

Exhibit H



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

Sean Parnell, Governor
Susan K. Bell, Commissioner
Scott Ruby, Director

Final 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

April 2011

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strategic, and will more equitably share the responsibility for funding local governance among the recipients of services.

Dillingham resident Mark Lisac wrote in part that:

I support the City of Dillingham's petition to annex portions of Nushagak Bay & Wood River for the following reasons:

1. Harvesters of a public resource should help support the public infrastructure and facilities that they depend on.
2. Harvesters can fish in other districts of Bristol Bay if they disagree with the proposed 2.5% raw fish tax.
3. Dillingham is the only municipality that does not currently receive a raw fish sales tax.
4. Local residents pay City property tax and local sales tax to support City infrastructure and facilities that are vital to the commercial fishing fleet of Nushagak Bay.
5. Residents from outside the City (regional, state and out of state) use Dillingham facilities and strain our limited resources for public safety, fire, ambulance, land fill and boat harbor during the annual commercial fishing season.
6. The Dillingham boat harbor operates at a deficit due to the City's effort to keep boat harbor fees low. This requires other City revenue sources to be used to cover this deficit spending.

In opposing the petition, the New Koliganek Village Council wrote in part that:

Koliganek is located on the left bank of the Nushagak River and lies 65 miles northeast of Dillingham. Koliganek has about 10 fishermen who actively fish their drift permits. Two people actively fish their set net permits. There are other members of the village who serve as crew for these fishermen. All of their fishing occurs in Nushagak Bay. Most people in the village store drift boats in Dillingham and use the facilities there for launching. One person stores his boat in New Stuyahok.

First, the department wishes to address the need for city services exhibited by the fleet in the territory. The department found in its preliminary report that because the commercial fishing industry in the territory proposed for annexation uses and depends on services provided by the city, the territory exhibits a reasonable need for city government.

To that end, we examine the amount of vessels fishing in Nushagak Bay. Information requested by the department from the Dillingham port director under 3 AAC 110.435(c) reveals use of the harbor in terms of boats permits. It is reproduced below, and in Appendix D.

2010 City of Dillingham Harbor Permits, by Residency		
	Seasonal Use	Daily Use
	Permits	Permits
Dillingham boats	98	3
Local village boats (Nushagak River drainage)	38	5
Other Alaska boats	68	55
Out of state boats	74	82
Out of country boats	2	0
totals	280	145

This indicates that a total of 425 boats had either seasonal or daily use permits to use the harbor (both totals are non-duplicative).² A harbor permit is required to launch, haul out, or dock.

Data from an Alaska Department of Fish and Game report reveals that there were 598 drift net vessels, and 236 set net vessels fishing in Nushagak Bay in 2009. This is a total of 834 vessels fishing in Nushagak Bay in 2009.³ 425 boats, or 53.4%, of all boats fishing in Nushagak Bay used Dillingham's harbor.⁴

It was contended that many fishers, at least those based in Naknek, and quite possibly those based in Ekuk and another places, do not use Dillingham's harbor. Yet, as the above data show, the majority of the permit holders that fish in the Nushagak Bay use the harbor. Whether the particular boats based in Naknek or elsewhere do or do not use the harbor is no doubt relevant to those particular fishers. But, the overall point is whether the territory, including some fishers opposed to the annexation, exhibits a reasonable need for city government. Here, a good percentage of Nushagak Bay fishers are collectively using Dillingham's harbor.

While some commenters have written that they are not using the harbor, clearly, most fishers are – in considerable numbers. As the fishing fleet in the territory is using the city's services, the territory exhibits a reasonable need for city government. The issue of whether those fishers do not use Dillingham's harbor is addressed in under 3 AAC 110.135, Best Interests of the State.

Interpreting 3 AAC 110.090(a)

Regarding the issue of the interpretation of 3 AAC 110.090(a), Respondent wrote on pages 11 -12 of its comments that:

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

² Personal communication with Jean Barrett, Dillingham port director.

³ "Special Publication No. 09-17, Summary of Bristol Bay Sockeye Salmon Harvest by Gear Type, 2007 – 2009," by Paul Salomone, November 2009. The report is available at <http://www.adfg.state.ak.us/FedAidPDFs/SP09-17.pdf>. The report was requested by the department for the commissions' edification.

⁴ The department is comparing 2009 fish data with 2010 harbor usage data because the 2010 fish data were not available. We believe that because the years are consecutive that the data suffice to make clear the proportion of fishers that use the harbor.

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.

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.

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.

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."

Respondent feels that the department misinterpreted 3 AAC 110.090. The department continues to maintain, and agrees with respondent, that the territory, not the city, must exhibit a reasonable need for city government. But, the territory does exhibit a reasonable need for city government. That is precisely the point that we made exhaustively in pages 28 – 38 of the final report. The department stated on page 38 in the preliminary report that "the petition does meet the requirements of 3 AAC 110.090."

In considering if a territory exhibits a reasonable need for city government under 3 AAC 110.090(a), LBC may consider whether the territory is currently receiving, or may be reasonably expected to receive, the benefit of city services. Here, the city is already providing services to at least the majority of the fleet that fishes in the territory, and that comes ashore to use city services and facilities. Further, the department wishes to clarify its position that the city intends to use the tax revenue to add some additional services, e.g., enhance the search and rescue, public safety and health and general welfare conditions. The city also intends to maintain an oil spill cache. These additional services would supplement the services that the city already provides to the fleet. For those reasons, the department affirms its earlier conclusion that because the fishing fleet in the territory is using and is expected to continue to use the city's services, the territory exhibits a reasonable need for city government, and 3 AAC 110.090(a) is thereby met.

3 AAC 110.110 Resources

3 AAC 110.110 states that: "The economy within the proposed expanded boundaries of the city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level."

It is important to note that the standard is not about whether Dillingham needs this fish tax revenue. Dillingham's fiscal health compared to that of other communities is not relevant to this standard. As the standard states, what is relevant is whether the city economy has the resources to efficiently provide essential municipal services in the proposed expanded boundaries of the city. Any discussion (including analysis of comments) of whether Dillingham really needs the revenue is best discussed in 3 AAC 110.135, Best Interests of the State.

In the preliminary report we found that Dillingham currently provides those essential municipal services necessary to satisfy the resources standard, and that the local fish tax revenue would provide the city with the resources to continue to do so. We concluded in the preliminary report that the standard of 3 AAC 110.110 was met because the economy within the proposed expanded boundaries of the city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level. We reaffirm that finding.

3 AAC 110.130 Boundaries

The department feels the comments on this standard centered primarily on 3 AAC 110.130 (c)(1) and (c)(2), with far less focus or emphasis on 3 AAC 130(a), (b), or (d). For that reason, the department focuses on 3 AAC 130(c)(1) and (2). Both 3 AAC 130(c)(1) and 3 AAC 130(c)(2) must be met.

3 AAC 130(c)(1)

To meet 3 AAC 110.130(c)(1), the annexed territory itself must qualify as a community. Respondent Native Village of Ekuk wrote extensively about 3 AAC 110.130(c)(1) and (2) in pages 5 -10 of its comments. Please see Appendix A for its full comments. In addressing 3 AAC 130(c)(1), respondent states (p. 8):

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.

