

February 25, 2011

Local Boundary Commission staff
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510

Re: Comments of Respondent Native
Village of Ekuk To Preliminary Report
regarding City of Dillingham Annexation
proposal to annex by local option,
approximately 396 square miles of water
and 3 square miles of land to the City of
Dillingham

Dear Sirs:

This letter is provided to take advantage of an opportunity granted in 3 AAC 110.530(c) for Respondent Native Village of Ekuk to comment on matters pertaining directly to the “Preliminary Report to the Local Boundary Commission Regarding the proposal to annex by local option, approximately 396 square miles of water and 3 square miles of land to the City of Dillingham” (hereinafter “the preliminary report”).¹ The fact that a comment is not made on a specific finding, conclusion, or recommendation should not be considered to be agreement with the finding, conclusion, or recommendation. Respondent reserves the right to make its case at the hearing of the Local Boundary Commission through testimony and argument. Having said the foregoing, the Native Village of Ekuk makes the comments set out below to the Preliminary Report.²

I. The Preliminary Report fails to consider the effect of Annexation on the Region.

The preliminary report contains a finding that the City is a regional center but gives little weight to the fact that the territory to be annexed is also a part of the Western Bristol Bay region along with other municipalities and villages in the Nushagak River water shed. These other communities are as much a part of the region as Nushagak Bay and the petitioner, yet they are being gerrymandered out as parts of the expanded regional governmental entity. The report finds that only Clarks Point and Ekuk have any direct connection with the territory to be annexed.³ The department then finds “the city has a more direct connection to the territory than do many of the other communities because the city is directly on the bay.”⁴ This is a significant error in the findings of the

¹ In this letter, staff to the Local Boundary Commission will be referred to as “the department”.

² Respondent will not point out typographical errors in the preliminary report. It is presumed that staff will correct these before the final report is issued.

³ Preliminary Report at 26.

⁴ Preliminary Report at 27.

preliminary report which should be reconsidered. The connections of other communities in the region with the territory are direct, and long-standing.

It was unfortunate that weather prevented staff of the commission from attending the public meeting scheduled for Manokotak so that they could see first hand the connections to the territory of a typical village of the region. It is a mistake to minimize the affect on villages that have connection to Nushagak Bay by the navigable rivers of the Bristol Bay Watershed. These villages include not only Clark's Point and Ekuk village, but also the upriver communities of Manokotak, Koliganek, New Stuyahok, Aleknagik, and Ekwok. Of these communities, Manokotak, New Stuyahok, Aleknagik, and Clark's Point provide storage facilities for fishing vessels and each has direct connection to the territory identified for annexation by navigable waterways. These connections take the form of involvement in the commercial and subsistence fisheries and other socio-economic and customary interactions. The preliminary report concludes that Western Bristol Bay is a region.⁵ Such a finding should necessarily include a finding that the communities of the region have shared interests in the commercial fishery conducted in Nushagak Bay and shared responsibilities in providing services for the regional fishery. However, the preliminary report is narrowly focused on the effects and impacts felt by petitioner and not at all on the effects and impacts on the Western Bristol Bay Region.

The preliminary report cites per capita earnings of residents of the city in recommending that the annexation should be granted. In making this recommendation the department found that the median family income was \$57, 417.⁶ However, evidence provided by respondent, but not mentioned in the report, shows that drift net permit holders residing in the Bristol Bay Watershed earn only 70 percent of the fishery wide average and that set net permit holder's earnings averaged only \$27,000 per season. Fishing operations are often family enterprises, so the lower per permit income equates to a lower per capita income. For example, the median family income for Ekwok is only \$20,000; New Stuyahok, \$26,458; Manokotak \$30,357; Aleknagik \$30,625; Clark's Point \$41,250; and Koliganek, \$51,042.⁷

The preliminary report cites the fact that the city has an 11.7 percent poverty rate as a basis for concluding that the petitioner has a need for the raw fish tax revenue.⁸ In order to properly consider the effect of annexation on the region, the preliminary report should also contain findings on the 35.3 percent poverty rate for Manokotak, 40.8 percent for Aleknagik, 45.7 percent for Clark's Point, 31.7 percent for New Stuyahok, 32.1 percent for Ekwok, and 19.1 percent for Koliganek.⁹ These communities need additional revenue sources as well.

The narrow focus on only the conditions of residents of petitioner in the preliminary report does not provide a balanced review of the potential consequences of

⁵ Preliminary Report at 37.

⁶ Preliminary Report at 44.

⁷ This income data is taken from the Department's community data base.

⁸ Preliminary Report at 44.

⁹ This data is derived from the Department's community data base.

the annexation proposed by the City. The commission is entitled to know that residents of the Bristol Bay watershed are less able than nonresident permit holders to bear a new tax burden on their main source of earnings. They are also less able to cushion the blow in family finances by seeking other employment. Non fishery related income is quite limited relative to other income for permit holders who reside outside of the watershed.¹⁰

The residents of the Bristol Bay Watershed tend to remain in the region throughout the year paying the cost of food and fuel delivered into the region from outside. Non residents come to the region to partake in the approximately 5 week season and leave for their homes in places with a lower cost of living. Considering the lower income and higher annual costs of these local residents, it can be easily surmised that they have little capacity after deducting these costs from available income to save for the education of their children and to provide for their eventual retirement.

The preliminary report assigns importance to the benefit of having a tax which non-resident fishermen must pay so that they will bear the costs of services and facilities now borne by residents of petitioner.¹¹ But to focus on this goal alone ignores the plight of the watershed fishermen who are included in the class of persons who must bear the burden of the tax. The preliminary report dismisses this problem by finding that the shrinking number of permits held and fished by residents of the Bristol Bay Watershed causes the burden of the fish tax to be more directed to the non-resident permit holders. This implies that the department accepts the decline of local permit holders as an inevitable outcome. The impression left is that the local permit holder will soon become extinct and the effect on these local residents should not be placed in balance when the commission considers whether it will be in the best interests of the state to grant the petition.

Respondent urges reconsideration of this emphasis and encourages a fair presentation to the commission of the effect of the tax scheme proposed by the city because it extends beyond the territory sought for annexation to the Western Bristol Bay region. The steady decrease in the number of limited entry permits held by residents of the Bristol Bay region is a major issue within the region and bears directly on the question whether this added tax burden would be in the best interests of the state at this time.

Respondent believes that if Dillingham needs revenue derived from the territory to be annexed to preserve itself as a regional center it should be required to petition to form a regional government to include all of the territory and communities in the region. The preliminary report counters respondent's regional government concerns by assuming that any new revenue gained through annexation of fishing districts benefiting the City will trickle down to also benefit the entire region. The preliminary report argues that the new tax revenue will promote local spending on goods and services and will increase local employment. But the preliminary report cites to no evidence in the petition or

¹⁰ See Respondent's Brief at 6.

¹¹ Preliminary Report at 50 (regarding whether the territory has a sufficiently stable population to support extension of city government).

otherwise upon which to base that assumption. Nor does the report provide a separate analysis of the probable deterrent to borough formation that was raised and properly supported in the brief submitted by respondent.

The trickle down theory set out in the preliminary report is a rationale which was not offered by the City. One commentor offers the more likely outcome that existing revenue sources will be replaced with raw fish tax revenue and perhaps property tax relief to city taxpayers.¹² If one source of revenue merely replaces another, there will be no benefit to the region and the decline of the smaller municipalities and villages of the region will continue, all to the detriment of the best interests of the state. Another possible outcome that the authors of the preliminary report have not considered: the raw fish tax revenue will merely be added to the existing tax structure and will generate even larger surpluses for the city, while the other communities of the region continue to struggle or are abandoned by their residents. Respondent urges the department to revise its best interests of the state findings and conclusion to fairly place in balance the effects of annexation on the Western Bristol Bay Region.

