

Petition

to the Local Boundary Commission to

Incorporate the Tikchik Borough

as a Second Class Borough

Using the Legislative Review Method

DRAFT

The Petitioner requests the Local Boundary Commission (hereafter "LBC" or "commission") to grant this petition for borough incorporation pursuant to article X, section 3 of the Constitution of the State of Alaska, [AS 29.05.060 – AS 29.05.150](#), and [AS 44.33.812](#). This petition incorporates by reference all of the attached exhibits. All of the petition's sections and exhibits need to be addressed and filled out. If a requirement does not apply, simply state "not relevant" or "not applicable." If the Petitioner has already addressed a requirement, simply state where it was addressed.

Section 1. Petitioner. 3 AAC 110.420(b)(1), (20).

The Petitioner is State of Alaska staff, as designated by the LBC, in the Department of Commerce, Community, and Economic Development.

Section 2. Petitioner's Representatives. 3 AAC 110.420(b)(2).

The Petitioner designates the following individual to serve as its representative in all matters concerning this proposed incorporation:

Name: Local Government Assistance Section, Division of Community and Regional Affairs

Physical address: _____

Mailing address: 550 W. 7th Ave, Suite #1640, Anchorage, AK 99501

Phone number: (907) 269-4564 Fax number: (907) 269-4563

Email address: lga.dkra@alaska.gov

Petitioner's Alternate Representative

The Petitioner designates the following person to act as alternate representative in matters regarding the incorporation proposal in the event that the primary representative is absent, resigns, or fails to perform his or her duties:

Name: _____

Physical address: _____

Mailing address: _____

Phone number: _____ Fax number: _____

Email address: _____

Section 3. Name and Class of the Borough for Which a Change is Proposed. 3 AAC 110.420(b)(3).

The name and class of the proposed borough incorporation is:

Name: Tikchik Borough

Class: Second Class Borough

Section 4. General Description of the Nature of the Proposed Boundary Change.

3 AAC 110.420(b)(4).

This petition requests that the Local Boundary Commission authorize the incorporation of the area generally described as the Tikchik Borough (also known as the Dillingham Census Area) as a second class borough under the legislative review method.

Section 5. General Description of the Area Proposed for Incorporation. 3 AAC 110.420(b)(5).

For the purpose of this petition, the area will include the current Southwest Region Regional Education Attendance Area (REAA) including the City of Dillingham. The offshore boundary would correspond with the State of Alaska's jurisdiction offshore of the Dillingham Census Area.

In 2014, the Alaska Department of Labor and Workforce Development reported the Dillingham Census Area population at 5,044 residents, most of whom lived in nine communities. Seven of these communities (Aleknagik, Clark's Point, Dillingham, Ekwok, Manokotak, New Stuyahok, and Togiak) are incorporated cities. Koliganek and Twin Hills are traditional villages with tribal governments. Additionally, Ekuk and Portage Creek, with few year-round residents, are recognized under the Alaska Native Claims Settlement Act.

Section 6. Reasons for the Proposed Boundary Change. 3 AAC 110.420(b)(6).

The reason for the proposed boundary changes is to distribute the limited resource of raw fish tax among all of the region's communities. Currently, two municipalities have filed petitions to annex portions of Nushagak Bay, and a third is considering a similar proposal. Each intends to capture a portion of the raw fish tax revenue. Borough incorporation would consolidate these efforts, while including the other communities in the region, ensuring no community is excluded from benefitting from the raw fish tax resource.

Section 7. Legal Descriptions, Maps, and Plats. 3 AAC 110.420(b)(7).

Exhibit A-1 provides a legal metes and bounds description of the boundaries of the area proposed for incorporation. **Exhibit A-2** shows a map of the area proposed for incorporation.

Section 8. Size of the Area Proposed for Incorporation. 3 AAC 110.420(b)(8)(A).

The area proposed for borough incorporation has 18,569 square miles of land and 2,436 square miles of water, submerged lands, and tidelands for a total of approximately 20,915 square miles.

Section 9. Data Estimating the Population of the Area Proposed for Incorporation. 3 AAC 110.420(b)(9)(A).

The estimated population of the proposed borough is 5,044, according to 2014 Alaska Department of Labor and Workforce Development statistics.

Section 10. Information Relating to Public Notice and Service of the Petition. 3 AAC 110.420(b)(10).