Respondent argues that regarding the annexing city as a community would destroy the limitation of community doctrine. Respondent cites regulatory history regarding the limitation of community doctrine, and the definition of the word "territory."

The department has carefully considered the respondent's argument, but continues to maintain that the territory proposed for annexation need not itself qualify as a community. The department agrees with the respondent that there is a limitation of community doctrine outlined in 3 AAC 130(c). But, the department finds that the petition does not violate that doctrine.

First, we need to examine the present regulations. 3 AAC 110.130(c)(1) states that: "To promote the limitation of community, the proposed expanded boundaries of the city must be on a scale suitable for city government and may include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation."

3 AAC 110.990(32) defines "territory" as "territory" "the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city."

3 AAC 110.990(5) defines "community" as "a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920."

Interpreting the limitation of community doctrine in the way that respondent urges would mean that no unpopulated lands could be annexed into a city. The LBC has considered and approved such annexations in the past (e.g. Fairbanks 2009, Wasilla 2007) which did not always include populated

lands. To follow respondent's narrow interpretation of the regulations would mean that a city could not annex land if the land was not populated. Such an interpretation would greatly limit the city's ability to grow. For example, no territories with commercial property could be annexed. Such an interpretation would also mean waiting until a territory is populated before annexing and then instituting city zoning (if the city had those powers). That would limit the city's ability to anticipate and be prepared for anticipated growth.

Such an interpretation would also mean that no waters (submerged lands) could be annexed to a city, unless the waters constituted a community. A great many Alaska cities have considerable water size, and they could not have annexed those waters if the waters were required to constitute a populated community. Again, in the past the LBC has approved annexation of water into a city.

The department is unaware of any constitutional, statutory, or regulatory standard that says unpopulated lands cannot be annexed. Indeed, following respondent's theory of limiting a city's ability to grow by only allowing it to annex land or waters that comprise an existing community would seem to violate the state's constitutional principle of providing for "maximum local self-government" (art. 10, section 1) because it would unduly restrict a city's ability to expand.

Further, the full definition of "territory" as above includes the phrase "or forming the boundaries of an incorporated city." If one were to replace within 3 AAC 130(c)(1) the word "territory" with its definition, the following (regrettably wordy) regulation would result:

To promote the limitation of community, the proposed expanded boundaries of the city must be on a scale suitable for city government and may include only that territory (the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city) comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

Under such a definition, the proposed expanded boundaries of a city can include the boundaries of an incorporated city comprising an existing local community, plus ten years growth, etc. This seems to the department to be the intent of the regulation – for an existing city to be able to annex lands or submerged lands that are not necessarily populated.

Lastly, the proposed expanded boundaries of the city are on a scale suitable for city government because other Alaskan municipalities are reasonably large and are on a scale suitable for city government. As cited on page 57 of the preliminary report,

Commerce finds that the proposed expanded boundaries of the city are on a scale suitable for city government. The present size of Dillingham is 33.6 sq. miles of land and 2.1 sq. miles of water, for a total of 35.7 square miles. The proposed annexation is 395.84 square miles of water, and 3.24 square miles of land, for a total of 399.08 square miles. The annexation, if approved, would result in a total municipal area of 434.78 square miles for Dillingham.

Other Alaskan municipalities are reasonably large, on a scale suitable for city (municipal) government. St. Paul, for example, has a land area of 40 square miles, and 255.2 of water, for a total municipal area of 295.2 square miles. Topiak has 45.2 square miles of land, and 183.3 of water, for a total municipal

area of 228.5 square miles. Valdez is 222 square miles of land, and 55.1 square miles of water, totaling 277.1 square miles of municipal area. Skagway totals of 464.3 municipal square miles which was the total municipal area as a city as well as after the city was dissolved and incorporated into a borough. That area is larger than the petitioner's proposed expanded boundaries.

The department continues to find that Dillingham's proposed size is suitable for city government because other cities, often with smaller populations, have annexed large tracts of land or submerged lands.

For all the above reasons, the department continues to find that 3 AAC 110.130(c)(1) is met.

3 AAC 130(c)(2)

An issue is whether under 3 AAC 110.130(c)(2) the proposed expanded boundaries of the city may include "entire geographical regions, or large unpopulated areas." A second issue is whether this requirement point is moot. Respondent Native Village of Ekuk wrote about 3 AAC 110.130(c)(2) in pages 8 -10 of its comments. Please see Appendix A for its full comments.

In addressing 3 AAC 130(c)(2), it writes on page eight of its comments that:

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.

3 AAC 110.130(c)(2) states that: "To promote the limitation of community, the proposed expanded boundaries of the city . . . may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135 and are otherwise suitable for city government.

First, we address respondent's point that the department erred by using the literal definitions of "area" and region." 3 AAC 110.990(15) defines "area" as "the geographical lands and submerged lands forming the boundaries described in a petition regarding a borough government or forming the boundaries of an incorporated borough."

3 AAC 110.990(28) defines "region" as "(A) a relatively large area of geographical lands and submerged lands that may include multiple communities, all or most of which share similar attributes with respect to population, natural geography, social, cultural, and economic activities, communications, transportation, and other factors;

(B) includes a regional educational attendance area, a state house election district, an organized borough, and a model borough described in a publication adopted by reference in (9) of this section.”

We stand by the use of those definitions because those literal definitions apply. They are specific terms relating to boroughs. Here, Nushagak Bay is being proposed for annexation to a city. As above, “territory” is the term used to describe a city. This relates to the department’s finding that the size of Nushagak Bay is relevant to annexing to a city.

Stressing the meaning of the definitions, however, is beside the point in the preliminary report that the boundaries are justified by applying 3 AAC 110.090 – 3 AAC 110.135. 3 AAC 110.130(c)(2) states that if 3 AAC 110.090 – 3 AAC 110.135 are met, and the proposed expanded boundaries are otherwise suitable for city government, then the proposed expanded boundaries of the city may “include entire geographical regions or large unpopulated areas.”

As has been found in the preliminary report, and in this report, the department finds that 3 AAC 110.090 – 3 AAC 110.135 are met. The department found in its analysis of 3 AAC 110.130(c)(1) that the proposed expanded boundaries of the city are on a scale suitable for city government. Further, the city is already providing services to the fishers who fish in the territory. The fishers use the harbor in large numbers. The fishers need and use city services, in the harbor and ashore. For those reasons, the department affirms in preliminary report findings that the proposed expanded boundaries of the city are suitable for city government.

As the two prongs of 3 AAC 10.130(c)(2) (determined by applying 3 AAC 110.090 - 3 AAC 110.135, and on a scale suitable for city government) are met, the department again finds that this makes moot the issue of whether the proposed expanded boundaries of the city include “entire geographical regions, or large unpopulated areas.”

Another issue raised is whether the territory is unpopulated. Commerce finds that the municipal area (the present city of Dillingham) is extensively populated year round without the addition of the “seasonal community.” It is not the territory that needs to be populated. Instead, the standard asks whether a community exists within the proposed expanded boundaries of the city (as opposed to the territory proposed for annexation), which includes the city of Dillingham. The proposed expanded boundaries of the city are also populated during the annual fishing season.