The preliminary report accepts as an important fact that Nushagak Bay represents the last major commercial fishery in the region where there is no local fish tax in effect.¹³ This finding equates the unrealized raw fish tax revenue to low-hanging fruit that is ripe for the picking. Unfortunately, emphasis on the benefit of a new found revenue source ignores the effect of the tax on the residents of the Western Bristol Bay Region. The preliminary report contains findings that recognize participation of local residents in the fishery is declining. Each season the number of limited entry permits held by residents of the region grows smaller. The preliminary report should acknowledge facts submitted by respondent that local residents are struggling with lower income and less efficient vessels. The local residents reside in the region year round and must contend with the higher cost of living that goes with their permanent attachment to the region.

As presently written, the preliminary report takes a cold and calculating view of the plight of these residents. It concludes that this decline supports annexation because it results in the burden of providing city services being borne more by the non-resident members of the fishery. The department concludes that “no other existing municipality has the ability to provide essential municipal services to the territory....”¹⁴ A casual reader of the report might conclude that the view of the department is more along the lines of good riddance to this low income, less productive part of the region. Respondent argued that the best interests of the state would be to have municipal boundaries that encompass the territory reflect regional rather than local interests. Focus only on the fiscal sustainability of Dillingham is too narrow to adequately protect the regional interests here. The state has shown a strong interest in directly allocating resources in a way that provides economic opportunity to small communities dependent on commercial

¹² See the comment of Mr Samuelson. That of course, is exactly what happened in the Bristol Bay Borough when the local fish tax was imposed there. See Jay Hammond, *Tales of Alaska's Bush Rat Governor* (1969) p. 153; and *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1117 (Alaska 1978).

¹³ Preliminary Report at 37.

¹⁴ Preliminary Report at 37.

fisheries. The present CDQ program and actions by the Board of Fisheries and the North Pacific Management Council to encourage local processing of fishery resources are prime examples of state action in this regard. To now embrace trickle down economics would be a departure from this policy.

It would not be in the state's interest to allow a single municipality to cherry pick the last major commercial fishery in the region that can produce revenues to benefit the entire region, when petitioner has shown no compelling need for this additional revenue. Respondent urges the department to change its best interest analysis to reflect the foregoing.

II. The limitation of Community Doctrine.

Respondent believes that the preliminary report is incorrect in its conclusion that the area proposed for annexation satisfies the standard set out in 3 AAC 110.130 which requires that the expanded boundaries of the city include all land and water necessary to provide for the development of essential municipal services. This standard is not satisfied because the proposed annexation entirely consists of territory that violates the limitation of community doctrine set out in 3 AAC 110.130(c). The preliminary report emphasizes that many of the standards for annexation are directory in nature which leaves the commission discretion to overlook a particular element or develop a new element that is rational. However, the standard set out in sec. 130(c) is mandatory:

The proposed expanded boundaries must be suitable for city government and may only include that territory comprising an existing local community, plus reasonably predicted growth, development, and public safety needs. . . .

3 AAC 110.130(c) (emphasis added). The wording of this provision is clear. The annexed territory itself must qualify as a community.¹⁵ This interpretation rests in part on how the term "territory" is used in every other section in 3 AAC 110.090 – 3 AAC 110.150 and is supported by the history of the adoption and revision of the regulations which is discussed in detail below. Under that definition and usage, the territory referred to is the land and water forming the boundaries in the proposed petition. This means the new territory must be a community, not the new territory taken together with lands and water of the annexing city.

The preliminary report confuses the meaning of section 130 by judging whether a community is present by merely looking to whether the annexing city comprises a community. This interpretation destroys the limitation of community doctrine. Under the department's interpretation, a city can become a regional government without forming as a borough. This would have constitutional implications because, without the

¹⁵ See the definition of "territory" set out in 3 AAC 110.990(32).

limitation of community doctrine in place, there remains no ability to distinguish between city and borough forms of government in state law.¹⁶

Respondent provided documents with its brief from earlier decisions of the commission which bear directly on the effect of the limitation of community doctrine on the issues raised by this petition. However, the preliminary report concludes that it is not appropriate for the commission to be guided by a decision rendered in the 1980s on a petition submitted by the same petitioner to annex the same territory. This history is disregarded because “the regulations have changed.”¹⁷ Petitioner makes this argument as well. In both instances, neither the petitioner nor the preliminary report explains how the regulations have changed to require a different result. Respondent agrees that regulations of the commission have been revised three times since petitioner last attempted to annex the territory. But the changes made by these revisions have expressly incorporated the limitation of community doctrine into the regulations as a means of keeping cities local governments and boroughs regional governments. The revisions reinforce a foundation principle in municipal law developed by the commission to regulate the drawing of municipal boundaries.

A understanding of the history of the development of the regulations providing standards for annexation to cities is essential to apply the correct interpretation of their provisions.¹⁸ In 1982, the commission adopted former 19 AAC 10.070 which established, in a single section, standards describing when territory was annexable. A prominent standard was that the territory to be annexed “is urban in character”.¹⁹ The limitation of community doctrine was not expressly set out in the 1982 version of the commission’s regulations but was applied in decisions of the commission throughout the effective period of those regulations. A 1991 informal opinion of the attorney general advised the commission that it was lawful to apply its “longstanding contemporaneous construction” of the limitation of community doctrine without having this construction expressly set out in regulation.²⁰

When the commission’s regulations were revised in 1992, the limitation of community doctrine was added to the regulations and expressed in substantially the same form that appears in 3 AAC 110. 130(c), 920 and 990(5) today with an important clarification made in 2008. The notice announcing the proposed changes in the 1992 regulations, which was published as required by law, contained express mention that the regulations would add a provision which “discourages the inclusion of large unpopulated

¹⁶ Alaska Const. Art. X, Sec. 2 (All government powers shall be vested in boroughs and cities); Alaska Const. Art. X, Sec. 3 (Each borough shall embrace an area and population with common interests to the maximum degree possible.).

¹⁷ Preliminary Report at 56.

¹⁸ *See, State, Department of Highways v. Green*, 586 P.2d 595, 602 (Alaska 1978)(regulations which are legislative in character are interpreted using the same principles as statutes); *Beltz v. State*, 980 P.2d 474, 476 (Alaska App 1999)(guiding principle is to ascertain and implement the intent of the agency that promulgated the regulations).

¹⁹ Former 19 AAC 10.070 (effective 2/21/82, Register 81).

²⁰ 1991 Inf. Op Att’y Gen. file No. 663-91-0212 (February 15, 1991) at 6.

areas within the boundaries of a proposed city” and was adding definitions of the terms “community” and “permanent resident”.²¹

This history shows that the commission intended in 1992 to codify its long standing interpretation of the limitation of community doctrine in the regulations. This change came after Dillingham’s unsuccessful attempt to annex Nushagak Bay and is evidence of intent to reinforce the limitation of community doctrine, not water it down. The doctrine was expressed in former 19 AAC 10.920 and 19 AAC 10.990.²² After the 2002 revision, these identical provisions appear in title 3 of the Administrative Code as a result of the reorganization of the Department of Community and Regional Affairs into the Department of Commerce, Community and Economic Development.