See Exhibit B.

Section 11. Tax Data. 3 AAC 110.420(b)(11).

a) The assessed or estimated value of taxable property in the area proposed for incorporation

For the purpose of this petition, the borough will not levy areawide property or sales tax. Cities levying those taxes will continue to collect and retain those revenues. This petition assumes that an areawide bed tax of 10 percent will be levied, generating approximately \$125,000 annually.

b) Projected taxable sales in the area proposed for incorporation

The projected value of taxable raw fish sales within the area is approximately \$47.6 million, based on a 20-year average. At a rate of five percent, projected annual raw fish tax revenues in the area will be approximately \$2.3 million.

c) Taxes currently levied by municipal governments within the area proposed for incorporation.

List the type and rate of each tax currently levied by any municipal government within the area:

Borough, city, or service area	Property tax (mills)	Sales tax (%)	Bed Tax (%)	Raw Fish Tax (%)	Alcohol Tax (%)
Aleknagik		5%	9%		
Clark's Point		5%			
Dillingham	13.000	6%	10%	2.5%	10%
Ekwok					
Manokotak		2%			
New Stuyahok					
Togiak		2%		2%	

Section 12. Budget Information. 3 AAC 110.420(b)(13)(B).

Exhibit C presents projected revenue, operating expenditures, and capital expenditures for a proposed municipality for one full fiscal year beyond the reasonably anticipated date to receive any organization grant, to complete any transition set out in 3 AAC 110.900, and to make its first full local contribution required under AS 14.17.410(b)(2).

Section 13. Existing Long Term Municipal Debt. 3 AAC 110.420(b)(14).

Name/type of debt	Purpose of debt	Date debt will be fully paid
General Obligation Bonds	School construction and maintenance	2028

Section 14. Municipal Powers and Functions. 3 AAC 110.420(b)(15).

The proposed municipality, a municipality for which a change is proposed, OR alternative service providers	Powers and functions before the proposed change	Powers and functions after the proposed change
City of Dillingham	Provides K-12 Education Services in the City of Dillingham	City School district will merge with Southwest Region REAA to form a Borough School District
Southwest Region REAA School District	Provides K-12 Education Services in eight communities within the Dillingham Census Area	School District will merge with Dillingham City School District to form a Borough School District

Section 15. Transition Plan. 3 AAC 110.420(b)(16).

See **Exhibit D**.

Section 16. Borough Assembly Composition and Apportionment. 3 AAC 110.420(b)(17).

See **Exhibit D**

Section 17. Supporting Brief. 3 AAC 110.420(b)(19).

See **Exhibit E**.

Section 20. Petitioner's Affidavit. 3 AAC 110.420(b)(22).

See **Exhibit F**.

Exhibit A-1

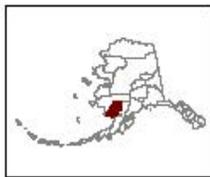
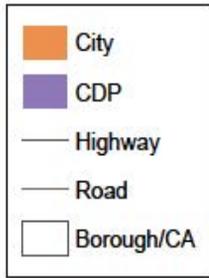
Legal Metes and Bounds Description of the Area Proposed for Incorporation.

For the purpose of this petition, the upland boundary area proposed for incorporation will be identical to the current Southwest Region REAA, and include the city of Dillingham. The offshore boundary will correspond with the State of Alaska's jurisdiction offshore of the Dillingham Census Area. Beginning at a point in Bristol Bay on the common boundary of the Bristol Bay and Calista Alaska Native Regional Corporations (ANRC); thence northerly and easterly along the Bristol Bay ANRC boundary to its intersection with the Lake and Peninsula Borough boundary; thence southerly along the Lake and Peninsula Borough boundary to the Bristol Bay Borough boundary; thence westerly along the Bristol Bay Borough boundary to the Bristol Bay ANRC boundary; thence westerly along the Bristol Bay ANRC boundary to the point of beginning.

