board member is three years.

(C) Election. Each school board member shall be elected at-large by the qualified voters.

(D) Additional Procedures. The Assembly may, by ordinance, adopt additional procedures pertaining to the nomination and election of school board members.

(E) Vacancies. The office of a school board member shall become vacant upon death, resignation, or removal from office in any manner authorized by law or by this Charter or by forfeiture of office as prescribed by law or the policies of the school board.

Section 8.03

Budget

The superintendent of schools shall submit an annual budget to the school board at such time as the board may direct, but in no case at a date later than that prescribed by State law. The proposed school budget shall be a public record available for public inspection and distribution from the time of its submission to the board. The board shall hold public hearings on the budget before approval and submission to the Assembly for final action.

Section 8.04**Joint Conference**

The Assembly and school board may meet jointly at public meetings to deliberate upon matters of mutual interest.

Section 8.05**Administrative Procedures**

The Borough Assembly shall, by ordinance, establish procedures for administration of school district finances and buildings. The procedures shall allow for the greatest possible autonomy of the school board within the limitations of this Charter.

ARTICLE IX. FINANCES**Section 9.01****Annual Budget and Capital Improvements Program**

The operating 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. It shall also include a comparative statement of actual expenditures and revenues for the preceding year and a projection of actual expenditure and revenues for the current year.

The capital budget shall be the portion of the annual budget detailing the planned capital improvements for the upcoming fiscal year and their source of funding.

The capital improvements program (CIP) shall be a plan detailing expected capital improvements for the next six fiscal years, the predicted costs, and proposed method of financing them.

Upon adoption by ordinance, the operating budget, capital budget, and CIP shall be the appropriations that govern all spending by the Borough.

(A) 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.

(B) Submission and presentation. No later than April 1 of each fiscal year, the Borough Administrator shall present to the Assembly the six-year CIP and the

proposed operating and capital budget for the following fiscal year. The presentation shall include a written explanation of the budget and CIP focusing on the work to be done and the financial policies that will direct the funding of that work.

(C) Hearing and Assembly action. The Assembly shall hold at least two public hearings on the proposed six-year CIP and proposed operating and capital budget no later than June 1 of each fiscal year. At least ten days prior to each hearing, the Assembly shall publish per Section 1.06 of this Charter. Copies of the proposed budget shall be made available to the public at no cost.

(D) Assembly action and executive certification of budget. The Assembly, by ordinance, shall adopt a budget not later than June 15. If it fails to do so, the budget submitted by the Borough Administrator shall be deemed adopted by the Assembly as the annual budget. The Assembly, by ordinance, may provide for additional procedures regarding submission.

The Borough Administrator shall certify the annual budget and CIP, making them part of the public record.

Section 9.02

Altering and Transferring Appropriations

If the Borough Administrator determines that revenues will be insufficient to meet the amount appropriated, he shall report to the Assembly, and the Assembly, by ordinance and according to the Deltana Borough Code, may reduce as necessary any appropriation except for debt service.

The Borough Administrator may transfer part or all of any unencumbered balance to another classification within a department, office, or agency.

The Borough Administrator may transfer balances from one department to another only with the approval of the Assembly through a re-appropriation.

Section 9.03

Enterprise Funds

Revenues from a Borough enterprise activity shall be used for the direct operating expenses and other expenses of the enterprise, such as debt retirement and providing for the establishment of an enterprise fund replacement reserve account for major maintenance and repairs. Any other use of enterprise fund revenues shall be made as authorized by ordinance or by budgetary action. If any general funds are used for enterprise fund projects, the amount will be repaid by

enterprise activity according to procedures set forth in the Deltana Borough Code.

Section 9.04

Emergency and Supplemental Appropriations

Surplus revenues may be used to fund supplemental appropriations and emergency appropriations, in accordance with the Deltana Borough Code.

Section 9.05

Lapse of Appropriations

All unencumbered appropriations of the general fund or special revenue fund shall lapse at the close of the fiscal year to the general fund or special revenue fund, respectively. An appropriation for capital improvement, or to meet requirements of federal or State grants, shall not lapse until the project is complete or abandoned.