The department doesn’t believe that it interpreted the prohibition against including entire regions and unpopulated areas as applying only to annexations within organized boroughs.

The department has considered the respondent’s several arguments about regulatory interpretation and respectfully disagrees. For all the above reasons, the department finds as it did in the preliminary report that 3 AAC 110.130(c)(2) is met.

3 AAC 110.135 Best Interests of the State

In considering the best interests of the state, the department considered several points. First was the proposed annexation's effect on the interests of the rest of the Nushagak Bay communities. The second was the effects of the proposed annexation on other Nushagak Bay communities, and on the fishers. The third was the effects of the proposed annexation on borough formation. The department will address each of these in turn.

1. The Effect of the Proposed Annexation on the Interests of the Rest of the Nushagak Bay Communities

Financial Impacts

The Southwest Region School District wrote in part on the first page of its comment that:

WHEREAS the families of a significant percentage of the students served by Southwest Region Schools live below the poverty line;
... WHEREAS the Southwest Region School District is concerned that if the fishermen who live in the communities whose students it serves are required to pay new taxes to the City of Dillingham without receiving equivalent services in exchange, those fishermen may not have sufficient funds available to take care of the basic needs of themselves and their families, resulting in reductions in the quality of life of school children and associated decreases in educational performance or in families being forced to leave the village and thereby decreasing the permanent population below levels necessary to support a school;" (Southwest Regional School District Resolution No. 11-04).

Respondent Native Village of Ekuk wrote in part on page 2 of its comments that:

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 Ekuk is only \$20,000; New Stuyahok, \$26,458; Manokotak \$30,357; Aleknagik \$30,625; Clark's Point \$41,250; and Kniqanek, \$51,042.

The department understands and respects these comments' intent, but disagrees with the notion that the staff has failed to consider the effects of annexation on the Nushagak bay communities. To the contrary, the department made the point in the preliminary report, and makes again, that it considers that this annexation is in the best interests of the rest of the Nushagak Bay communities, not just of Dillingham. Staff has stressed that Dillingham is the hub of Nushagak bay. It is the site of major regional centers, such as the hospital and airport, even though many of these centers are not city owned or maintained. But, these centers need a hub to build and grow in. If the hub is not sustainable in the long run, how will these other communities that rely on the hub continue to exist?

COMMUNITY	POPULATION	POP IN POVERTY	PCT POVERTY
Aleknagik	219	95	40.8%
Clark's Point	62	37	45.7%
Dillingham	2,329	287	11.7%
Ekwok	115	34	32.1%
Koliganek	209	39	19.3%
Manokotak	442	141	35.3%
New Stuyahok	510	152	31.7%
Nushagak Bay Communities Totals	3,886	785	20.2%

(Source: DCRA Alaska Community Database Custom Data Queries)

The Nushagak Bay communities, as many other Alaskan communities, have a relatively high poverty rate. No one community is exempt from this unfortunate dilemma. The department wrestled with this fact in making our recommendations and general conclusions. Two factors were weighed against each other to determine whether this proposed annexation was in the best interests of the state. First, how are the individuals and their collective community affected if this annexation is approved? Second, how will the Nushagak Bay communities be affected if this annexation is not approved?

Both are valid questions that directly affect the determination of best interests of the state. The respondent is correct that several communities around Nushagak Bay have higher poverty rates than Dillingham. The department, however, does not base its recommendation on Dillingham's poverty rate versus all others. We looked at the poverty rate of the Nushagak Bay communities in answering the first question.

The Southwest Regional School District indicated that there is a significant number of school-aged children who belong to families below the poverty line. This fact is not disputed by the department, nor is it ignored. Dillingham has a poverty rate of 11.7% and a 2010 population of 2,329.⁵ In other words, Dillingham has 2,329/3,886 or 59.93% of the Nushagak Bay communities' population. It has 287/785, or 36.56% of the Nushagak Bay communities' poverty population, living in poverty. That poverty needs to be considered as well. The department does not intend to vie one community's impoverished residents against another. While Dillingham's population percentage is much greater than its poverty percentage, our point is that there are many people living in poverty in Dillingham too. While the tax revenue is not going directly to those individuals, a strengthened

⁵ See Appendix D for a chart made from data supplied by Commerce. The data are available by going to the communities database and using the data from "detailed community information." The link is http://www.commerce.alaska.gov/dca/commedb/CF_BLOCK.htm. The totals were derived by LBC staff.

Dillingham would be stronger economically. It is our hope and belief that this would help those individuals living in poverty, both in and out of Dillingham.

The Southwest Regional School District and the Native Village of Ekuk's comments do not include the potentially positive effect of subsistence. Subsistence is a vital cultural part of the Nushagak Bay communities. In addition to subsistence fishing, other commercial harvesting is possible in Nushagak Bay and in other parts of Alaska that would not typically be available to other impoverished communities in other states, for example. The department does not believe subsistence is a complete replacement for higher earnings or income, but it is a part of the culture and way of life that bears some weight in the poverty debate.

Geography

Respondent wrote in part on page 1 that:

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. 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.' This is a significant error in the findings of the preliminary report which should be reconsidered. The connections of other communities in the region with the territory are direct, and long-standing.

The department was making the point that Dillingham had a more direct geographical connection to the bay than many other communities, simply because it is on the bay. The department correctly points out in the preliminary report that the City of Dillingham is the regional center for the Nushagak Bay communities, geographically and economically. As indicated later in this report, Dillingham's harbor may not be used regularly by all permit holders that fish in Nushagak Bay. But, a significant portion of those that do fish in the bay do haul, moor, or dock at the Dillingham harbor regularly. Due to the need for services continually provided by the city without appropriate compensation, the city's financial situation is not strong, but instead rather fragile and bordering a fine line, or tipping toward a gradual decline.

2. The Effects of the Proposed Annexation on other Nushagak Bay Communities, and on the Fishers.

Respondent wrote on page 11 that:

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."

In weighing the question of how individuals and their community would be affected by this annexation, the department described, in the preliminary report, that fish tax effects to the individual local governments would not be significant.⁶ The department stands by that conclusion. There has been no evidence found indicating that local governments in the surrounding communities of Nushagak Bay would feel a significant decrease in revenue due to the approval of this annexation.

Again, as pointed out in the preliminary report, no local government entity on or near Nushagak Bay benefits from the direct resource provided by a tax on the bay's fish. Dillingham has been the only local government entity, aside from Clark's Point, that has attempted to annex a significant portion of the waters to benefit the local community(ies). The department believes it is not fair or balanced to insist that the city of Dillingham be framed as the big city taking resources from the rest of the Nushagak Bay communities. This resource has always been available to all local governments through borough formation - an option that has not been exercised.