Exhibit A-2

Map of the Area Proposed for Incorporation

Dillingham Census Area



Prepared by:
Alaska Department of Labor
& Workforce Development
September 2011
Source: US Census
2010 TIGERline

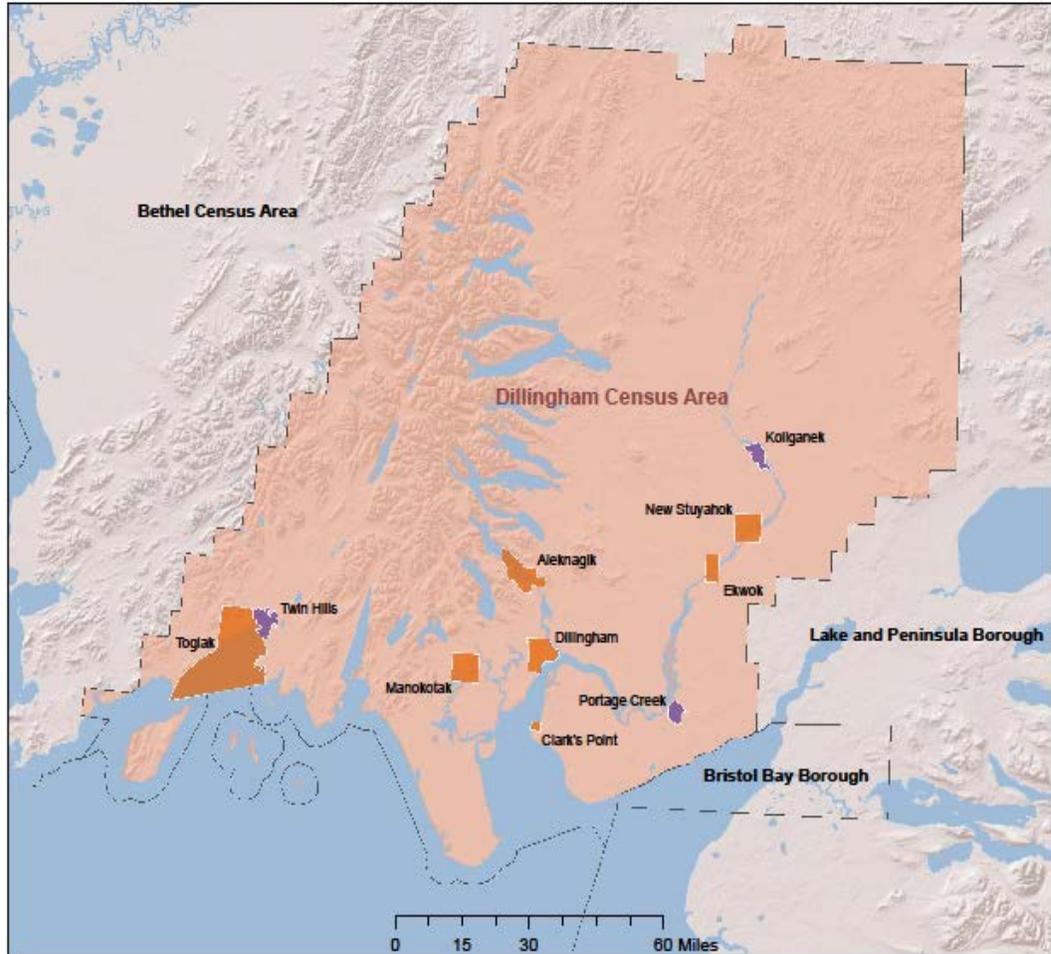


Exhibit B.

Information Relating to Public Notice and Service of the Petition

This exhibit provides information relevant to public notice of this incorporation petition per [3 AAC 110.450](#) and [3 AAC 110.460](#). The information includes local media; places recommended to post notices; adjacent municipalities; persons who may warrant individual notice of the filing of the petition because of their interest in this matter, and location(s) where the public can review the Petition.

Local media

The following lists the principal news media serving the boundaries of the proposed borough:

Newspaper(s):

Name: Bristol Bay Times
Physical address: Alaska Media LLC PO Box 241582 Anchorage, AK 99524
Mailing address: _____
Telephone number: (907) 299-1172 Fax number _____
Email address: crestino@reportalaska.com

Radio and television station(s):

Name: KDLG Public Radio
Physical address: PO Box 670 Dillingham, AK 99576
Mailing address: _____
Telephone number: (907) 842-5281 Fax number (907) 842-5645
Email address: info@kdlg.org

Three or more prominent places readily accessible to the public and *within or near the boundaries proposed for change* to post notices concerning this petition and where petition materials will be available for public review:

Location and address	Days and times open to the public
City of Togiak, PO Box 190 Togiak, AK 99678 (907) 493-5820	M-F 9am-5pm
City of New Stuyahok, PO Box 10, New Stuyahok, AK 99636 (907) 693-3171	
City of Manokotak, PO Box 170, Manokotak, AK 99628 (907) 289-1082	
City of Ekwok, PO Box 49, Ekwok, AK 99580 (907) 464-3311	
Twin Hills Village, PO Box TWA, Twin Hills, AK 99576 (907) 525-4821	
City of Aleknagik, PO Box 33, Aleknagik, AK 99555 (907) 842-5953	
New Koliganek Village Council, PO Box 5057, Koliganek, AK 99576 (907) 596-3434	
City of Clark's Point, PO Box 110, Clark's Point, AK 99569 (907) 236-1221	

Adjacent municipalities (including service areas) whose boundaries extend within twenty miles of the boundaries of the proposed borough (with address and contact information, including email):

Municipality	Address and contact information
Lake and Peninsula Borough	PO Box 495, King Salmon, AK 99613 (907) 781-2216
Bristol Bay Borough	PO Box 189, Naknek, AK 99633 (907) 246-4224

Exhibit C.

Projected Revenues, Operating Expenditures, and Capital Expenditures

(include all years leading up to and including the full fiscal year after receiving the final organization grant, completing the transition, and making the first full local education contribution)

Projected revenues	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Raw Fish Tax (Nushagak District)	\$2,026,422			
Raw Fish Tax (Togiak District)	\$210,444			
Bed Tax	\$125,000	\$125,000	\$125,000	
Payment in Lieu of Taxes	\$854,875			
Community Revenue Sharing	\$384,726			
Fisheries Business Tax	\$302,481			
Fisheries Resource Landing Tax	\$6,613			
Electric/Telephone Tax	\$1,594			
Total projected revenues	\$3,912,155			

Operating expenditures	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Mayor and Assembly	\$35,360			
Planning Commission	\$4,365			
Borough Staff	\$255,378			
Legal Support	\$25,985			
Travel	\$38,541			
Rent & Utilities	\$49,891			
Office Equipment	\$4,158			
Telecommunication Services	\$18,709			
Insurance	\$12,473			
Contractual Services	\$77,954			
Total operating expenses	\$522,814			

Education expenditures	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Estimated required contribution to borough school district operations	\$1,385,969			
School district capital projects	\$779,544			
subtotal	\$2,165,513			
Total expenditures	\$2,688,327			
Balance	\$1,223,828			

**Exhibit D.
Transition Plan.**

This exhibit presents the transition plan as required under 3 AAC 110.900.

The new borough may work with the Department of Commerce, Community, and Economic Development, Local Government Specialist staff to ensure a smooth transition in the incorporation of a borough government.

ELECTION OF INITIAL BOROUGH ASSEMBLY

The initial elected Borough Assembly shall consist of six assembly members. Three of those members shall be elected by and represent the residents of the community of Dillingham at-large as one district. The residents of the Borough outside of the community of Dillingham shall be divided equally into three other districts, each represented by one assembly member.

Initially, two assembly members will be elected to a three-year term, two will be elected to a two-year term, and two will be elected to a one-year term. Terms will be assigned to the members by lot. After the initial terms expire, all assembly members will be elected to three-year terms. Additionally, one borough mayor shall be elected at-large to a three-year term.

The initial Borough election will also be to elect a seven-member school board. Borough residents will be divided into four districts identical to those for the Assembly for election of six school board members. The seventh school board member shall be elected by and represent the borough at-large.

Within two years of the initial Borough election, the Borough will conduct an election to form a seven-member planning commission.

All candidates for election to the Borough assembly, planning commission, and school board shall be qualified voters of their respective voting district within the Tikchik Borough for at least one year preceding the election.

Nominations and Election conduct: Nominations for initial Borough offices are made by petition, and the petition shall be in a form prescribed by the Director of Elections for the State of Alaska.

The Director of Elections shall supervise the election and the State of Alaska shall pay all election costs.

A qualified voter who is registered to vote within the proposed Tikchik Borough boundaries at least 30 days before the date of the election order may vote in the incorporation election.

If the voters approve the proposition to incorporate the Borough, the initial elected officials take office on the first Monday following certification of the election. If incorporation is rejected, no officials are elected. No cities will be considered for dissolution during the Borough incorporation election.