More recent evidence regarding the meaning of the term “community” used in sections 130, 920 and 990(5) of the LBC regulations was provided by the commission. As recently as 2008, the commission initially adopted as a new definition the term “limitation-of-community doctrine.” This definition read:

“limitation-of-community doctrine” means that territory taken into a city be urban or semi-urban in character as provided for under 3 AAC 110.040(b) and (c).²³

After the pre-filing review required by AS 44.62.125, the regulations attorney dropped the definition from the regulations because it was redundant with the material that was added to sec. 040, and sec. 130(c).²⁴ In the version of sec. 130(c) adopted in 1992 the subsection read:

The proposed boundaries of the city must include only that area comprising an existing local community²⁵

After the new material was added the provision read:

The proposed expanded boundaries . . . may only include that territory comprising an existing local community

(Emphasis added). The change that made the inclusion of a separate definition “redundant” was insertion of the word “territory” in place of the word “area.” The term “territory” was defined as a part of this revision of the regulations to mean in pertinent

²¹Notice of Proposed Changes in the Regulations of the Local Boundary Commission dated May 10, 1991, State of Alaska Archives and Record Management Record Group 35, Record Series 1605, Box AS 17868, C&RA register 123 7/31/92, Title 19.

²² Memo to Charles Bettisworth, Chair Local Boundary Commission dated June 19, 1992 DOL File # 993-91-0128 (State of Alaska Archives and Records Management Record Group 35, Record Series 1605, Box AS 17868, Folder C&RA register 123, Title 19).

²³ A.G. File # 993-07-0095.

²⁴ *Id.*, email from AAG S. Weaver to Lorna McPherran dated October 10, 2007 Department of Law file No. 993-07-0095.

²⁵ Former 3 AAC 110.130(c)(effective 7/31/92, Register 123)(emphasis added).

part “the geographical lands and submerged lands forming the boundaries in a petition regarding city government. . . .”²⁶

The regulations as revised by the regulations attorney were returned to the commission and readopted to be effective January 9, 2008 in register 185. This history confirms that the phrase “territory comprising an existing local community” means that the territory to be added must be “an existing local community”. This means the new territory must have permanent residents - or in other words consistent with an earlier version of the commission’s regulations– the territory to be annexed must be “urban or semi urban in character”. This interpretation is in agreement with the earliest version of the commission’s regulations, is consistent with the decision of the commission regarding petitioner’s earlier attempt to annex Nushagak Bay, and is mandatory. The department’s approach of assessing whether the city satisfies the limitation of community doctrine by considering the conditions within the expanded boundaries of the city is plainly wrong. The petition does not meet the boundaries standard of 3 AAC 110.130, specifically the mandatory requirement that the territory to be annexed comprise a present existing community.

The preliminary report makes three arguments why the commission need not consider whether the petition fails to meet the standard of 3 AAC 110.130(c)(2) (the territory may not contain entire geographic regions or large unpopulated areas). First, the department finds that any analysis of whether the territory satisfies 3 AAC 110.130(c)(2) is moot because it finds that including this territory is justified by the standards in 3 AAC 110.090 – 3 AAC 110.135 (the standards for annexations to cities). Second, the preliminary report offers the justification that transient persons operating and serving on fishing boats operating in the waters of the territory to be annexed are in fact residing in the territory and this means that the territory to be annexed is not “unpopulated”. And third, it interprets the prohibition against including entire regions and unpopulated areas as applying only to annexations within organized boroughs.

Respondent does not agree that the mandatory standard set out in sec. 130(c)(2) is moot. The application of other annexation standards to the facts of the petition does not indicate that the boundaries are justified. Later in this memo respondent addresses defects in the department’s preliminary findings on the standard on need. In addition to problems with satisfying other standards, the boundaries are not justified because the mandatory standard set out in 3 AAC 110.310(c)(1), that the territory to be annexed must be a present existing community, has not been satisfied.

The preliminary report in concluding that the annexation of the territory would not include entire geographical regions or large unpopulated areas makes a finding that

“the proposed expanded boundaries of the city do not fit the definition of a “region” because the proposed expanded boundaries of the city do not encompass a borough, or have multiple communities that share common

²⁶3 AAC 110.990(35). See also 3 AAC 110.420(a) (5) (petition must contain general description of the “territory proposed for city boundary change).

attributes. The existing land based communities other than Dillingham are outside the proposed expanded boundaries of the city.²⁷

The foregoing finding represents a mistake in law by misapplying definitions set out in 3 AAC 110.990(15) and (28) when interpreting 3 AAC 130(c)(2) . It should be noted that section 990 containing the definitions used by the department begins with the phrase “[u]nless the context indicates otherwise. . . .” The department’s interpretations in the preliminary report apply the definitions of “area” and “region” out of context to find that the requirement against adding unpopulated area is only directed to annexations of territory from organized boroughs.

The foregoing interpretation, if adopted by the commission, would effectively negate the intended purpose of the limitation against annexation of unoccupied territory to a city. Literal application of the definitions of “area” and “region” does not make sense in the context of a city annexation. A court would assume that the commission would not have intended to adopt illogical regulations. Under the regulations, a city must be formed around a community, not a region. 3 AAC 110.005. The annexation of unoccupied territory to a city is potentially a departure from the community doctrine which, if not strictly controlled, could lead to cities becoming regional rather than local governments. The interpretation applied by the department would entirely exclude cities in the unorganized borough from the limitation while making cities within organized boroughs subject to the limitation.

The limitation on including entire geographic regions and unpopulated territory within a city annexation was added to the regulations in 1992 at the same time that the commission codified the limitation of community doctrine. The notice of proposed changes to the regulations stated

Notable changes from existing regulations include:. . . adding a provision which discourages the inclusion of large unpopulated areas within the boundaries of a proposed city....²⁸

Identical prohibitions were placed in the annexation standards applicable to a city. There is nothing in the notice given to the public or the recorded history of the regulations to support the interpretation offered by the department. The department should abandon its interpretation and not apply definitions in the regulations out of context to encourage, rather than discourage an annexation of entire geographical regions or unpopulated areas.

The preliminary report finds that Nushagak Bay is not an entire geographic region. Rather, it is only part of a region and it is not a “large unpopulated area” because the salmon fleet fishes there each season. Respondent questions whether this interpretation is a fair and balanced approach to application of the commission’s regulations. Words in statutes and regulations are usually construed in accordance with

²⁷ Preliminary Report at 59.

²⁸ State Archives Record Group 35, Record Series 1605, Box AS17868, folder C&RA register 123 7/31/91 Title 19.

common usage.²⁹ The dictionary definition of “unpopulated” means “not populated, not occupied or settled”. The definition of “populated” is “to inhabit” and the definition of “inhabit” is to live or dwell in”.³⁰ Hence, the term “unpopulated” means a place with no people living there. A claim that participants in the fishery populate the territory is the same as saying that cruise ship passengers populate the territory if they transit it during their cruise. Section 130(c) ceases to discourage the annexation of entire geographic regions or unpopulated areas under the interpretation favored by the department.

The local boundary commission can take notice that the two fishing districts are unpopulated areas. They need only to look at the territory from the vantage point of the city cemetery in Dillingham. The fleet does not “populate” the area, it is there briefly to harvest the salmon run and then leave approximately 5 weeks later. People engaged in the fishery are there as a condition of their employment and are presumed to not be a part of a community in the territory.³¹ And, they could not live there even if they wanted to.³² Nushagak Bay is bounded on one side by the Togiak National Wildlife Refuge. Part of Nushagak Bay is a calving and feeding ground for Beluga whale, has other populations of marine mammals, and is a nesting area for seabirds. It is often covered with ice in winter. No one inhabits Nushagak Bay. People briefly work there, but they don’t live there. The territory is unpopulated, plain and simple.

