

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

IN THE MATTERS OF THE)
CONSOLIDATED ANNEXATION)
PETITIONS FOR THE CITIES OF)
DILLINGHAM AND MANOKOTAK)
_____)

**ORDER GRANTING REQUESTS FOR RECONSIDERATION
AND SETTING BRIEFING SCHEDULE AND MEETING DATES**

Respondents Native Villages of Ekuk, Clark’s Point, and Portage Creek, and the City of Clark’s Point (Respondents Ekuk, et al.), through their counsel, submitted two requests for reconsideration to the Commission, one requesting reconsideration of the Commission’s decision approving the Dillingham annexation petition with amendments, and one requesting reconsideration of the Commission’s decision approving the Manokotak annexation petition as submitted.

The requests for reconsideration were considered by the Commission at a meeting on January 10, 2017. Attorneys for Petitioners/Respondents Dillingham and Manokotak and for Respondents Ekuk, et al., and Southwest Region School District appeared and commented on the requests for reconsideration.

The Commission may grant a request for reconsideration only if the Commission determines that (1) a substantial procedural error occurred in the original proceeding; (2) the original vote was based on fraud or misrepresentation; (3) the commission 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. 3 AAC 110.580(e).

1. Request for Reconsideration of the Dillingham Decision

The Commission first considered the request for reconsideration of the Commission's decision approving Dillingham's annexation petition with amendments. A majority of Commissioners determined that there was a substantial procedural error in the original proceedings in that the Commission was not aware that it could not reconsider or otherwise change the decision made at the December 1, 2016, decisional meeting regarding Dillingham's annexation petition when the Commission reconvened on December 20, 2016, to adopt a written statement of decision. Additionally, a majority of the Commissioners determined that the Commission did not adequately address the annexation standards in the Commission's regulations with respect to Dillingham's annexation petition, including, but not limited to, the standards regarding boundaries (3 AAC 110.130) and best interests of the state (3 AAC 110.140), and that this failure to adequately address the annexation standards amounts to a failure to address a controlling principle of law under 3 AAC 110.580(e)(3).

The Commission therefore GRANTS Respondents Ekuk, et al.'s "Request for Reconsideration of a Statement of Decision Dated December 20, 2016 [sic] in the Matter of the 2016 Petition of the City of Dillingham".¹

¹ The decision was made on a 3-2 vote, with Commissioners Harrington, Hargraves, and Wilson voting in favor of the motion to grant the request for reconsideration, and Commissioners Chrystal and Harcharek voting against the motion

2. Request for Reconsideration of the Manokotak Decision

The Commission next considered Respondent Ekuk, et al.'s request for reconsideration of the Commission's decision approving Manokotak's annexation petition as presented. A majority of Commissioners determined that there was a substantial procedural error in the original proceedings in that the Commission was not aware that it could not reconsider or otherwise change the decision made regarding Manokotak's annexation petition at the December 1, 2016, decisional meeting when the Commission reconvened on December 20, 2016, to adopt a written statement of decision. Additionally, a majority of the Commissioners determined that the Commission did not adequately address the annexation standards in the Commission's regulations with respect to Manokotak's annexation petition, including, but not limited to, the standards regarding boundaries (3 AAC 110.130) and best interests of the state (3 AAC 110.140), and that this failure to adequately address the annexation standards amounts to a failure to address a controlling principle of law under 3 AAC 110.580(e)(3).

The Commission therefore GRANTS Respondents Ekuk, et al.'s "Request for Reconsideration of a Statement of Decision Dated December 20, 2016 in the Matter of the 2016 Petition of the City of Manokotak".²

3. Schedule for Submission of Responsive Briefs and Commission Meetings on Reconsideration

Pursuant to 3 AAC 110.580(f), the Petitioners and Respondent Southwest Region

² The decision was made on a 3-2 vote, with Commissioners Harrington, Hargraves, and Wilson voting in favor of the motion to grant the request for reconsideration, and Commissioners Chrystal and Harcharek voting against the motion.

School District may each file “a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered.” The attorneys for the Petitioners and Respondent Southwest Region School District stipulated on the record at the Commission’s meeting on January 10, 2017, that they would submit responsive briefs to each of Respondent Ekuk, et al.’s requests for reconsideration before the close of business (4:30 p.m.) on January 19, 2017.

Therefore, the Commission ORDERS that Dillingham, Manokotak and Southwest Region School District may each file responsive briefs in accordance with 3 AAC 110.580(f) to Respondent Ekuk, et al.’s requests for reconsideration, which must be received by the Department of Commerce, Community, and Economic Development on or before **Thursday, January 19, 2016, at 4:30 p.m.**

The Commission FURTHER ORDERS that the requirements of 3 AAC 110.580(f) regarding the filing of an original and five copies of responsive briefs are suspended, and that the Petitioners and Respondent Southwest Region School District may file and serve their responsive briefs solely in an electronic format and via electronic mail.

Pursuant to 3 AAC 110.580(g), the Commission will convene to hold a decisional meeting by means of the procedures in 3 AAC 110.570(a)-(f) to issue a decision on reconsideration for both the Dillingham and Manokotak annexation petitions on **Tuesday, January 24, 2017, at 10:00 a.m.** The Commission will then reconvene at a meeting on **Wednesday, January 25, 2017, at 3:00 p.m.** to approve written decisions explaining all major considerations leading to its decisions on reconsideration for both

Dillingham and Manokotak.

Dated: January 10, 2017.

BY ORDER OF THE LOCAL BOUNDARY COMMISSION³

³ Commissioners Lynn Chrystal, Robert Harcharek, Darroll Hargraves, John Harrington, and Lavell Wilson participated in this matter.