Now, Dillingham is the community petitioning to annex Nushagak Bay and seek the fish tax revenue. In doing so, it makes clear that it is providing financially unsustainable services to the fishing industry. The city is not asking for anything more than the ability to continue to provide such services that are paid for by those who use it. It wants to continue to improve the harbor for the fishing industry. The city, as a first class city, has shown that it is maximizing the powers of local government by providing services to the fishers and to the community. Izetta Chambers's public comment articulates this point very well,

As you are aware, much of the lands within the current [Dillingham] city boundaries are tax exempt Native Allotments, which provide no funding for all of the services that Dillingham provides - both to it's year-round residents, and also to many of the surrounding communities. Annexation and the proposed fish tax would allow the city to provide those services that so many fishermen require. While I empathize with the plight of many of the residents of the surrounding villages, if Dillingham's petition were approved, I am confident that they will consider their neighboring villages in much of their decision making analyses and do whatever is in their power to provide benefits to all fishermen in the form of improved infrastructure . . ."

Regarding the fishers, the single greatest uncompensated burden for Dillingham as the regional hub is the effort extended to the Nushagak Bay fishing industry that uses and benefits from this hub community's services. Annexation will allow Dillingham to continue its "community minded" practices with a sustainable financial future that truly does benefit the fishers, the city of Dillingham, and the residents of the surrounding communities that regularly travel to and through Dillingham for a variety of purposes.

The department believes that the fishers, however, would be affected by this taxation as pointed out by the respondent:

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

⁶ City of Dillingham Annexation Preliminary Report, Pg. 68

and bears directly on the question whether this added tax burden would be in the best interests of the state at this time." (Native Village of Ekuik Comment, pg. 3)

The department agrees that, if annexation is approved, the burden of this tax will fall directly on the fishers that drift and set net in the Nushagak Bay. However, the department believes it is the responsibility of the users of municipal services to pay for those services. Dillingham residents currently bear a much larger burden by providing services that they often do not use. As a matter of fact, the department would point to the individuals who will be taxed the greatest: The Dillingham fishers. This severance tax would add a 2.5% severance tax to the residential taxes already being paid by these fishers - 13 mills for the city's real property tax, 6% sales tax, 10% liquor tax, and 6% gaming tax.

Despite that, the department received a number of public comments from local fisherman and/or residents who pay all these existing taxes and still are community-minded enough to understand that local government is supported by those who live and use the essential municipal services provided. Matt O'Connell who lives in Dillingham and fishes Nushagak Bay, expressed his belief in community and supports this annexation, even though the tax burden is most heavily carried by him and the other Dillingham fishers.

Several public comments insist that as residents of other Nushagak Bay communities, they do not use the Dillingham harbor; therefore they should not have to pay a severance tax. It might be true that that particular individual does not use the harbor, but the department's research shows that a majority of the permit holders that fish in the Nushagak Bay do obtain a permit to dock, moor, or haul out in Dillingham's harbor at some point in time during the fishing session (see Appendix D for Dillingham port director's data).

This is further emphasized in the Department of Fish & Game's annual fish management report (see Appendix D for the applicable page 6 of that report).⁷ Fish & Game personnel explained that the numbers of drift netters and set netters are based on permit holders, and not boats. But, some boats carry multiple permit holders so that more fish can be caught at one time, as known as "permit stacking."⁸ The data show that a majority of permit holders do use the Dillingham harbor. It would be speculative to estimate the number of boats that stack permits, but it makes sense that some of the boats must have more than one permit. The department finds that it's likely that a higher percentage of fishers use the harbor than is reflected by the number of permit holders. The simple majority of individual permit holders do use the Dillingham harbor.

⁷ "Special Publication No. 09-17, Summary of Bristol Bay Sockeye Salmon Harvest by Gear Type, 2007 - 2009," by Paul Salomone, November 2009. This data was requested by the department for the commission's edification.

⁸ Personal Communication with Tim Sands, Fishery Biologist III with the Alaska Department of Fish & Game. He heads the Dillingham Fish and Game office. Mr. Sands is on the Dillingham city council, and mentioned that potential conflict of interest.

Furthermore, taxation is used to pay for essential municipal services provided by a local government (see 3 AAC 110.090). This tax intentionally spreads the burden to those who use the services. Essential municipal services, as spelled out in the preliminary report, include the harbor but also generally for municipalities include transportation services like municipal road maintenance, emergency and public safety services, and public education. This 2.5% severance tax will apply to all fish caught in the Nushagak Bay for services provided to fishers of the Nushagak Bay. This tax applies just as equally as the property and sales tax paid by Dillingham residents for education services regardless of whether a resident has a child attending school in the Dillingham School District. This tax applies just as Dillingham residents who don't own a car or drive on the municipal roads pay for those services as well. It is fair for those individuals to pay for those services regardless of use. Similarly, the argument that "I don't use the harbor so I should not have to pay for it" is neither valid nor fair.

The city has shown a considerable effort in shouldering the burden added by the services provided to the fishing industry. For no less than ten years the city's permit fees have been consistent.⁹ The fees charged by the city are far less than several other nearby communities' outside the Nushagak Bay. It has not raised its fees once regardless of inflation, substantially higher costs to provide the service rendered to the fishing industry, or any other circumstances that have occurred. The belief that just raising these fees, as suggested by the public commenter below, is just another form of the proposed severance tax. The difference is that the flat fee would be regressive. Low income fishers would be financially impacted to a larger degree than those that are not low income. In addition, the fees would have to be substantially higher to compensate for the use of the harbor, which would compound the impact on the low income fishers.

*"This proposal is an attempt to pay for a local "want" by disguising it as a district "need". The fact is that the majority of Nushagak District fishermen do not store their boats in Dillingham or even go to Dillingham. The fishermen that Dillingham are targeting already pay substantial taxes in the Bristol Bay Borough. Dillingham's need for funds should be fixed directly onto those would benefit, perhaps through increased fees of Dillingham harbor users and those who haul out their boats in Dillingham."
(Tom Henshaw)*

As indicated in the preliminary report's 3 AAC 110.090 Needs section, and again in this report in the needs section, the territory proposed for annexation needs and has continued to rely on the city to provide municipal services to the fishing industry.

3. Borough Formation

The department continues to refute any argument that borough formation would be less viable if this annexation is approved by the Local Boundary Commission. The Southwest Regional School District states that:

WHEREAS the proposed annexation may also affect the Southwest Region School District, which has the power to petition to create a borough in the region, 3 AAC 110.410(a)(5). If Dillingham

⁹ Personal communication with Dillingham port director Jean Bartlett.

annexes and taxes fishing activity in territory that is part of the region, but not really part of the community of Dillingham, then that may lessen the capacity of surrounding areas to produce or maintain revenue to support a borough or may foster Dillingham opposing borough formation. In light of these dynamics, the boundary commission should consider the appropriateness of creating a borough before permitting the City of Dillingham to claim that territory; (*Southeast Regional School District Resolution 11-04*)

The feasibility of a borough formed in the surrounding communities of Nushagak Bay would only be fully assessed if and when a borough incorporation petition was submitted to the LBC. However, with the additional source of previously untapped revenue coming from the fish severance tax, it is probable that borough formation would actually be further strengthened rather than diminished. The Local Boundary Commission is tasked with assuring that the petitioning local government is sustainable, viable, and financial secure. Without this annexation, the city of Dillingham will continue to be the regional hub with significant financial obligations to provide essential municipal services to the surrounding communities, non-residents, and tribal entities without proper compensation for the "community minded" services it is providing.