Section 9.06

Administration of the Budget

(A) Centralized Accounting. Except as otherwise provided by ordinance, the Assembly shall provide for centralized accounting for all functions of the Borough. Except as otherwise provided by ordinance, the Assembly shall provide for centralized purchasing and specifically designate the officers who shall write checks and place orders.

(B) Appropriations. All payments must be authorized by appropriation. No payment may be made and no obligation incurred against any appropriation unless the Borough Administrator ascertains that sufficient funds are or will be made available.

(C) Payments. The Assembly shall, by ordinance, establish bylaws and procedures for making payments and recovering amounts expended without authorization.

Section 9.07

Competitive Bidding and Contract Approval

The Assembly, by ordinance, shall establish procedures for competitive bidding for the sale of Borough property and the purchase of goods and services.

Property sold by competitive bid shall be sold to the qualified responsive bidder offering the highest price. Except for employment contracts with officers and other employees of the Borough and contracts for professional services,

goods and services purchased by competitive bid shall be purchased from the qualified responsive bidder offering the lowest price.

Section 9.08

Audits

The Assembly shall provide for an annual independent audit of the accounts of the Borough. The audit shall be performed by a certified public accountant designated by the Assembly.

Section 9.09

Permanent Fund

(A) Establishment and Purpose. There shall be established a Deltana Borough Permanent Fund to hold investments from sources identified by ordinance of the Borough Assembly. The Permanent Fund shall be maintained in perpetuity as a separate fund, apart from all other funds and accounts of the Borough.

(B) Principal. The principal of the Fund shall be invested in such types of income producing investments specifically designated by ordinance. Any use of principal other than reinvestment in the Fund shall be made by ordinance ratified by the voters of the Borough.

(C) Interest income. Only interest and dividends on the fund shall be spent. After a portion or all of the dividend and interest is returned to the fund principal as inflation proofing, surplus may be used for Borough expenses.

Section 9.10

Finances

To the greatest extent permitted by law, the new government shall have the power, but may not be required, to adopt by ordinance municipal budgets, taxes, levies, and appropriations for periods of time greater than the next fiscal year, but not to exceed three (3) fiscal years.

ARTICLE X. TAXATION

Section 10.01

Sales Tax, Property Tax, Severance Tax and Other Forms of Tax

A sales tax, a property tax, a severance tax or other forms of taxation shall not go into effect or change in rate thereof prior to a popular vote in which the majority of voters approve the tax.

Section 10.02**Tax Procedures**

The Assembly shall, by ordinance, prescribe the procedures for tax assessment and collection.

No lien authorized by this Charter or by law precludes the Borough from exercising any other lawful remedy for the collection of taxes.

Section 10.03**Private Interests Taxable**

If a property tax is authorized by the voters, private leaseholds, contracts, or other interests in land or property owned or held by the United States, the State, or political subdivisions, shall be taxable to the extent of the fair market value of the private interest.

Section 10.04**Mineral Severance and Processing Tax**

(A) The Borough is authorized to levy a severance tax of on minerals mined within the boundaries of the Borough, calculated on the gross value of such minerals.

(B) The Borough is authorized to levy a mineral processing tax on minerals processed within the boundaries of the Borough, calculated on the gross value of such minerals. Any mineral processing tax due to the Borough shall be subject to a credit for severance tax actually paid to the Borough for the same minerals.

(C) "Minerals" means all valuable minerals such as gold, silver, copper, lead, zinc, and platinum, but shall not include sand, gravel, or other construction materials, oil or gas.

(D) The Borough Assembly may enter into agreements for payments in lieu of taxes. During the term of an agreement for payments in lieu of taxes, the agreement shall exempt the taxpayer and the taxpayer's property from taxes otherwise payable to the Borough except as provided in the agreement.