EXTENDING AREAWIDE SERVICES

Immediately after Borough incorporation, all residents within the Borough are eligible to use areawide Borough facilities and services with no extra charges related solely to their place of residence, as they will all then be Borough residents. The following powers and services shall be exercised on an areawide basis in the Tikchik Borough: Borough Administration, Education, Community Development and Planning, and Taxation.

Borough Administration

Bonded indebtedness incurred by the City of Dillingham before Borough incorporation will, following incorporation, be the obligation of the City of Dillingham only. All of the City's indebtedness will be repaid by the City of Dillingham.

Education

The Tikchik Borough School District will provide educational services to all students within the Borough on an areawide basis. The Tikchik Borough School District will assume all assets and liabilities of the Southwest Region REAA School District and the Dillingham City School District. This transfer will be completed no later than two years after borough incorporation is approved.

The unified borough school district will maintain the level of educational services currently provided by the City of Dillingham and the Southwest Region REAA school districts.

Planning

Planning and land use regulation would be an areawide power in the Borough. However, zoning in the remote areas of the Borough would likely be quite general and would occur after comprehensive planning. The Borough Planning Commission will oversee creation of a Borough Comprehensive Plan and an update to the Borough zoning code. The Tikchik Borough will receive title to 10 percent of the State's Vacant Unreserved Unclassified lands within the Borough. The Comprehensive Plan will address land use in these and other areas. Large landowners within the Borough, such as the U.S. Fish and Wildlife Service, State of Alaska, and Bristol Bay Native Corporation, as well as rural and remotely located residents and property owners, are key stakeholders in comprehensive planning and shall be extensively consulted during plan preparation.

Taxation

The Tikchik Borough Assembly will have the authority to set the tax rate for raw fish tax within the Borough boundaries. No municipality within the Borough boundaries will have the authority to levy an additional raw fish tax, as the intention of this petition is to prevent competing taxation and annexation. All other sales and transient room taxes levied within the currently incorporated communities shall remain in effect. The City of Dillingham has traditionally appropriated more than the minimum statutory required contribution to support its schools. The City of Dillingham may continue to do so using property tax revenue or non-areawide locally generated sales tax revenue for this purpose. The Borough Assembly may also levy an areawide bed tax or sales tax for the purpose of generating operating revenue. This transition plan does not promise any additional areawide services until the assembly and residents determine their need and desired level of services through service areas.

Exhibit E. Supporting Brief

The southwest region of Alaska, commonly referred to as the Dillingham Census Area, has been the subject of several studies and numerous past efforts to organize or annex portions of existing boroughs. In the last 53 years, multiple and competing efforts toward borough incorporation or annexation have taken on various forms, been presented, approved, or sent back to the petitioner for revision or clarification. In that time, two boroughs have formed (the Bristol Bay Borough in 1962, and

the Lake and Peninsula Borough in 1989). Recently, the Local Boundary Commission approved an effort on the part of Dillingham to annex a portion of Nushagak Bay for the purpose of recovering raw fish tax revenue to fund citywide services. However, the annexation was challenged in court, and a new effort is underway, now on the part of not only Dillingham, but also Manokotak. However, it is in the best interest of the State of Alaska, as well as the residents of the region, to consolidate these efforts, and it is the intent of this petition to argue in favor of a Western Bristol Bay borough that encompasses these two, as well as other communities within the region.

In accordance with 3 AAC 110.045(a), the proposed petition area is suitable for borough government for the following reasons. First, the threshold for establishing boundaries on the basis of common interests with the respect to social, cultural, economic, geographic, and transportation considerations was met by the formation of the Southwest Region Schools REAA. Headquarters for the district are located in Dillingham, a first class city that operates its own city school district, as required by AS 14.12.010 and AS 29.35.260(b).

Second, Dillingham serves as a regional hub for surrounding communities. A 6,400-foot paved airstrip there allows freight access and accommodates numerous daily flights to all of the communities considered in this petition. Several state and federal administrative offices that serve the region are located in Dillingham, including the Alaska Department of Fish and Game's commercial fisheries management office for the area fishing district, the Wood-Tikchik State Park (the largest state park in the United States), the U.S. Fish and Wildlife office, which manages the Togiak National Wildlife Refuge, and other state and federal agencies, as well as a regional hospital, Legislative Information Office, district courthouse, and Alaska State Trooper post. A 10,000-watt local public broadcast radio station (KDLG) serves the communities in the considered region and is owned by the Dillingham City School District. The communities of Dillingham and the south shore of Aleknagik are connected by a paved road, and a bridge connecting the road to the north shore across the Wood River is near completion.