The department clearly laid out a comprehensive analysis of the best-case scenarios in the preliminary report outlining how and why borough formation is still plausible. In that analysis, we outlined the options that would make borough formation a truly community minded scenario. We also explained that borough formation can be hostile to Dillingham (by detaching territory from it, or by dissolving it and other cities) depending on the method chosen by the petitioner. The department referred to the multiple studies produced specifically for Nushagak Bay, both by request and during the mandatory borough formation events of the early millennial years. Equally important, we pointed to the fact that borough formation had not been attempted, exclusively for the Nushagak Bay communities, over fifty years.¹⁰ The question of borough formation has continued to be raised during this annexation petition process. Many parties have said that annexation would hinder borough formation. The department asks that if this annexation is not approved, would the surrounding communities then actively seek to form a borough? We believe that we know the answer and for that reason, the borough formation argument is beside the point. The point is that borough formation is still possible even if this annexation is approved and the severance tax is levied on the Nushagak Bay. It is never too late to attempt to form a borough. One point that has been raised is whether Dillingham needs the fish tax revenue. Determining the need is not a standard in itself. But, the staff addresses it under the standard of 3 AAC 110.135 to give the commissioners a full picture. The department continues to affirm that the city of Dillingham needs the revenue. It is a matter of vigorous debate.

Respondent Native Village of Ekuk wrote on page 44 of its comments that:

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

¹⁰ The department found, after the publication of the preliminary report, that an attempt to join the existing Lake and Peninsula Borough had taken place in the late 1990s. This attempt was made by the City of Dillingham. The petition was later withdrawn.

Respondent argues that the city has a surplus of \$3.3 million, as of 2008. The city states in its petition (p. 32) that it has “an approximately \$3 million general reserve or ‘rainy day’ fund that its can use to fill a gap such as this [deficit]. However, it is not sustainable to use this fund in this manner.”

It is the department’s position that Dillingham isn’t doing well financially. The department bases this on the budget and other materials submitted by the petitioner, respondent, and commenters. The department finds that the city needs the fish tax that would result from annexation.

The department takes this opportunity to revise our position on Dillingham’s future. If the annexation is not approved, we believe that imminent disaster is not immediately forthcoming. Rather, based on the budget and other materials, we find that there will be a steady decline. This would hurt Dillingham, the rest of the Nushagak Bay communities, and the fishers that all depend on Dillingham.

The department finds that it is prudent to have a reserve fund. The city budget is over \$10 million, with a general reserve of over \$3 million, or enough to run the city for three to four months. This appears to the department to be a healthy, not an unreasonable, reserve amount. Current municipal financial difficulties in the United States confirm the wisdom of having a reserve. If a community has the ability to put money aside, it makes sense to do so. The department would not recommend to any entity, city or individual, to use its reserves before it seeks additional income. In addition, the city is currently running a deficit. Under current projections, the reserve fund will vanish over time. We don’t say how long because we cannot predict the annual deficit after FY 2013.

Respondent also argues that Dillingham has a 13.9% increase in sales tax revenue from 2009, based on the 2009 and 2010 *Alaska Taxable* (prepared by the Office of the State Assessor). The problem with that figure is that it only shows part of the picture. That is because it focuses only on sales tax, and not on other taxes, some of which dropped from 2009 to 2010.

Further, the Alaska Taxable is made up of unaudited figures. A more accurate figure can be obtained from audited figures, which the department requested and obtained from the city. Also, the department examined 2008 to 2010 to give a broader picture. It is difficult to find a trend from only one year to the next. Using more complete data from the year 2008 to 2010 (see Dillingham Bond Debt and Tax Figures chart in Appendix D)¹¹, the total taxable income for Dillingham rose from \$4,818,400 in 2008 to \$5,132,095 in 2010. This is a 6.11% increase of all tax income over two years, as opposed to the 13.9% sales tax revenue increase provided by respondent.

Further, revenue is only part of the picture. Expenses are also relevant. The city is now responsible for paying the school bond debt of over \$15 million – something that it was not responsible for at

¹¹ The information was requested of the city by the department under 3 AAC 110.435(c).

the time of the loan application. Even with the state paying 70% of the bonds' cost, the city still pays at least \$1,160,000 a year in bond payments. It is also important to point out that the loan application preceded the incurring of the school bond debt, so the evaluation of the city's finances at that time would largely not reflect the debt burden.

It is worthwhile to point out the difference in the FY 2011 deficit. The figure mentioned in the petition is a deficit of \$286,503. But, the figure mentioned in the budget sent annually to Commerce shows a deficit of \$15,271.¹² The budget sent to Commerce is more recent.

This bulk of the FY 2011 difference comes from \$151,000 in revenues from the federal government (not the same as PILT – Payment in Lieu of Taxes), and a decreased income from debt service transfer. Commerce attributes this to more accurate data garnered over time because the budget sent to Commerce is more recent. The 2010 deficit reflects little change between the two documents. If the deficit were to remain at \$15,271, that would be much better than the years before or after it. But, per below, the department finds that the deficit would rise if the annexation were not approved. Also, any deficit is unsustainable over the long run.

Some might question, however, whether Dillingham need the fish tax revenue. The department emphatically finds that Dillingham does need that revenue. According to data submitted to Commerce, Dillingham had a deficit of \$71,461 in FY 2010, and a deficit of \$15,271 in FY 2011. In FY 2012, assuming that the annexation is approved, Dillingham expects a surplus of \$200,497. If the annexation were not approved, then one could subtract the \$710,883 in expected fish tax revenue, and add \$246,000 in expenses resulting from annexation. That would result in a deficit of \$264,386.

In FY 2013 the city (assuming annexation) expects a surplus of \$350,590. If annexation were not approved, one could subtract \$710,883 from \$350,590, and that add \$150,000 in annexation expenses (the annexation expenses level off after the first year and remain at \$150,000). That would result in a \$210,293 deficit.

The department feels that this situation is not tenable. As said above, the department wants to say that we might have given the misimpression in the preliminary report that immediate doom was expected. We don't expect imminent disaster, but are very concerned about a steady downward trend.

We do firmly state that no entity can continue to run a deficit for very long. It is difficult to see what additional revenues Dillingham could raise. It was suggested by some commenters that the

¹² "Every city and borough in Alaska is required under AS 29.20.640 to annually submit its current annual budget and audit to the Alaska Department of Commerce, Community, and Economic Development." DCRA website (http://www.commerce.alaska.gov/dca/commfin/CE_FinRec.cfm).

harbor fees could be raised, but this flat tax would be regressive, as opposed to a tax based on how much fish one catches. One could live in Dillingham and perhaps not pay an alcohol or gaming tax if one did not pursue those activities. But it is harder yet to avoid a sales tax or a property tax. Dillingham's sales tax is 6%. According to Table 2 of *Alaska Taxable*, a 6% sales tax is one of the highest in the state. Very few municipalities have as a sales tax as high 6% (some, like Anchorage, have none), and only Wrangell has a higher sales tax (7%).

Dillingham has a mill rate of 13.0. While it is possible that the city could raise the mill rate, one would question the wisdom of increasing the mill rate when the sales tax is already high. In addition, Dillingham assesses a tax on personal property as well as real property.