ARTICLE XI. BORROWING

Section 11.01

Borough Debt

The Borough may borrow money for any public purpose, and issue evidence of indebtedness for obligations, which include:

- (A) General obligation bonds;
- (B) Special assessment bonds;
- (C) Revenue bonds;
- (D) Refunding bonds;
- (E) Bond anticipation notes; and
- (F) Revenue anticipation notes.

Section 11.02

Limitations

(A) General obligations of the Borough. No general obligation bonded indebtedness may be incurred unless authorized by the Assembly for capital improvements and ratified by a majority vote of those in the Borough voting on the question, except that refunding bonds may be issued without an election and bond anticipation notes may be issued once the bond issue has been ratified.

(B) General obligations of the Borough in service areas. No obligation by pledge of taxes to be levied in a service area may be issued unless authorized by the Assembly for capital improvements and ratified by a majority vote among voters within the service area. Additionally, obligations for a service area may be secured by a pledge of the full faith and credit of the Borough if the Assembly authorizes and the area wide voters ratify the obligation.

(C) Time limit on notes. Tax or revenue anticipation notes shall be repaid within twelve months from their date of issuance. If the taxes or revenues anticipated are not received within this time, the Assembly may renew the notes for a period not to exceed six months.

(D) Limitations of sale. The Assembly, by ordinance, shall provide for the form and manner of sale of bonds and notes including reasonable limitation upon the sale of bonds and notes to financial consultants of the Borough.

Section 11.03**Notice of Bond Election**

(A) Before holding any election required by this article, the Assembly shall have a notice of election published once a week for three consecutive weeks. The first publication shall be at least 20 days prior to the date of election. For elections ratifying the issuance of general obligation bonds of the Borough or obligations within service areas to be secured by a pledge of the full faith and credit of the Borough, the notice shall contain:

- (1) the amount of the bonds, purposes of issuance, length of time for the bonds to mature, and the maximum interest rate the bonds will bear;
- (2) the amount of the estimated annual debt service on the proposed bonds;
- (3) the amount of the current total general obligation debt;
- (4) the amount of the current year's debt service on the outstanding general obligation bonds; and
- (5) the current total assessed valuation within the Borough.

(B) For bonds secured by a pledge of taxes to be levied in a service area, the notice shall contain the same information listed above, but in regard to the service area.

Section 11.04**Actions Challenging the Validity of Obligations**

Minor errors in the published notice shall not invalidate any subsequent election. Challenges to the sufficiency of any notice must be made no later than 30 days after the ordinance becomes effective.

An action challenging the validity of obligations of the Borough or of an election or tax levy with respect to an obligation may be instituted only within thirty days after the adoption of the ordinance or resolution or certification of the election results, as the case may be.

Section 11.05**Proceeds From Sale of Obligations**

Proceeds derived from the sale of obligations shall be used solely for the purposes for which the obligations were issued, or for payment of principal or interest or other charges with respect to the obligations.

ARTICLE XII. SERVICE AREAS

Section 12.01

Creation, Operation and Abolition of Service Areas

Subject to limitations in State law, the Assembly, by ordinance, shall provide for the creation, operation, alteration, and abolition of service areas. A service area may be established to meet a need, improve safety, increase economic operating efficiency, and provide other reasonable benefits to residents of that area. Only the area in which the service shall be provided shall comprise the service area.

ARTICLE XIII. LOCAL IMPROVEMENT DISTRICTS

Section 13.01

Creation, Operation and Abolition of Local Improvement Districts

Subject to limitations in State law, the Assembly, by ordinance, shall provide for the creation, operation, alteration, and abolition of local improvement districts. A local improvement district may be established to meet a need, improve safety, increase economic operating efficiency, and provide other reasonable benefits to residents of that area. Only the area in which the local improvements shall be provided shall comprise the local improvement district.

ARTICLE XIV. UTILITIES

Section 14.01

Designating Utilities

The Assembly may, by ordinance ratified by the voters area-wide, designate utilities as Borough utilities.

Section 14.02

Operating Standards

Borough utilities shall be operated in a business-like manner in accordance with general standards for utilities providing the same types of service.

