

Exhibit O



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

Sean Parnell, Governor
Susan K. Bell, Commissioner

Preliminary Report to the Local Boundary Commission

Regarding the proposal
to annex by local option, approximately
396 square miles of water
and 3 square miles of land
to the City of Dillingham

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and at the same time have strong and vibrant character links to Dillingham. The effect on other communities is addressed in section 110.135, "Best Interests of the State."

Dillingham is at the head of the bay. It directly adjoins the bay. Its harbor is used by a large part of the fishing fleet that operates within the bay. LBC staff 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. In particular, the city harbor is directly linked to the territory.

LBC staff finds that the territory's natural geographical features and environmental factors are compatible in character with those of the city. The connection is based not only on the processing that occurs in the city, but on the fishing fleet's extensive use of the city's harbor. The city's existence and importance as a regional hub are directly linked to the fish that are harvested in the geographical feature that is Nushagak Bay and the LBC staff that results from that fishing.

Conclusion: As stated above, most of city annexation regulations have factors "which the commission may consider, including. . . ." Those factors are then listed. LBC staff points out that these factors are not imperative requirements in themselves; they are only factors which the LBC staff may consider, among others not listed, in determining whether the regulation is met. In this case, "[t]he territory must be compatible in character with the annexing city."

LBC staff has found that the territory proposed for annexation is compatible in character with that of the annexing city of Dillingham for the reasons stated in the analyses above. Dillingham has strong connections to the territory. Dillingham is the center of the Nushagak Bay fishing activity. It is not the only place where fish are processed. It does not contain all of the servicing of the fleet, either. But, LBC staff finds that Dillingham is the epicenter of the fishing fleet, and consequently provides for the needs of the fleet. The city has businesses frequented by fishers, seasonal cannery workers, and other non-Dillingham residents. The city has the regional hospital, a heavily used harbor, and the regional airport. To fly into any other Nushagak Bay community, you must almost certainly first fly into Dillingham.

LBC staff finds that Dillingham is compatible in character with the territory proposed for annexation. It is compatible in character in part because of the many services it provides to the fishing fleet. That creates a bond between the city and the territory. The territory is only seasonally populated. That seasonal activity, however, is the economic engine of the entire bay.

LBC staff finds that no other community or municipality provides the level of services that the city does. While the city is not the exclusive provider of services or fish processing in the region, the fleet heavily depends on the city. The mutual economic dependence and impact creates a bond that makes the territory and the city compatible in character. LBC staff finds that Dillingham meets the character standard, 3 AAC 110.100.

3 AAC 110.090. Need

(a) The territory must exhibit a reasonable need for city government. In this regard, the commission may consider relevant factors, including

(1) existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city during the 10 years following the effective date of annexation;

City: The City of Dillingham (hereafter "Petitioner" or "city") states, "The existing economic condition of the territory proposed for annexation is based on a sustainable seasonal harvest of salmon. The economics of local fisheries are subject to fluctuations based on the health and management of fishery resources and the world market for wild Alaska salmon. It is reasonably anticipated that typical fluctuation in these economic conditions will occur during the next ten years. There will not be any residential growth in the area proposed for annexation. It is not practical for persons to live on the islands within the territory proposed for annexation. Economic activity in the form of commercial fishing and harvesting is addressed in 3 AAC 110.090 (a)(3) and 3 AAC 110.090(a)6." (*Petition p. 6, Section 6*).

Respondent: Respondent states, "Dillingham virtually concedes that the territory to be annexed does not have a reasonable need for city government. The petition states 'there will not be any residential growth in the area proposed for annexation.'" (*Responsive Brief, p. 22*)

LBC Staff Findings: LBC staff acknowledges the petitioner's statement that 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 petitioner did not show sufficient evidence that anticipated social or economic conditions, including the extent to which residential and commercial growth of the community would occur within the proposed annexation boundaries, even with the inclusion of the seasonal community.