The long and the short of it, as the department sees it, is that Dillingham needs the fish tax revenue, and has few other ways to raise it. Therefore, the city needs the fish tax revenue to sustain itself as the hub of Nushagak Bay. This would benefit not only the city, but also the Nushagak Bay communities and the fishers that rely on the hub that Dillingham is.

The department finds that 3 AAC 110.135 is met.

Exhibit I



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1640, Anchorage, Alaska 99501, 907-269-4559, Fax 907-269-4563

MINUTES FOR LOCAL BOUNDARY COMMISSION PUBLIC MEETING

Wednesday, September 16, 2015 – 9:30 a.m.
Atwood Building, 550 West Seventh Avenue, Room 1620
Anchorage, Alaska 99501

ADMINISTRATIVE

1. Call to order

Chair Lynn Chrystal called the meeting to order at 9:36 a.m.

2. Roll call and determination of quorum

LBC staff Brent Williams called the roll and determined that four commissioners, Commissioners John Harrington, Bob Harcharek, Lynn Chrystal, and Darroll Hargraves were present and represented a quorum.

3. Acknowledge guests and staff present

- a. **Originating site (Anchorage)** Present in person were Eileen Collins, Brent Williams (LBC staff); John Nickels, Jed Smith, and Glen Hamburg (Local Government Assistance staff, DCRA); Jim Brennan (Brennan and Heideman); John Sedor (Southwest Region School District).
- b. **Each individual teleconference site**
Present via teleconference were Jim Baldwin (representing City of Clark's Point and Native Villages of Ekuk, Portage Creek, and Clark's Point); Bruce Baltar (Bristol Bay Native Association); Rose Loera, Alice Ruby, Navin Brissram (City of Dillingham); Norm Van Vactor (Bristol Bay Economic Development Corporation); Bryce Edgmon (Alaska Representative for District 37, Dillingham); Barbara Sheinberg (Sheinberg Associates representing the City of Dillingham); Melvin Andrew, Nancy George, Mike Minista (City of Manokotak); Melody Nibeck (Local Government Specialist, DCRA); David Piazza, Steven Noonkesser (Southwest Region School District).

4. Approve or amend agenda

Commissioner Harcharek moved to approve the agenda as presented. Commissioner Harrington seconded the motion. Brent Williams called the roll and the motion passed unanimously.

OLD BUSINESS

1. Approve or amend July 16, 2015 minutes

Commissioner Harrington moved to approve the minutes from July 16, 2015 as presented. Commissioner Harcharek seconded the motion. Brent Williams called the roll and the motion passed unanimously.

NEW BUSINESS

1. Public comment regarding issues not on the agenda or before the commission

None

Lynn Chrystal, Chair

John Harrington, First Judicial District ♦ Robert Harcharek, Second Judicial District
Darroll Hargraves, Third Judicial District ♦ Lavell Wilson, Fourth Judicial District

EXHIBIT I Page 1 of 2



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1640, Anchorage, Alaska 99501, 907-269-4559, Fax 907-269-4563

2. Consider designating a person as defined by AS 01.10.060 to bring forward a petition for borough incorporation in the Dillingham Census Area

Commissioner Harrington moved that the Local Boundary Commission determine that a petition to incorporate a borough formed with boundaries comparable to those of the Southwest Region School District or the Dillingham Census Area will likely promote the standards established under the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or chapter 3 AAC 110. Filing such a petition is in the best interests of the state because it would give the LBC a fuller array of information and options, given the complex history of petitions to the LBC from this region over the years, the numerous feasibility studies undertaken, and the competing petitions now before the commission. I further move that the Local Boundary Commission designate and direct the Division of Community and Regional Affairs to prepare a petition to incorporate a borough formed with boundaries comparable to the Southwest Region School District or the Dillingham Census Area.

Commissioner Harcharek seconded the motion. Discussion followed. The chair heard comments from John Sedor, Alice Ruby, Jim Baldwin, Jim Brennan and Melvin Andrew. Brent Williams called the roll and the commission voted: Commissioners Harrington and Harcharek in favor; Chair Chrystal and Commissioner Hargraves opposed. With a two-two vote, the motion failed.

3. Consider consolidating any such petition with the City of Dillingham's annexation petition

This agenda item was no longer relevant as the previous motion failed.

4. Request for consolidation of an annexation petition from the City of Manokotak with the City of Dillingham's annexation petition

No action was taken on this agenda item.

5. Consideration of waiving 3 AAC 110.700(d) for comments submitted regarding such petitions

Commissioner Harcharek motioned to waive 3 AAC 110.700(d) for comments submitted to the LBC. Commissioner Harrington seconded the motion. Brent Williams called the roll and the motion passed four votes in favor.

6. Comments from commissioners and LBC staff

Commissioner Hargraves suggested that a message to the Legislature be a topic for the November meeting.

Eileen Collins spoke to clarify an issue.

7. Public comment

The commissioners heard from Jim Brennan, and Alice Ruby.

8. Adjourn

Commissioner Harrington moved to adjourn. The motion was seconded by Commissioner Hargraves. Brent Williams called the roll. The motion passed unanimously and the meeting was adjourned at 10:35 a.m.

Lynn Chrystal, Chair

John Harrington, First Judicial District ♦ Robert Harcharek, Second Judicial District
Darroll Hargraves, Third Judicial District ♦ Lavell Wilson, Fourth Judicial District

Exhibit J

BRISTOL BAY NATIVE ASSOCIATION

**P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257**

October 28, 2014

Tribal Councils
Served by BBNA:

Aleknagik

Chignik Bay

Chignik Lagoon

Chignik Lake

Clarks Point

Curyung

Egegik

Ekuk

Ekwok

Igiugig

Iliamna

Ivanof Bay

Kanatak

King Salmon

Kokhanok

Kotiganek

Levelock

Mamokotak

Naknek

New Stuyahok

Newhalen

Nondalton

Podro Bay

Perryville

Pilot Point

Port Heiden

Portage Creek

South Naknek

Togiak

Twin Hills

Ugashik

**The Honorable Alice Ruby
Mayor, City of Dillingham
Members of the Dillingham City Council
P.O. Box 889
Dillingham, AK 99576**

RE: Proposal to Host a Borough Feasibility Study

Dear Mayor Ruby and Members of the City Council:

BBNA applauds the City Council's decision on October 16th to defer action on an annexation petition to allow an opportunity for another party to initiate a borough feasibility study.

BBNA's Executive Committee met on October 22nd and weighed the potential benefits of a borough to our region and the harm a divisive annexation might have on relations between the region's villages and the City of Dillingham. After deliberation, the Executive Committee agreed that BBNA should host a borough feasibility study. This will be the first step in a process to formulate options for a proposed borough and test public support for a possible petition.

Attached for your consideration is a proposed budget for BBNA to host but not conduct a borough feasibility study. We envision the purposes of the proposed study would be threefold:

- 1. To create a region-wide network of local leaders who are well-informed about the borough form of government and the borough incorporation process;**
- 2. To evaluate the key options for borough formation, such as borough type and structure, geographic configuration, powers to be exercised, assembly composition, etc.; and**
- 3. To assess the fiscal feasibility of the most practical options.**

Again, BBNA is willing to sponsor and administer the study but not conduct it. We believe the study should be guided by a broadly representative Task Force consisting of one (1) local leader selected by each community in the Nushagak and Togiak river drainages. The finance and administration of local education systems will be a crucial issue in the study. Therefore, we believe one (1) representatives from the Dillingham School District and one (1) from the Southwest

October 28, 2014
Page 2

Regional School District should be invited to participate on the Task Force. It may also be advisable to invite a Local Boundary Commission staff member to observe Task Force meetings. This inclusive approach will lay the groundwork for productive follow-up if the study's feasibility findings are positive and keep the LBC abreast of the progress.