Section 14.03

Management

Borough utilities may be operated and administered in the manner provided 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 14.04

Accounting

Each Borough utility shall have a separate budget within the annual Borough budget. The accounts of each utility shall be kept separately and classified in accordance with uniform accounting standards prescribed for public utilities providing the same types of service.

Section 14.05

Selling or Leasing

The Assembly may, by ordinance, sell or lease any utility service.

ARTICLE XV. CHARTER AMENDMENT

Section 15.01

Vote Required

The Deltana Borough electorate may amend this Charter by ratifying an amendment at a regular or special election.

Section 15.02

Procedure

Amendments to this Charter may be proposed by ordinance approved by the Assembly, a final report of a charter commission established in the manner provided by law, or initiative petition. Proposed amendments shall be submitted to the voters at the next regular or special election occurring more than forty-five days after the adoption of the ordinance, a final report of a charter commission, or certification of the initiative petition.

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, it takes effect thirty days after certification of the results of the election.

Section 15.03

New Charter

A new charter may be proposed and approved in the same manner as an amendment.

Section 15.04**Ballot Form**

When an amendment to this Charter is proposed for adoption by the voters, the ballot proposition shall contain any current wording that is proposed to be changed as well as any proposed wording that will replace it. As much surrounding language shall be included as needed to provide a context for understanding the change in the provision.

ARTICLE XVI. GENERAL PROVISION**Section 16.01****Public Meetings**

(A) Except as provided for in this Charter, all meetings of the Assembly, the school board, the planning commission 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 only to discuss matters permitted by Alaska Statutes, and even then with due regard for the public's right to know and be self-governed. The general matter for consideration in executive session shall be expressed in the motion calling for the session. No official action may be taken in executive session except to give direction to an attorney or labor negotiator regarding handling of a specific legal matter or pending labor negotiation.

(C) Except in emergency, the Assembly, school board, and all Borough boards and commissions may take no official action between the hours of midnight and 7:00 a.m. local time. Action taken in violation of this provision is void.

Section 16.02**Public Records**

(A) It is the policy of the Borough, including the school district, to disclose all records and to provide access to records, except as provided otherwise. Requests for disclosure shall be handled in a timely, reasonable, and responsive manner, without infringing on the rights of any person or other entity, and without impairing the functioning of the Borough.

(B) All Borough records are open to the public unless authorized to be confidential by a valid Alaska or federal statute or regulation, this Charter, or by privilege, exemption, or principle recognized by the courts, or by an agency protective order authorized by law.

Section 16.03

Oaths of Office

Borough officers, before taking office, shall take and subscribe to the following affirmation: I solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of Alaska and the Deltana Borough Charter, and that I will faithfully perform the duties of _____ to the best of my ability.

Section 16.04

Continuation in Office

Each elected Borough officer whose term has expired shall continue to serve until his successor qualifies and takes office.

Section 16.05

Interpretation

(A) Titles and subtitles are for identification and ease of reference only and shall not be construed as interpretations of charter provisions.

(B) Words in the present tense include the past and future tenses, and words in the future tense include the present tense. Words in the singular number include the plural, and words in the plural number include the singular. Words of any gender may, when the sense so indicates, refer to any other gender.

(C) References in this Charter to particular powers, duties and procedures of Borough officers and agencies may not be construed as implied limitations on other Borough activities not prohibited by law.

Section 16.06

Definitions

(A) "Appropriation" means a unit of funding provided for by the Assembly in the Borough budget. An appropriation may be specific as to particular expenditures or general as to an entire department or agency, as the Assembly deems appropriate.

(B) “Emergency” means an unforeseen occurrence or condition, which results or apparently will result in an insufficiency of services or facilities substantial enough to endanger the public health, safety or welfare.

(C) “Initiative” means the initiation of Borough legislation and its enactment or rejection by the Borough electorate in the event the proposed measure is not enacted by the Assembly.