Particularly disturbing is the finding that the territory qualifies for annexation because it is only part of a region because it does not contain “multiple communities that share common attributes”. Of course, this finding is contrary to a prior decision of the Local Boundary Commission.³³ They are not present because the petition in effect gerrymanders out the other communities that have socio-economic connections to the territory and the preliminary report concludes that this is acceptable behavior for the alteration of municipal boundaries in the state. The department should discuss the consequences of this policy in the policy review section of the report and explain why it is in the best interests of the state to fragment the region.

Respondent believes that the conclusions and findings which condone this practice are based on a fundamental mistake of law and should be deleted. If the department desires that regulations be changed to empower cities to undertake this kind of an annexation, it should recommend that the commission suspend the petition and begin the process to amend the regulations accordingly.

²⁹ *State, Department of Revenue v. Municipality of Anchorage*, 104 P.3rd 147, 151 (Alaska 2002).

³⁰ Webster’s Third New International Dictionary (Merriam-Webster, Inc. 1993).

³¹ 3 AAC 110.920(b)(3).

³² The territory proposed for annexation is within the coastal zone of the Bristol Bay Region. The Bristol Bay CRSA Coastal Management Plan applicable to these waters prohibits persons from residing upon the waters of Nushagak Bay or any other coastal waters of the district. Chapter 4.4 Policy A-1, of the Bristol Bay CRSA Coastal Management Plan.

³³ *Statement of Decision in the Matter of the Petition for Annexation of Territory to the City of Dillingham, Alaska*, (Local Boundary Commission, December 10, 1986) at pages 5 and 6.

III. Specific Comments.

In this part of respondent's comments on the preliminary report certain specific findings or discrete parts of the report are singled out for comment:

Page 25: Respondent believes that the finding that the territory to be annexed is suitable for the reasonably anticipated purpose is based on a false premise. The preliminary report accepts the premise that the city needs the tax revenue to sustain its existence. There has been no factual showing that the city's finances are in peril. The contrary is true. The finances of the city are strong and have improved every year since the city enacted the sales tax. It is true that any city would benefit from more income, but the preliminary report accepts as true without any support in the petition or any other source that the sustainability of the city is in question and that a financial collapse is imminent. The preliminary report is not fair and balanced on this point. The preliminary report also fails to consider if the community purpose of providing for city taxation might in fact harm other communities in the region rather than benefit them. Respondent believes that a hub city is just as dependent on the health and welfare of its spoke communities as those communities are on the financial health of the hub.

Page 28 - 38 Petitioner proposes to provide tax collection services and some enhanced coordination of existing services if the Commission approves the petition. This is in effect saying that the City wants the revenue but will continue supplying the same services it has always provided. The preliminary report concedes that the petition was deficient meeting the need standard imposed by 3 AAC 110.090. The report states "there is not reasonably expected residential growth beyond the existing boundaries of the city during the 10 years following the effective date of annexation." The report also finds that petitioner did not

show sufficient evidence that anticipated social or economic conditions, including the extent to which residential and commercial growth of the community would occur within the proposed annexation boundaries, even with the inclusion of the seasonal community.³⁴

However, the preliminary report then purports to make the case for petitioner regarding the need standard imposed by 3 AAC 110.090. Neither Petitioner nor the department has carried the burden of showing that there is a need for services in the territory to be annexed. To the contrary, there will be no service provided in the territory other than tax collection. Those state agencies, communities and private groups that are providing services there will continue to do so and the petitioner will reap the tax revenue.

³⁴ Preliminary Report at 28.

The preliminary report takes the tack of considering all of what the petitioner presently does within its existing boundaries and then attributes those facilities and services and conditions to the territory identified for annexation. The preliminary report finds that

the City does not intend to provide additional municipal services to this seasonal population because the essential municipal services required by the fishery industry, or seasonal population are already provided.³⁵

This approach displays a basic misinterpretation of the requirements of 3 AAC 110.090. Under the regulation, the territory to be annexed must exhibit the reasonable need for city government, not the existing area or population of the annexing municipality. The territory may establish a need for city government through existing or reasonably anticipated health, safety and general welfare conditions. 3AAC 110.090(a)(2). The evidence provided in the petition and the rationale developed in the preliminary report does not point to any conditions in the territory that supports a need for city government to be provided there. Petitioner will not be assuming police powers there and search and rescue responsibility will remain with the state. The territory is an uninhabited area of the unorganized borough in which transient commercial fishing occurs. The petition well documents that this territory has not required the extension of any services. In fact, the petitioner concedes that the services provided there now are “adequate.”

Petitioner has a harbor and the preliminary report contains findings as to the importance of the harbor as an extension of city government in the territory. Respondent believes that the importance of the harbor should be placed in proper context. In Bristol Bay, a harbor is a convenience, not a necessity. There are no harbors in other major fishing districts served by Togiak, Ugashik, Egegik or Naknek. In order to achieve fairness, the preliminary report should find that many participants in the fishery do not use the Dillingham harbor. There is a significant sector of the drift net fishery that comes into Nushagak Bay directly from other communities, remains on the grounds during the season while being supplied by tenders, and returns to the ports of origin at the conclusion of the season.

The report should also find that many residents of other communities proceed directly to set net sites from their villages and do not use the facilities of petitioner. And additional findings should be made that some of the drift boats are not harbored in Dillingham, but proceed to the fishing grounds directly from storage yards kept in their villages. Based on the foregoing, the following is a conclusion not supported by fact and should be deleted:

You can almost always expect visitors, particularly most fishery vessels traveling into and out of the Nushagak Bay area during the summer seasonal harvest, will haul or land in the city of Dillingham owned and maintained docks or harbor.³⁶

³⁵ Preliminary Report at 30.

³⁶ Preliminary Report at 31.

As an additional matter, use of the city's harbor by fishing vessels does not extend for three months as stated on page 30 of the preliminary report. Rather, as documented in respondent's brief, the period of use extends approximately 5 weeks. During most of this period fishing vessels are on the grounds and not in the harbor. This incorrect statement of fact should be corrected in the preliminary report.

The preliminary report finds that there are no permanent residents or property owners in the territory. But in applying the standard (3 AAC 110.090(a)(6)) which considers whether residents of the territory to be annexed will benefit from city government, the report finds this standard is satisfied because many "essential municipal services" are already being provided to the region. This is an unusual finding in that the regulation asks specifically what is being provided to residents in the territory and the preliminary report answers with an array of services that are allegedly provided in the "region." The unvarnished answer is that there are no residents and no municipal services provided in the territory proposed for annexation.

The preliminary report makes the following finding about the level of service provided by petitioner:

If there was an accident on the waters of Nushagak Bay, it can be reasonably assumed that any individual(s) requiring essential or basic medical services would be transported to the hospital in Dillingham, perhaps on city streets by the volunteer search and rescue (presumably composed of Dillingham residents), through direct coordination with Alaska State Troopers and the local police department.³⁷

The problem with the foregoing is that the finding ignores certain important facts regarding the services mentioned. Clark's Point, Ekuk and Manokotak provide basic medical services in the territory through the presence of local health aides. If a fisherman is injured and needs to be transported for essential medical treatment, that person will be treated at a hospital funded by the tribal governments of the communities of the region.³⁸ This hospital is located on a federal enclave within the City of Dillingham and is reached over roads that are under the responsibility of the State of Alaska, not the city. The airport is owned and operated by the State of Alaska. Each community in the region provides search and rescue teams for dispatch by the Alaska State Troopers. The finding cited above is not fair and balanced and should be changed to reflect a balanced recitation of the facts.