We estimate that the total cost of the feasibility study will be in the range of \$117,327, as shown in the attached estimated budget. BBNA does not have funds for the study so we suggest interested parties could share the costs. Possible funding sources include BBEDC community block grants and the City of Dillingham's Borough Study Fund, possibly supplemented by funds from the State and other sources.

I want to stress that BBNA is willing to host this initiative because we believe it offers a path to progress on shared issues that challenge both the affected communities and the City of Dillingham. I am offering this proposal for discussion to move us forward together. We are available to discuss this proposal with the City and others.

Sincerely,



Ralph Andersen
President & Chief Executive Officer

Estimated Budget

Borough Feasibility Study

Task Force Support

Travel ¹ (4 X \$2,560)	\$10,240
Per diem ² (36 person trips X 1.5 days X \$250 daily)	13,500
Misc. meeting expenses	2,000

Borough Feasibility Study

Project Manager Contract	15,000
Technical Consultant Team	
Borough workshops	12,500
Feasibility study	42,500
Reimbursable expenses	16,000
(travel, per diem, report production, etc.)	

Subtotal 111,740

BBNA Administration @ 5% 5,587

Grand Total \$117,327

Note: This estimated budget assumes one Steering Committee member per village.

Exhibit K

BRISTOL BAY NATIVE ASSOCIATION

**P.O. BOX 310
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5257**

November 18, 2014

Tribal Councils
Served by BBNA:

- Aleknagik
- Chignik Bay
- Chignik Lagoon
- Chignik Lake
- Clarks Point
- Curyung
- Egegik
- Ekuk
- Ekwok
- Igiugig
- Iliamna
- Ivanof Bay
- Kanatak
- King Salmon
- Kokhanok
- Koliganek
- Levelock
- Manokotak
- Naknek
- New Stuyahok
- Newhalen
- Nondalton
- Pedro Bay
- Perryville
- Pilot Point
- Port Heiden
- Portage Creek
- South Naknek
- Togiak
- Twin Hills
- Ugashik

**Robert Heyano, BBNA Board
P.O. Box 1409
Dillingham, AK 99576**

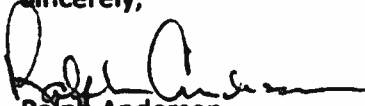
Dear Robert:

I recently met with Rose Loera, Dillingham City Manager, and we mutually agreed to several items to advance conducting a Borough Feasibility Study. The items we agreed to are as follows:

1. BBNA will chair an Interim Task Force with 1 representative each from BBNA, SWRSD, City Council, City School District, Aleknagik City Council, and Bryce Edgmon. By copy of this letter, I am extending an invitation to them to join.
2. The Interim Task Force will be charged with identifying a "permanent" Task Force composed of designated representatives of the communities in the Nushagak and Togiak river drainages, and to undertake other work necessary to move the process forward.
3. The Task Force will oversee all aspects of the Borough Feasibility Study.
4. BBNA will provide staffing and other administrative services to help complete the study.

Per Item #1 above, I am designating you as BBNA's representative and Chair of the Interim Task Force. I interpret the directive given to me by the Executive Committee at its October meeting authorizes me to so. I am asking those listed in Item #1 to please contact me with a name to confirm their participation on the Interim Task Force so we can get the process started.

I look forward to working with you and the others to help get the process started and completing the Feasibility Study.

Sincerely,

Ralph Andersen
President & CEO

**Cc: Alice Ruby, City Mayor
Rose Loera, City Manager
Invited Interim Committee Members**

Exhibit L

Brooks Chandler

From: Ralph Andersen <randersen@bna.com>
Sent: Monday, January 26, 2015 1:25 PM
To: Alice Ruby; Carolyn Smith; Executive Director (nunamtaexdir@gmail.com); Kay Andrews (kaygo63@gmail.com); Rep.Bryce.Edgmon@akleg.gov; rheyano@gmail.com
Subject: Attached letter
Attachments: letter to villages.docx

Good afternoon. Attached is a draft letter I've prepared inviting communities to participate on the final Task Force. Please review it and let me know of any changes so I can prepare it for Robert's signature.

Thank you.

Ralph Andersen
President & CEO
Bristol Bay Native Association
907.842.5257

**Interim Task Force
Borough Feasibility Study
c/o Bristol Bay Native Association
P.O. Box 310
Dillingham, AK 99576**

January 29, 2015

Alice Ruby, Mayor
City of Dillingham
PO Box 889
Dillingham, AK 99576

Re: Invitation to Join Task Force

Dear Alice:

I am writing this letter of invitation as the designated Chairman of the Interim Task Force for a study to determine whether or not it is feasible to form a borough in the Nushagak River and Togiak River drainages. I would like to first provide you with some brief background on this to help you understand how we got to this point.

More than 2-years ago, the City of Dillingham submitted a proposal to the Alaska Local Boundary Commission (LBC) to annex the waters of the Nushagak River commercial fishing district for tax purposes. The LBC recommended the City conduct consultations with the affected communities before the LBC took any action. In October 2014, the Dillingham City Council decided to defer action on the petition to allow another party to initiate a borough feasibility study.

BBNA's Executive Committee met on October 22, 2014 and weighed the potential benefits of a borough to our region and the harm a divisive annexation of the Nushagak River fishing district might have on relations between the affected communities. After deliberation, the Executive Committee agreed that BBNA should submit a proposal to the City of Dillingham to host a borough feasibility study. This would be the first step in a process to look at whether or not a borough is feasible. BBNA will not conduct the study but facilitate it.

BBNA developed a proposal and an estimated budget of about \$117,000 in December 2014 which was approved by the Dillingham City Council. The purposes of the study would be:

1. To create a region-wide network of local leaders who are well-informed about the borough form of government and the borough incorporation process;
2. To evaluate the key options for borough formation, such as borough type and structure, geographic configuration, powers to be exercised, assembly composition, etc.; and
3. To assess the fiscal feasibility of the most practical options.

January 29, 2015

Page 2

To begin the process, in December 2014 an Interim Task Force was formed with representatives from the Dillingham City Council (Mayor Alice Ruby), the City of Aleknagik (Carolyn Smith), the Dillingham City School District (Kim Williams), the Southwest Region School District (Kay Andrews), Representative Bryce Edgmon, and BBNA (Robert Heyano). The Interim Task Force agreed with the estimated budget of about \$117,000 and to forming the final Task Force.

I am extending this invitation for your community to select one (1) representative and one (1) alternate to be a member of the final Task Force to guide and oversee this study. The final Task Force will consist of those communities who pay a membership fee to cover the costs of the study. The specific dollar amount of the fee will be determined by the final Task Force based on the number of participants and the amount of other funding secured. We are now attempting to identify other funding sources. If other funds are received, some reimbursements may be made.