(D) “Interest in lands” means any estate in real property or improvements thereon excluding revocable permits or licenses, rights-of-way, or easements that the Assembly finds to be without substantial value to the Borough.

(E) “Law” means this Charter, the ordinances and resolutions preserved by this Charter, or enacted pursuant to it, and those portions of the statutes of the State of Alaska and the Constitutions of the State of Alaska and of the United States that are valid limitations on the exercise of legislative power by home rule governments.

(F) “Borough” means the “Deltana Borough” created upon ratification of this Charter.

(G) “Publish” means publication at least one time in a newspaper of general circulation within the Borough; and posting, for at least ten days, in all U.S. post offices within the Borough, on the Internet, and at least eight other public places within the Borough; unless otherwise specified by another provision of this Charter or by ordinance.

(H) “Referendum” means the right of the voters of the Deltana Borough to have an act, which was passed by the legislative body, be submitted for electorate approval or rejection.

(I) “Resident” means a person whose habitual, physical dwelling place is within the Borough and who intends to maintain his dwelling place in the Borough.

(J) “Supermajority vote” means an affirmative vote by at least five (5) of the total membership of the voting body.

(K) “Utility” or “Borough Utility” means a utility designed under Section 14.01 of this Charter.

ARTICLE XVII. TRANSITION

Section 17.01

Effective Date

This Charter takes effect upon the incorporation of the Deltana Borough. In accordance with AS 29.05.140(d), upon incorporation of the Deltana Borough, a unified home-rule Borough, the Charter operates to dissolve the City of Delta Junction.

Section 17.02

Unification Election

The election for ratification of this Charter and for incorporation of the Deltana Borough shall be held in accordance with Alaska Statutes.

Section 17.03

Initial Terms of Assembly and School Board Members

For purposes of the election of the initial Assembly Members and school board members: Seats A and B shall be designated as one-year seats; Seats C and D shall be designated as two-year seats; Seats E, F and G shall be designated as three-year seats.

Section 17.04

Prior Law Preserved

All ordinances, resolutions, regulations, orders and rules in effect in the former City of Delta Junction shall continue in full force and effect to the extent that they are consistent with this Charter, until repealed or amended in accordance with this Charter.

Section 17.05

Conflict in Prior Law

In the event of conflict between the ordinances, resolutions and regulations of the former City of Delta Junction and resolutions and regulations of the Delta-Greely Regional Educational Attendance Area, affecting the orderly transition of government, the Mayor shall designate in writing which governs. The designation is effective immediately and shall be communicated to the Assembly and school board. The designation is approved unless the Assembly, within twenty-one days, adopts by resolution a contrary designation.

Section 17.06**Code of Ordinances**

Not later than 18 months following the date of consolidation, the Assembly shall enact a code of ordinances. Enactment of the Deltana Borough Code shall repeal all ordinances of the former City of Delta Junction not included in the code. Repeal is not retroactive and does not affect any pending court action.

Section 17.07**Existing Rights and Liabilities Preserved**

Except as otherwise provided in this Charter, all rights, titles, actions, suits, franchises, contracts, and liabilities and all civil, criminal or administrative proceedings shall continue unaffected by the ratification of this Charter. The Deltana Borough shall be the legal successor to the City of Delta Junction and the Delta-Greely Regional Educational Attendance Area for this purpose.

Any bond of the City of Delta Junction authorized but un-issued on the date of ratification of this Charter remains authorized and may be issued at the discretion of the Assembly without additional ratification, subject to the procedures provided by law.

Section 17.08**Prior Organizations**

All boards and commissions of the former City of Delta Junction or the Delta-Greely Regional Educational Attendance Area shall continue to function until altered in accordance with this Charter.

Section 17.09**Organization of the Executive Branch**

Not later than 60 days following the effective date of unification, the Mayor shall submit to the Assembly a plan of organization of the executive branch. The plan shall provide for elimination of unnecessary duplication. The proposed plan shall become law twenty days after submitted unless sooner adopted, with or without amendment, or rejected by the Assembly. If the proposed plan is rejected, the Mayor shall submit an alternate plan to the Assembly within fifteen days of the rejection. If, prior to 20 days following submittal by the Mayor of an alternate plan, the Assembly has adopted no such plan of organization the alternate proposal submitted by the Mayor becomes law.