The preliminary report cites Resolution No.2010-85 supplied by petitioner along with its reply brief as an example of how the region will benefit from the proposed annexation. This is Respondent's first opportunity to comment on the resolution because it was not a part of the petition. The department makes favorable comments by stating a belief that the resolution shows a willingness on the part of petitioner to provide benefits

³⁷ Preliminary Report at 31.

³⁸ See the comment submitted by the Bristol Bay Area Regional Health Corporation.

financed with raw fish tax revenue to other communities in the region. The ordinance would establish a regional fisheries improvement fund

“to provide funds for small capital projects and leverage large capital projects that improve the fisheries in the annexed area by increasing the value of the fisheries through higher quality or increased marketing or the reduction of foregone harvest.”

The resolution provides that the city council will establish a process to seek advice from communities in the region and include them in the decisions for implementation of the fund. Respondent believes that the resolution is an encouraging development but believes that it would not accomplish the regional benefits that the department envisions. There is no guarantee that the development fund will ever be adequately or fairly capitalized and the vagueness regarding the role of the communities of the region in expenditure decisions makes the process unpalatable and unworkable.

If it is inevitable that a tax will be levied on the territory sought for annexation, the revenue derived should be shared in part with the region. The preliminary report finds that a 2.5 percent tax will likely produce twice the amount projected by the city.³⁹ As a consequence, there will be a substantial amount in excess of what the city asserts it will need to sustain its existence. This leaves an amount for revenue sharing with tribal governments in the region. This would ensure petitioner’s goal of shifting the tax burden for city facilities and services only to the non-resident permit holders and crew.

Respondent believes that authority for an intergovernmental revenue sharing agreement is granted by Article. X, Section 13, Article. XII, Section 2, and AS - 29.35.010(13). To implement this concept, the city would enter into intergovernmental agreements with federally recognized tribal governments of the region, including the tribal government within the urban area of petitioner. The tribes would spend the money for public purposes and in a non-discriminatory manner as determined by the governing bodies of the tribal governments.

An ordinance embodying the foregoing elements would provide a more definite and fair regional benefit than the approach offered by the petitioner. It would allow Dillingham to tax the fishery but not harm the communities of the watershed.

Page 37: The preliminary report needs to be corrected to reflect the history of attempts to form a borough in the Western Bristol Bay Region. The department is critical of Ekuk’s plea that the commission reaffirm its earlier policy of encouraging borough formation over city annexation in the territory indentified for annexation. The department emphasizes that no Nushagak community has petitioned for borough formation in the 52 years since statehood and for that reason it expects that no community of the region would do so now.⁴⁰ This is a careful phrasing which avoids

³⁹ Preliminary Report at 41.

⁴⁰ See page 37.

having to acknowledge the complete history of attempts at borough formation in the region.

In 1988, local officials requested the former Department of Community and Regional Affairs to study a prospective borough encompassing the Dillingham Census Area. In 1989 the department completed a borough study for the Northwest Bristol Bay Region to specifically encompass the settlements of Aleknagik, Clark's Point, Ekuk, Manokotak, Togiak, Twin Hills, Goodnews Bay and Platinum.

In 1991, the City of Dillingham adopted a resolution asking the former Department of Community and Regional Affairs to study a merger of the Dillingham Census Area with the Lake and Peninsula Borough.⁴¹ In 1992, the Local Boundary Commission formally identified the Dillingham Census Area as a "model borough". In 1997 the City of Dillingham, a Nushagak River watershed community, petitioned for annexation of 25,000 square miles of land and additional onshore waters to the Lake and Peninsula Borough. This annexation would have included other Western Bristol Bay communities along with Dillingham.

In 2000, the city asked the department to re-examine the financial feasibility of the annexation for which it petitioned in 1997. The department completed the financial analysis by concluding that financial conditions were as favorable if not more so than when feasibility was last studied in 1993. For reasons unknown to respondent, Dillingham did not actively pursue adoption of its annexation petition. Respondent asks that the department withdraw its incorrect assertion that no Nushagak River watershed community has ever petitioned for borough formation. The statement is plainly wrong and does not represent a fair and balanced recounting of the history of the region.

It is true that none of the smaller municipalities and villages of the region have petitioned for borough formation. However, it asks a great deal for communities that are barely surviving to muster the resources and time to petition for borough formation. This role has properly been assumed by the petitioner in its leadership role in the region. It has the tax base, the professional personnel, and other resources necessary to file and prosecute a petition for borough formation. It is expressly provided in the Comprehensive Plan of the city that it will evaluate the benefits of borough formation.⁴²

It is not appropriate for the preliminary report to be critical of the resolve of other watershed communities concerning borough formation. The preliminary report should contain a recommendation that the commission continue the policy of requiring that borough formation be considered and rejected by the region before the present petition is allowed to proceed. The conclusion of the department expressed in the report as to whether the region favors or opposes borough formation is speculative and, at best, premature.

⁴¹ See exhibit # to this brief.

⁴² See "goal 2" of the implementation chapter of the Comprehensive Plan Update <http://www.dillinghamcompplan.com/>. It should be noted that this is a change from the preceding version of the plan which provided that the city should plan for borough formation.

Page 38: The preliminary report finds that

essential municipal services have been provided to the commercial fishing fleet, communities, and visitors to the region for decades at the expense of the city's residents.

The preliminary report concludes that this poses "a form of inequality and is unfair and unbalanced. This finding is one-sided in that it fails to recognize that there has been substantial benefit to Dillingham from being a hub city. Many city residents participate in the fishery as well as offer services to the fishery. The finding also ignores the use of the harbor by the substantial sport fishing businesses of the region and recreational users. The harbor is also used to handle cargo for shipment outside of Dillingham. The city levies a sales tax on sales made to all sectors using the harbor. The beneficial effect of this tax on the finances of the city is discussed below.

Page 44: The preliminary report accepts the assertion of the city that a raw fish tax is necessary to guarantee the "sustainability" of the city. The report also finds "the proposed annexation would bring much needed revenue to the city." The preliminary report also describes the city as "laboring" under a combined 13 mills in property tax, a sales tax, a general sales tax and specific sales taxes on liquor and gaming. Also at page 66 the preliminary report contains the following finding:

The annexation is necessary to sustain the city, thereby sustaining the regional hub. If the city were to continue its fiscal course, without annexation approval, the state would be forced to step in and assist Dillingham in order to maintain the economic integrity of the city and region.

A review of public records shows that the foregoing findings are not based on fact. The City is adequately funded by its present revenue sources. It has a substantial surplus of revenue derived from existing sources. It reaps a substantial part of this surplus revenue from sales taxes paid by the seasonally fluctuating population and by the residents of other communities of the region. Attached to this letter as Exhibit 1 is a loan evaluation performed on the City of Dillingham by the Alaska Municipal Bond Bank Authority. The evaluation was performed as part of a transaction to fund the 2008 school construction bonds of the city. In that evaluation, it was determined that the city's general fund derives its revenues primarily from sales taxes (36.3%) and property taxes (25.07%). The evaluation also concluded that there was a steady growth in sales taxes over the three relevant fiscal years (\$2.01 million in FY 04 to \$2.34 million in FY 07). The evaluation states the following regarding the year end general fund balance:

From the beginning of fiscal year 2004 through the beginning of fiscal year 2008 the city has increased its general fund balance from \$535 thousand to \$3.3 million. General fund year end balances during that time

have grown from 11.8% of General fund expenditures in fiscal year 2003 to 59.9% in fiscal year 2007.