The Interim Task Force recommends the following:

1. That the school districts and each affected community in the Nushagak River and Togiak River drainages will be allowed one (1) representative and one (1) alternate on the final Task Force for a total of 13 members. The City Councils and Tribal Councils will need to reach agreement on their community representative and alternate.
2. That the selection of the representative and alternate should follow a Public Notice process by posting notices in prominent places soliciting candidates for at least a 30-day period. The selections can occur sooner.
3. That the designated community representative and alternate have broad regional and unbiased views of the study, as opposed to advocating personal, organizational, or community interests or positions either for or against the study or forming a borough.

We want to make it clear that the activity is to conduct a study and is not to justify a predetermined decision. The study will determine whether or not a borough is feasible. An organization's or community's involvement is not interpreted as supporting forming a borough, but reflects their interest in helping to guide the study. Task Force members will be expected to help provide information to and from their respective communities.

Please submit the names of your representative and alternate. As a reminder, there will be a membership fee if your community would like to participate in this important undertaking. Thank you for your attention to our invitation.

Sincerely,

Robert Heyano
Interim Chairman

Exhibit M

Brooks Chandler

From: Ralph Andersen <randersen@bbna.com>
Sent: Thursday, March 26, 2015 8:36 AM
To: Patty Heyano; Alice Ruby; Rose Loera; City of Aleknagik
Cc: DeeDee Bennis; Robert Heyano
Subject: RE: ANA SEDS-AK Grant Submitted

Excellent work! Thank you.

Ralph Andersen
President & CEO
Bristol Bay Native Association
907.842.5257

----- Original message -----

From: Patty Heyano
Date: 03/26/2015 7:29 AM (GMT-09:00)
To: Alice Ruby , Rose Loera , City of Aleknagik
Cc: Ralph Andersen , DeeDee Bennis , Robert Heyano
Subject: ANA SEDS-AK Grant Submitted

I would like to thank the City of Dillingham and City of Aleknagik for providing match for the ANA SEDS-AK Grant for a borough study. I submitted the proposal by the deadline yesterday evening! Hopefully it is funded and we will begin work next fall. It wouldn't have happened with you, so I wanted to let you know that I appreciate your commitments to this project. I will keep you informed on how it goes.

Patty

From: Patty Heyano [<mailto:pheyano@bbna.com>]
Sent: Wednesday, March 25, 2015 1:49 PM
To: Robert Heyano; Alice Ruby; Rose Loera
Cc: Ralph Andersen
Subject: RE: 20% Match needed for ANA SEDS-AK Grant

I'm still looking for \$14,972.20 in matching funds for the ANA SEDS-AK Grant for a borough feasibility study. The grant is due today.

There is mandatory post award training that I had to put in the budget. I brought the meeting supplies and consultant items up to where Ralph had them. I added some postage for surveys. To cover all these costs, I increased BBNA's In-kind Match. The other match needed remains the same amount.

If I don't get the match, I won't be able to submit the grant proposal.

[[cid:image001.png@01D06708.87020440](#)]

From: Patty Heyano
Sent: Monday, March 23, 2015 10:45 AM
To: Ralph Andersen; Robert Heyano; Alice Ruby; 'Rose Loera'
Subject: RE: 20% Match needed for ANA SEDS-AK Grant

Exhibit N

I. CALL TO ORDER

A regular meeting of the Dillingham City Council was held on Thursday, March 19, 2015, at the Dillingham City Council Chambers, Dillingham, Alaska. Mayor Alice Ruby called the meeting to order at 7:03 p.m.

II. ROLL CALL

Mayor Alice Ruby was present.

Council Members present and establishing a quorum (a quorum being four):

Holly Johnson	Misty Savo	Paul Liedberg
Chris Maines		

Council members absent and excused: Tracy Hightower Curt Armstrong

Staff in attendance:

Rose Loera	Janice Williams	Dan Pasquariello
Carol Shade	Jody Seitz	

III. APPROVAL OF MINUTES

A. Minutes of February 5, 2015, Regular Council Meeting

MOTION: Chris Maines moved and Holly Johnson seconded the motion to approve the minutes of February 5, 2015.

VOTE: The motion passed unanimously by voice vote.

IV. APPROVAL OF CONSENT AGENDA

A. Adopt Resolution No. 2015-15, A Resolution of the Dillingham City Council Expressing Thanks and a Commendation to Charlene Lopez and the Beaver Round-Up Volunteers

MOTION: Chris Maines moved and Holly Johnson seconded the motion to adopt Resolution No. 2015-15.

VOTE: The motion passed unanimously by voice vote.

APPROVAL OF AGENDA

MOTION: Paul Liedberg moved and Holly Johnson to approve the agenda.

VOTE: The motion passed unanimously by voice vote.

V. STAFF REPORTS

E. Annexation Update

Mayor Ruby reported the LBC had extended the technical review of the City's petition to April 6, 2015.

F. Interim Task Force Borough Feasibility Study

The Council agreed:

1. the community participate in the borough feasibility study;
2. to contribute funding for the study, about \$10,000 if each community contributed equally.
Hoped there would be a reasonable level of interest from others to help support the cost;
Mayor Ruby reported the interim task force committee didn't want to leave out any community from participating if they didn't have the funding.
3. the city solicit interest from the community to be a member on the task force rather than appoint a member.

X. NEW BUSINESS

- a. Workshop Scheduled for Strategic Planning Session for May 9, 2015

MOTION: Chris Maines moved and Paul Liedberg seconded the motion to schedule a strategic planning session for May 9.

VOTE: The motion passed unanimously by voice vote.

- b. Schedule a Board of Equalization Organizational Meeting for April 23, 2015

Mayor Ruby reported she would appoint at the April 2 meeting.

MOTION: Paul Liedberg moved and Holly Johnson seconded the motion to schedule a BOE Organizational Meeting for April 23.

VOTE: The motion passed unanimously by voice vote.

- c. Schedule a Regular Meeting of the BOE for May 21, 2015

MOTION: Chris Maines moved and Holly Johnson seconded the motion to schedule a BOE Regular Meeting for May 21.

VOTE: The motion passed unanimously by voice vote.

XI. CITIZEN'S DISCUSSION (Open to the Public)

There was no citizen's discussion.

XII. COUNCIL COMMENTS

Misty Savo congratulated the High School boys for coming in second place [at the State basketball tournament] and the girls' team for representing the City well.

There were no other Council comments.

XIII. MAYOR'S COMMENTS

Mayor Ruby:

- Would continue to share any updates on the Manokotak/Dillingham road effort;
- Thanked city staff for participating in the Beaver Round-Up event; and
- Asked for a moment of silence for those lost since the last meeting, in particular Manager Loera's brother.

XIV. EXECUTIVE SESSION

There was no executive session.

XV. ADJOMENT

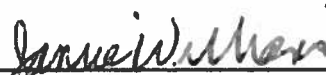
Mayor Ruby adjourned the meeting at 7:55 p.m.



Mayor Alice Ruby

ATTEST:

[SEAL]



 Janice Williams, City Clerk
 Approval Date: 4/15/15