Prior governing bodies shall retain their function and serve until the new Assembly is sworn in.

Section 17.10**Employees of Former City of Delta Junction**

(A) Upon ratification of this Charter, employees of the former City of Delta Junction shall become employees of the Deltana Borough, subject to a probationary period of 180 days. The Deltana Borough shall determine employment beyond that time period for former City of Delta Junction employees. Transitional or holdover employees may be terminated for cause during the 180-day period. At-will employees will serve at the pleasure of the Assembly.

(B) Any employees whose positions are eliminated by the plans of organization described in Section 17.09 shall be eligible for reassignment to available positions for which they are qualified. Such assignment shall be made in the order of seniority based on date of hire by the City of Delta Junction or the Deltana Borough.

(C) The vested rights of current employees under pension plans, retirement plans and other benefits, whether under personnel rules or under other legal or contractual provisions, shall not be diminished by ratification of this Charter.

(D) Participation by the Deltana Borough in State-administered employee retirement systems shall continue for the former employees of the City of Delta Junction for the first 180 days following the incorporation of the Deltana Borough. At a time prior to the 180th day the Assembly shall determine if the new government will participate in the Alaska Public Employees' Retirement System.

(E) Employees of the Delta-Greely Regional Educational Attendance Area shall be covered by AS 29.05.130, and AS 29.05.140.

Section 17.11**Assets and Liabilities**

The new government shall succeed to all assets and liabilities of the City of Delta Junction and the Delta-Greely Regional Educational Attendance Area, including an agreement between Teck-Pogo, Inc., and the City of Delta Junction for payments by Teck-Pogo, Inc., to the City and the Borough as the City's successor, which agreement shall be an agreement for payments in lieu of taxes to which the provisions of Section 10.04(D) of this Charter apply. The assumption of school

powers shall comply with A.S. 29.05.130, Integration of Special Districts and Service Areas, and A.S. 29.05.140, Transition.

Deltana Borough Charter
Delta Junction, Alaska
November 16, 2005

Appendix F

House Bill 217 - Chapter 5 SLA 06



LAWS OF ALASKA

2006

Source
SCS HB 217(FIN)

Chapter No.

AN ACT

Relating to the determination of full and true value of taxable municipal property for purposes of providing planning assistance to the Department of Education and Early Development and the legislature, calculating funding for education, calculating school district participating shares for school construction grants, and calculating tax resource equalization payments and excluding from that determination the value of property in certain areas detached from a municipality and the value of certain property involved with oil and gas that is not taxed by a municipality.

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

THE ACT FOLLOWS ON PAGE 1

Enrolled HB 217

AN ACT

1 Relating to the determination of full and true value of taxable municipal property for purposes
2 of providing planning assistance to the Department of Education and Early Development and
3 the legislature, calculating funding for education, calculating school district participating
4 shares for school construction grants, and calculating tax resource equalization payments and
5 excluding from that determination the value of property in certain areas detached from a
6 municipality and the value of certain property involved with oil and gas that is not taxed by a
7 municipality.

8

9 * **Section 1.** AS 14.17.510(a) is amended to read:

10 (a) To determine the amount of required local contribution under
11 AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the
12 Department of Commerce, Community, and Economic Development, in consultation
13 with the assessor for each district in a city or borough, shall determine the full and true