The document *Loan Application Evaluation City of Dillingham*, was prepared for the Alaska Municipal Bond Bank Authority by Western Financial Group, and it is on file with the Alaska Municipal Bond Bank Authority, Treasury Division of the Alaska Department of Revenue.⁴³

According to the 2009 and 2010 Alaska Taxable reports prepared by the state assessor, the city continues its steady gain with revenues earned at \$2,427,479 in sales tax revenue, an increase of 13.9 percent from 2009.⁴⁴ It also earned \$1,939,617 from the property tax levied against real and personal property located in the city.⁴⁵ A substantial part of the property tax collected is attributed to the value of fishing vessels stored in the city between fishing seasons. According to 2010 Alaska Taxable, the value of locally assessed personal property in the City was \$33,327,615.⁴⁶ The assessed value of commercial property in the city was reported to be \$30.7 million.⁴⁷

The preliminary report makes no mention of the adequacy of existing revenue sources and appears to regard the seasonal population as a drain on revenue rather than the apparent source of the present surplus. To be fair and balanced, the report should be amended to include a complete analysis of the present surplus and revenue forecasts under the present fiscal regime of the city. If that were done, there would be no evidence found of a threat to the “sustainability” of the city.

The record shows that Dillingham is well off in comparison to other similarly situated cities. The preliminary report describes the city as “laboring” under its present fiscal regime. However a review of 2010 Alaska Taxable shows that the millage rate levied against property is comparable to other cities of its size.⁴⁸ The municipal per capita revenue derived from the 2010 local property tax is listed as \$857 per capita.⁴⁹ The per capita revenues from this source for the entire state was reported to be \$1,875 per capita, with the average per capita revenue being \$1,338.⁵⁰ If revenue from all tax sources is considered, Dillingham has per capita revenue of \$2064.⁵¹

This is additional evidence of the importance of sales tax revenue to the overall revenues of the city. But, if sales tax revenues were seasonally adjusted, the result would show that permanent residents of the city are not laboring under a heavy tax burden as compared with other cities and boroughs and that the seasonal population and visitors

⁴³ Attached to this letter as Exhibit #1.

⁴⁴ 2009 and 2010 Alaska Taxable, Table 2.

⁴⁵ *Id.*, Table 3.

⁴⁶ *Id.*, Table 6.

⁴⁷ *Id.*, Table 6A.

⁴⁸ *Id.*, Table 5.

⁴⁹ *Id.*, Table 3. This is an increase of 3 percent from 2009, mainly because of a decline in the population (there was little change in total collections).

⁵⁰ *Id.*

⁵¹ *Id.*, Table 3A.

from other communities are paying a fair share of the costs of government. There is no support in the petition that the City is laboring under its present fiscal regime.⁵² Rather, it is far below average in the burden that the residents bear for their part of property tax revenues and the burden is spread to seasonal populations. There is also evidence available from public records that the city is collecting taxes from seasonal populations and visitors from other communities that are sufficient to pay for services provided to them plus earn a surplus for the general fund of the city. The findings of the preliminary report should reflect the information publicly available about the strength of the finances of petitioner.

Page 67: The preliminary report contains the following finding:

LBC staff does not see that approving the annexation would decrease the odds of a borough being formed, Instead, LBC staff finds that approving the annexation would increase the odds of a borough being formed. As the city pointed out above, if the annexation is approved, the region would see the benefits of the resulting severance or sales tax revenue, and how it could help a borough. The realization of benefits could spur borough formation.

Through this finding, the department accepts the city's argument that annexation and subsequent taxation of raw fish sales would act as a "game changer" in the policy formulation process involved in creating a borough for the region. Respondent urges the department to not give credence to the City's "game changer" sports analogy in the final report submitted to the commission. It does not represent a professional approach to analyzing the problem at hand. If respondent must resort to a threadbare analogy, annexing the sole remaining revenue producing fishery districts in the region to a city at this time is akin to "throwing a bomb in the back of the line" to help people board the bus. Some might be encouraged, but some might be severely injured. The approach requested by respondent involves analysis by the department of markets for fish, regional demographics and economics, and potential budget requirements. However, the preliminary report does not contain a creditable analysis of the ability of the finances of the region to support both borough and city treasuries in today's economy.

Respondent offered expert opinion evidence that the annexation will act as a disincentive to borough formation. The preliminary report concludes that the annexation will in fact increase the odds for borough formation.⁵³ The report summarily concludes that the annexation will show the region the benefits to be derived from levying a raw fish tax and will cause it to form a new borough in order to levy a similar tax. This is speculation without investigation into whether the economics of the fishery would support dual taxation or even an assessment of the burden a tax will place on other

⁵² Inspection of the per capita tax revenues of several municipalities with sales taxes in the 5-6 percent range shows that the revenues earned by Dillingham are comparable. See for example the results for Cordova, which is a fishing port with nearly the same population as Dillingham and seasonal population changes. 2010 Alaska Taxable Table 3A. Cordova has a higher per capita tax revenue than Dillingham.

⁵³ Preliminary Report at 67.

persons and communities in the region. This narrow focus is not in the best interests of the state, and is contrary to statute and the commission's regulations.

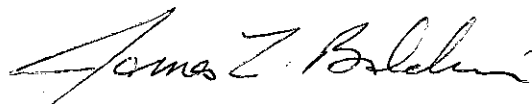
Pages 73 – 77: Respondent does not believe that the analysis provided regarding whether the annexation violates the nondiscrimination provisions of 3 AAC 110.910 is on point with the facts of this petition.

In this instance, the relevant facts are that communities with overwhelming Alaska Native populations were determined, through a proceeding conducted by the Local Boundary Commission, to reside in a region which included the territory now identified for annexation. Through this proceeding, it was established that the territory was within a region that could only be included within a borough. Under state law, the process for the creation of a borough permits the residents of the communities in the region to vote on the question of formation of their region into a borough.

The department is now taking the position that the regulations of the Local Boundary Commission allow petitioner to select an unpopulated part of the region and request that this territory be annexed to it with a ratification vote limited only to persons who are qualified voters of the city. This action permits the annexation of territory which is a valuable revenue source to the Western Bristol Bay Region. The annexation would be to a city, not a regional government, thereby leaving the residents of the region without any say in the matter, which they apparently presently have under a decision of the Local Boundary Commission.

Under the foregoing formulation of the facts, there may well be a case for racial discrimination if the commission decides to grant the petition. Respondent has not investigated this matter and will not do so until the question is ripe. Respondent is reluctant to make claims of racial discrimination under these circumstances and will weigh the wisdom of doing so carefully before acting.

Respectfully Submitted,



James L. Baldwin
Counsel and Designated Representative of
Respondent Native Village of Ekuk.

Loan Application Evaluation

City of Dillingham

Introduction

The City of Dillingham (the "City") has submitted an application to the Alaska Municipal Bond Bank Authority (the "Authority") for a General Obligation Bond Loan not to exceed \$15,150,000. The City will finance the costs of planning, design and construction of school capital improvements. The following is our overview of this application and the security provisions of the loan.