For the purpose of this petition, the upland boundaries of the proposed borough will coincide with the Dillingham Census Area, and the offshore boundary would correspond with the State of Alaska's jurisdiction offshore of the Dillingham Census Area. These boundaries have already been established to meet the threshold for formation of the Southwest Region REAA. Similarly, in accordance with 3 AAC 110.060(f), the proposed borough does not include only a portion of an area of existing city

government; the proposed borough conforms almost exclusively to geographic and hydrologic units, except for the upper Nushagak-Mulchatna drainage, which, since 1975, has remained in the boundaries of first the Lake and Peninsula REAA, and later the Lake and Peninsula Borough. That the watershed transcends the two administrative boundaries has previously been considered by the Local Boundary Commission, and no doubt adds political complications when dealing with transboundary conflict. However, fully justifying a change in those boundaries is beyond the scope of this petition; it is only mentioned as a means of acknowledging that this proposal contains no geographic enclaves.

The Dillingham Census Area adequately meets the regulatory population requirements outlined in 3 AAC 110.050(a) and is sufficiently large and stable enough to support the proposed borough government. According to the 2010 federal census data, the population of the Dillingham Census Area was 4,847. This is greater than eight of the 18 currently existing boroughs in Alaska. The Aleutians East, Bristol Bay, Denali, Haines, Lake and Peninsula, Skagway, Wrangell, and Yakutat Boroughs all had fewer residents than the Dillingham Census Area at the time of their incorporation.

Per 3 AAC 110.055, the economy of the proposed borough meets the standard, and includes the human and financial resources to provide essential services in an efficient and cost-effective level. Recent annexation petitions from Manokotak and Dillingham have attempted to capture raw fish tax revenue for the purpose of providing local services. Dillingham was successful in its petition to the Local Boundary Commission. However, there should be cause for concern that, as additional communities express interest in their own respective annexation efforts, this will reduce the overall opportunity for other incorporated communities to benefit from available resources.

Sharing collectively in the resource for an areawide benefit should be considered in the best interest of the local residents, but also for the state of Alaska, as it will ultimately reduce transaction costs and make available the resource (raw fish tax) to the greatest number of residents in the proposed area.

In 1962, Hugh Wade, Alaska's Secretary of State at the time, wrote of his concerns regarding the incorporation of the Bristol Bay Borough:

My objection to the proposed borough, of course, is that it takes the principal tax resources in the area and makes them available only to a limited number of people—less than 600 I believe—to the exclusion of all other people in the Bay area.

Per 3 AAC 110.065(3), the solution of borough incorporation as proposed in this petition should be considered in the best interest of the State, as the intention of borough incorporation would provide for maximum local self-government within a minimum of local government units, as advised in article X, section 1 of the Alaska Constitution. Currently, the Dillingham Census Area lies in the unorganized borough. Clearly, the framers of the Alaska Constitution intended this designation to be temporary, and the Alaska Legislature has been providing services to much of the region in terms of education as well as coastal management zoning. However, the Alaska Legislature dismantled the Coastal Management Program in 2011, essentially removing the ability of communities in the unorganized borough along coastal areas to have a voice in development and management of coastal resources. Unifying the census area and enabling planning powers as a borough would empower the region to have a more decisive and influential role in the management of coastal resources in Bristol Bay.

Further, borough incorporation and unification of the two school districts (the Southwest Region REAA and the Dillingham City School District) would be in the best interest of the State of Alaska, as this service would be provided on an areawide basis. The State of Alaska would still play a critical role in providing financial resources for the operation of educational services in the region, though this would be the single most important responsibility of the borough government, and would ostensibly be funded using a portion of revenues collected through raw fish tax.

It is unreasonable to expect that many of the municipal services currently offered in Dillingham would be extended on an areawide basis following borough incorporation. However, education and planning and platting powers would be two examples of essential services in which the region would benefit from maximum local self-government, and should be considered carefully and are justification for moving forward with this petition.