1 value of the taxable real and personal property in each district in a city or borough. If
2 there is no local assessor or current local assessment for a city or borough school
3 district, then the Department of Commerce, Community, and Economic Development
4 shall make the determination of full and true value [FROM INFORMATION
5 AVAILABLE. IN MAKING THE DETERMINATION, THE DEPARTMENT OF
6 COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT SHALL BE]
7 guided by AS 29.45.110 **and based on a determination of full and true value made**
8 **by the state assessor at least every two years using the best information available,**
9 **including on-site inspections made by the state assessor in each of those districts**
10 **at least once every four years. For purposes of this subsection, the full and true**
11 **value of taxable real and personal property in any area detached shall be**
12 **excluded from the determination of the full and true value of the municipality**
13 **from which the property was detached for the two years immediately preceding**
14 **the effective date of the detachment. Also, in making the determination for a**
15 **municipality that is a school district, or for a city that is within a borough school**
16 **district, the assessed value of property taxable under AS 43.56 shall be excluded**
17 **if a tax is not levied under AS 29.45.080 by the municipality that is the school**
18 **district.** The determination of full and true value shall be made by October 1 and sent
19 by certified mail, return receipt requested, on or before that date to the president of the
20 school board in each city or borough school district. Duplicate copies shall be sent to
21 the commissioner. The governing body of a city or borough that is a school district
22 may obtain judicial review of the determination. The superior court may modify the
23 determination of the Department of Commerce, Community, and Economic
24 Development only upon a finding of abuse of discretion or upon a finding that there is
25 no substantial evidence to support the determination.

Appendix G
Composite Ranking of Economic Factors By
Boroughs and REAAs

COMPOSITE RANKING OF ECONOMIC FACTORS BY BOROUGHS AND REAAs (INCLUDING HOME RULE & FIRST CLASS CITIES WITHIN THOSE REAAs)
2000 Census Data

Borough/REAA	Population	Estimated Per Capita Household Income		Estimated Percent Unemployment		Estimated Percent Adults Not Working		Estimated Average Household Income		Estimated Percent Poverty		Estimated Average Owner-Occupied Housing Values		Composite Score & Rank	
		Income	Rank	%	Rank	%	Rank	Income	Rank	%	Rank	Value	Rank	Score	Rank
Juneau, City & Borough of	30,711	26,877	2	5.3%	2	28.5%	2	\$69,929	3	5.9%	1	\$196,810	1	11	1
Sitka, City & Borough of	8,835	\$24,070	6	7.4%	4	31.8%	5	\$62,885	6	7.6%	6	\$194,564	2	29	2
Chugach REAA	6,964	\$26,342	4	6.6%	3	32.4%	6	\$68,177	4	7.0%	4	\$134,583	15	36	3
Aleutian Region REAA	4,781	\$30,238	1	12.6%	15	27.3%	1	\$73,619	1	11.9%	17	\$185,932	3	38	4
Kodiak Island Borough	13,913	\$19,239	18	4.8%	1	29.8%	3	\$60,235	9	6.4%	2	\$157,682	6	39	5
Anchorage, Municipality of	260,283	\$25,493	5	13.4%	18	30.4%	4	\$68,091	5	7.2%	5	\$164,729	4	41	6
Denali Borough	1,893	\$26,576	3	10.1%	8	35.7%	10	\$60,787	7	6.8%	3	\$139,775	12	43	7
Ketchikan Gateway Borough	14,070	\$22,328	8	8.7%	6	35.5%	9	\$54,658	18	7.7%	7	\$154,095	7	53	8
Bristol Bay Borough	1,258	\$22,286	9	10.5%	9	36.0%	11	\$57,287	12	9.5%	11	\$143,929	11	63	9
Fairbanks North Star Borough	82,840	\$20,635	15	8.0%	5	33.4%	7	\$54,247	17	8.7%	9	\$134,681	14	67	10
Southeast Island REAA	11,377	\$21,422	12	12.0%	14	39.3%	14	\$55,290	15	10.0%	13	\$139,406	13	81	11
Matanuska-Susitna Borough	59,322	\$20,810	14	11.0%	10	40.8%	15	\$59,096	10	11.0%	15	\$131,386	18	82	12
Kenai Peninsula Borough	49,691	\$21,276	13	11.3%	11	44.2%	18	\$55,850	13	9.7%	12	\$131,975	16	83	13
North Slope Borough	7,385	\$20,384	16	14.9%	21	38.6%	13	\$70,390	2	9.0%	10	\$127,988	21	83	14
Yakutat, City & Borough of	808	\$22,116	10	9.2%	7	33.6%	8	\$57,621	11	15.7%	20	\$109,172	27	83	15
Haines Borough	2,392	\$21,465	11	13.5%	19	46.8%	22	\$52,022	19	10.8%	14	\$146,717	10	95	16
Pribilof REAA	684	\$19,180	19	11.4%	12	37.9%	12	\$55,689	14	11.3%	16	\$82,367	29	102	17
Chatham REAA	3,442	\$19,557	17	15.5%	23	43.1%	17	\$48,959	23	12.5%	18	\$154,088	8	106	18
Delta/Greely REAA	3,723	\$17,843	20	12.9%	16	48.1%	23	\$51,876	20	17.6%	23	\$164,226	5	107	19
Aleutians East Borough	2,697	\$22,379	7	41.5%	35	53.6%	31	\$60,406	8	21.8%	29	\$131,830	17	127	20
Southwest REAA	4,922	\$15,669	23	11.6%	13	44.8%	20	\$50,268	22	21.5%	28	\$126,733	22	128	21