The Project

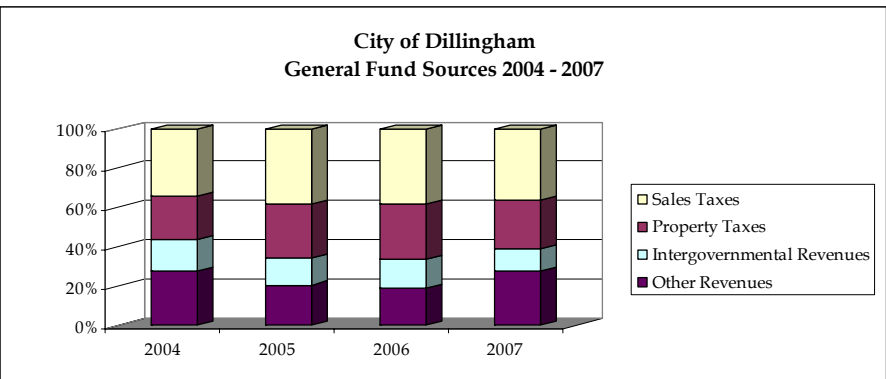
The City will apply the proceeds of the Bond Bank loan toward renovation projects at the elementary and middle/high school buildings. Both buildings are in need new roofing, plumbing, electrical, outside doors and windows. The elementary school playground will be improved and there will be a small addition to provide added space for food storage. Specific dollar amounts and timelines on the projects will be available once design and engineering specifications are completed by late winter 2008.



City Financial Position

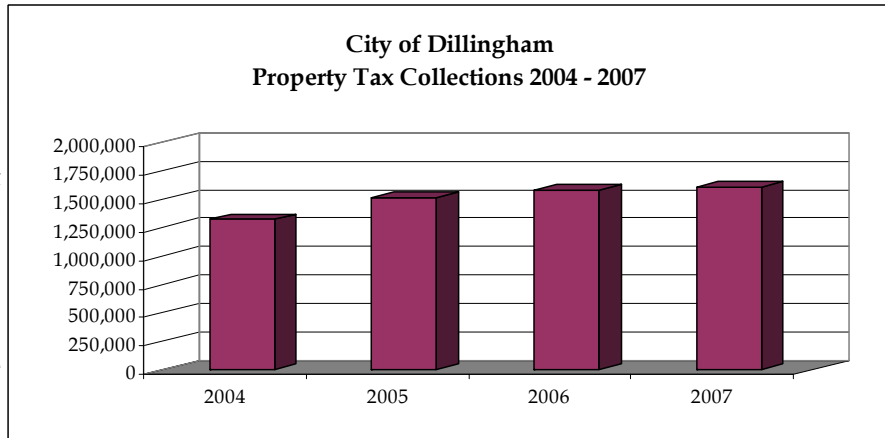
The City's General Fund derives its revenues primarily from sales taxes (36.3% in fiscal year 2007) and property taxes (25.0% in 2007).

The graph to the right presents the City's stable General Fund revenue distribution over the past four fiscal years. The graph shows that sales taxes have consistently been the primary source of General Fund revenue, accounting for

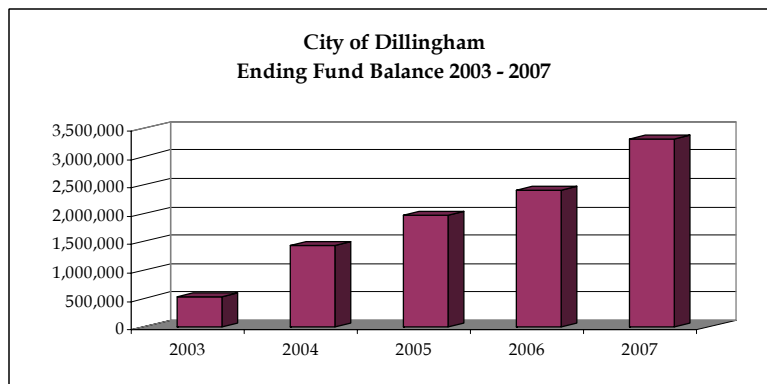


approximately 36.6% of total General Fund resources over the past four years. The graph on the left presents the steady growth of sales taxes over the past four years. During this period, sales taxes have grown from \$2.01 million to \$2.34 million.

Property taxes are next in importance, averaging approximately 25.7% over the past four fiscal years. The graph at the right presents property tax collections from 2004 through 2007. During this period, property taxes have grown from \$1.32 million to \$1.61 million.



Intergovernmental revenues have averaged 13.8% over the past four years.

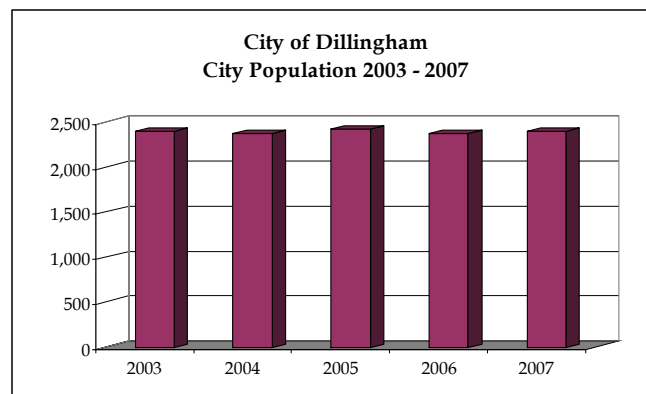


From the beginning of fiscal year 2004 through the beginning of fiscal year 2008 the City has increased its the General Fund balance from \$535 thousand to \$3.3 million. General Fund year end balances during that time have grown from 11.8% of General Fund expenditures in fiscal year 2003 to 59.9% in fiscal year 2007. The graph to the left presents the General Fund year-end balance for fiscal years 2003 through 2007.

From the beginning of fiscal year 2004 through the beginning of fiscal year 2008 the City has increased its the General Fund balance from \$535 thousand to \$3.3 million. General Fund year end balances during that time have grown from 11.8% of General Fund expenditures in fiscal year 2003 to 59.9% in fiscal year 2007. The graph to the left presents the General Fund year-end balance for fiscal years 2003 through 2007.

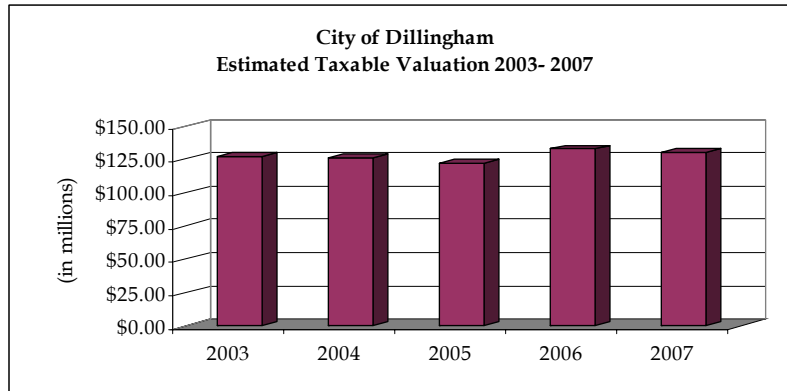
One area of financial weakness relates to the City's collection rate on property taxes. During the 10 year period from fiscal year 1996 through fiscal year 2005 the currently levied property taxes collected as a percentage of the total levy ranged from 67.9% to 83.9%. The percentage of total collections (both current and delinquent) to total levy has ranged from 69.7% to 89.4%. These are lower percentages than would be expected.

The City's population has been stable over the past five years, with the number of City residents ranging between 2,370 and 2,422. Estimated population at this time is 2,397. The table below presents estimated population over the past five years.



The population in the Dillingham Census Area, and area covering 18,467 square miles, is approximately 4,900. The population in the census area has grown from slightly less than 4,200 in 1991 to the current total.