COMPOSITE RANKING OF ECONOMIC FACTORS BY BOROUGH AND REAA (INCLUDING HOME RULE & FIRST CLASS CITIES WITHIN THOSE REAAs)
2000 Census Data

Borough/REAA	Population	Estimated Per Capita Household Income		Estimated Percent Unemployment		Estimated Percent Adults Not Working		Estimated Average Household Income		Estimated Percent Poverty		Estimated Average Owner-Occupied Housing Values		Composite Score & Rank	
		Income	Rank	%	Rank	%	Rank	Income	Rank	%	Rank	Value	Rank	Score	Rank
Lake & Peninsula Borough	1,823	\$15,237	26	14.4%	20	52.2%	28	\$47,509	25	19.0%	25	147,144	9	133	22
Annette Island REAA	1,447	\$16,153	22	20.9%	31	49.0%	25	\$47,358	26	8.1%	8	109,650	26	138	23
Lower Kuskokwim REAA	13,105	\$13,184	29	13.3%	17	44.4%	19	\$48,890	24	18.9%	24	114,917	25	138	24
Northwest Arctic Borough	7,208	\$13,895	28	16.7%	25	48.4%	24	\$53,994	18	17.1%	21	117,355	24	140	25
Copper River REAA	3,071	\$16,901	21	17.1%	26	54.5%	32	\$43,990	27	14.4%	19	128,800	20	145	26
Bering Straits REAA	9,196	\$15,433	25	16.2%	24	49.4%	26	\$51,865	21	17.3%	22	95,981	28	146	27
Alaska Gateway REAA	2,606	\$15,599	24	22.0%	33	56.1%	33	\$41,968	28	20.8%	27	119,082	23	168	28
Yukon/Koyukuk REAA	3,669	\$14,627	27	21.0%	32	49.7%	27	\$41,761	29	20.4%	26	82,202	30	171	28
Kuspuk REAA	1,573	\$11,007	32	20.7%	29	52.4%	29	\$38,200	31	26.8%	32	131,261	19	172	30
Kashunamiut REAA	765	\$7,611	35	15.1%	22	42.8%	16	\$34,863	34	30.1%	35	76,230	31	173	31
Iditarod Area REAA	1,285	\$12,626	30	18.2%	27	46.2%	21	\$37,819	32	29.5%	34	74,965	33	177	32
Yupitit REAA	1,322	\$7,949	34	20.4%	28	58.2%	35	\$36,488	33	25.7%	30	75,973	32	192	33
Yukon Flats REAA	1,611	\$11,955	31	20.7%	30	53.1%	30	\$31,295	35	28.7%	33	69,601	35	194	34
Lower Yukon REAA	6,260	\$8,777	33	25.1%	34	56.6%	34	\$38,352	30	25.8%	31	74,550	34	196	35