The full faith and credit and taxing ability of the City is pledged to the Bond Bank loan. The taxable value of the City is approximately \$130 million and has ranged between \$122 million and \$133 million over the past five fiscal years. The graph below presents the assessed value in the City over that period.



The top ten taxpayers in the City account for approximately 21.14% of assessed value.

Security and Repayment

The City will pledge its general obligation secured by property taxes levied in the City to the Bond Bank for this loan. City voters approved the school projects in a general obligation bond election on December 18, 2007 that passed at the polls by a margin of 84.8% to 15.2%.

In addition to the City’s general obligation, the projects have qualified, subject to annual appropriation, for the Department of Education and Early Development debt service reimbursement at a 70% debt service reimbursement level.

Future Capital Plans

The City does not report any future capital plans that will involve issuance of bonds.

Estimated Borrower Savings

Savings to the City as a result of borrowing through the Bond Bank are estimated at approximately \$249 thousand or \$164 thousand on a present value basis. Savings are a result of lower costs of issuance than the City will face as a result of issuing through the Bond Bank, as well as slightly lower assumed yields.

Pension Liability Status

As of June 30, 2005, the most recent data reported in the City’s 2006 Comprehensive Annual Financial Report (the most recent available) the City reported an unfunded liability of \$1.64 million related to employee pensions and an unfunded liability of \$1.51 million related to post-employment healthcare. In both cases, the City’s ratio of assets to liabilities was 74%.

State-Aid Intercept

In addition to the general obligation pledge by the City, the Bond Bank has the ability to intercept state-shared revenues that will otherwise flow to the entire City. This forms the ultimate security for this loan. The table below summarizes the revenues subject to intercept, along with the maximum annual debt service on City's bonds.

Shared Taxes and Fees	\$218,947
School Debt Reimbursement	\$0
Education Support	\$831,544
Education Fiscal Relief	\$5,009,004
Matching Grants	\$1,000,561
Community Jails	\$428,963
Total Revenue Subject to Intercept	\$7,489,019
Maximum Annual Debt Service	\$1,147,114
Debt Service Coverage	6.53

Statement of No Litigation

The City provided a letter from the law firm of Boyd, Chandler & Falconer, LLP dated October 4, 2007 that stated, in part, that "there is no litigation pending or threatened that we are aware of that would... seek to restrain or enjoin the issuance, sale or delivery of the Bonds or the right of the City of Dillingham to levy and collect taxes that would be pledged to pay the principal of and interest on the bonds, or the pledge thereof..."

Summary

Based on our assessment, the security offered by City, as set forth in the City's loan application and supplemental materials, provides sufficient security to justify approval of the application. The City's General Fund health is strong, General Fund balances are growing and the Bond Bank's ability to intercept City revenues adds significantly to the security of the loan.

For these reasons, we recommend approval of this loan application. If you or any of the Board members have any questions regarding our analysis, please feel free to call me at (503) 636-0265.

For Western Financial Group, LLC



Chip Pierce

EXHIBIT #1
PAGE 4 OF 6

APPENDIX

City of Dillingham Demographic Information

Dillingham is located at the extreme northern end of Nushagak Bay in northern Bristol Bay, at the confluence of the Wood and Nushagak Rivers. It lies 327 miles southwest of Anchorage, and is a 6 hour flight from Seattle. Dillingham is located in the Bristol Bay Recording District. The area encompasses 33.6 square miles of land and 2.1 square miles of water. The primary climatic influence is maritime, however, the arctic climate of the interior also affects the Bristol Bay coast. Average summer temperatures range from 37 to 66 degrees Fahrenheit. Average winter temperatures range from 4 to 30 degrees Fahrenheit. Annual precipitation is 26 inches, and annual snowfall is 65 inches. Heavy fog is common in July and August. Winds of up to 60-70 mph may occur between December and March. The Nushagak River is ice-free from June through November.

The area around Dillingham was inhabited by both Eskimos and Athabascans and became a trade center when Russians erected the Alexandrovski Redoubt (Post) in 1818. Local Native groups and Natives from the Kuskokwim Region, the Alaska Peninsula and Cook Inlet mixed together as they came to visit or live at the post. The community was known as Nushagak by 1837, when a Russian Orthodox mission was established. In 1881 the U.S. Signal Corps established a meteorological station at Nushagak. In 1884 the first salmon cannery in the Bristol Bay region was constructed by Arctic Packing Co., east of the site of modern-day Dillingham. Ten more were established within the next seventeen years. The post office at Snag Point and town were named after U.S. Senator Paul Dillingham in 1904, who had toured Alaska extensively with his Senate subcommittee during 1903. The 1918-19 influenza epidemic struck the region, and left no more than 500 survivors. A hospital and orphanage were established in Kakanak after the epidemic, 6 miles from the present-day City center. The Dillingham townsite was first surveyed in 1947. The City was incorporated in 1963.

A federally-recognized tribe is located in the community -- the Curyung Native Village Council. The population of the community consists of 60.9% Alaska Native or part Native. Traditionally a Yup'ik Eskimo area, with Russian influences, Dillingham is now a highly mixed population of non-Natives and Natives. The outstanding commercial fishing opportunities in the Bristol Bay area are the focus of the local culture. During the 2000 U.S. Census, total housing units numbered 1,000, and vacant housing units numbered 116. Vacant housing units used only seasonally numbered 39. U.S. Census data for Year 2000 showed 1,154 residents as employed. The unemployment rate at that time was 7.11 percent, although 32.2 percent of all adults were not in the work force. The median household income was \$51,458, per capita income was \$21,537, and 11.7 percent of residents were living below the poverty level.

Approximately 90% of homes are fully plumbed. Dillingham's water is derived from three deep wells. Water is treated, stored in tanks (capacity is 1,250,000 gallons) and distributed. Approximately 40% of homes are served by the City's piped water system; 60% use individual wells. The core townsite is served by a piped sewage system; waste is treated in a sewage lagoon. However, the majority of residents (75%) have septic systems. The City has requested funds to extend piped water to the old airstrip and Kenny Wren Road, and expand sewer service to the northeast. Dillingham Refuse Inc., a private firm, collects refuse three times a week.

The Senior Center collects aluminum for recycling, and NAPA recycles used batteries. The Chamber of Commerce coordinates recycling of several materials, including fishing web. Nushagak Electric owns and operates a diesel plant in Dillingham which also supplies power to Aleknagik. Electricity is provided by Nushagak Electric Cooperative. There are 2 schools located in the community, attended by 526 students.

Dillingham is the economic, transportation, and public service center for western Bristol Bay. Commercial fishing, fish processing, cold storage and support of the fishing industry are the primary activities. Icicle, Peter Pan, Trident and Unisea operate fish processing plants in Dillingham. 277 residents hold commercial fishing permits. During spring and summer, the population doubles. The City's role as the regional center for government and services helps to stabilize seasonal employment. Many residents depend on subsistence activities and trapping of beaver, otter, mink, lynx and fox provide income. Salmon, grayling, pike, moose, bear, caribou, and berries are harvested.

Dillingham can be reached by air and sea. The State-owned airport provides a 6,404' long by 150' wide paved runway and Flight Service Station, and regular jet flights are available from Anchorage. A seaplane base is available 3 miles west at Shannon's Pond; it is owned by the U.S. Bureau of Land Management, Division of Lands. A heliport is available at Kanakanak Hospital. There is a City-operated small boat harbor with 320 slips, a dock, barge landing, boat launch, and boat haul-out facilities. It is a tidal harbor and only for seasonal use. Two barge lines make scheduled trips from Seattle. There is a 23-mile DOT-maintained gravel road to Aleknagik; it was first constructed in 1960.