LBC staff finds that existing or reasonably anticipated social and economic conditions are met by the fleet's need for the city's services. During the annual fish harvest season, the fishery industry accounts for a significant portion of the needed municipal services provided by the city. The petitioner already provides the majority of the municipal services (i.e. police (on the docks and on shore), harbor and waste management, etc.) necessary for the region's successful seasonal fish harvest. The economic backbone of the region truly is the fishery industry. The economic environment of the proposed expanded boundaries is strong because the seasonal fish harvest has steadily increased. The petitioner, as the regional hub, has and continues to be heavily depended upon by the fishing industry. The economic and social conditions represented by the industries present and continuing needs indicate a need for city government. LBC staff finds the petitioner does meet the requirements of this factor.

Comments: In its resolution, the City of Manokotak states, "the City of Manokotak provides search and rescue services for the part of Nushagak Bay from the Snake River to the West. The search and rescue effort is provided largely by volunteers. The City provides fuel and coordinates with the Alaska State Troopers and the Coast Guard. It sometimes uses the Village Public Safety Office skiff, snowgo and four-wheeler. The city also relies on the volunteer efforts of private pilots. The VPSO from Manokotak has responded to requests for police services coming from the Igushuk Beach area. (See *Manokotak Resolution*).

LBC Staff Findings: The petitioner and respondent focus their arguments primarily on "city owned and operated port and harbor facilities that support commercial fishing" with little or no emphasis on other services the city provides. Of the permit holders with landings in the Nushagak Commercial Salmon Harvest district, 19% were Dillingham residents and 46% were Alaskan, non-Dillingham residents¹. Yet more than \$300,000 annually is being expended specifically for fisheries-related services². While many commenters mentioned that their communities' commercial fishing boats were not frequent users of the city's harbor and docks, a significant Alaskan presence in the Nushagak Bay is apparent. This is significant because the city, as the regional hub, would not expend a significant portion of these funds if this seasonal population, which is a majority Alaskan, non Dillingham resident, did not use and depend on services provided by the city during the seasonal fish harvest.

The respondent addresses the lack of reasonably anticipated health, safety, and general welfare conditions by stating, "[t]he petitioner literally does not meet this standard because the government it intends to provide in the territory, tax collection, will not be provided to any population resident there. Dillingham fails to offer other justification for adding unoccupied territory such as an immediate need presenting a clear and present threat to the public, health, safety or welfare of its community³." LBC staff disagrees with the respondent's conclusion. Although the fishers are not considered residents of the city, they are and must be considered a "seasonal population" with significant impact of the city's ability to provide essential municipal services to the territory proposed for annexation as well as the current city limits. The territory is populated, at least three months of the year. 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. These services enable the fishery industry to function efficiently throughout the fishing season with a good harbor, safe and operational ramps and roads, adequate police and public safety staffing, along with proper waste, water, landfill and sewage maintenance.

While the petitioner plans to use the revenue to enhance the search and rescue, public safety, and police coordination, along with the oil spill cache, the city also plans to improve "existing . . . health, safety, and general welfare conditions" by including street, harbor, boat ramp maintenance; public restroom and facility upkeep, trash and waste removal, etc. These municipal services have been maintained by the city, while heavily

1 Petition, section 6 bottom of page 6

2 Petition, Page 7 & exhibit C-1: Projected Budget Revenue

3 Responsive Brief, pp. 24 - 25

used by the fishery industry, at its own expense⁴. The petitioner currently provides the majority, if not all, access to the region's major transportation services, for example. You can almost always expect visitors, particularly most fishery vessels traveling into and out of the Nushagak Bay area during the summer seasonal harvest, will haul or land in the City of Dillingham owned and maintained docks or harbor. If there was an accident on the waters of Nushagak Bay, it can be reasonably assumed that any individual(s) requiring essential or basic medical services would be transported to the hospital in Dillingham, perhaps on city streets by the volunteer search and rescue (presumably composed of Dillingham residents), through direct coordination with the Alaska State Troopers, and the local police department.

LBC staff finds the petitioner has met 110.090(a)(2).

(3) existing or reasonably anticipated economic development;

City: Petitioner states, "Commercial fish harvest, processing and provisioning in Nushagak Bay, and at times in Wood River, is expected to continue. A stronger financial picture for the City of Dillingham as a result of annexation will allow it to better assist and support this economic development through improved facilities and services." (*Petition p. 42*).

Respondent: While respondent writes extensively on 3 AAC 110.090, we do not see that it addressed 3 AAC 110.090(a) in its analysis of 3 AAC 110.090.

Comments: Lake and Peninsula Borough Manager Lamar Cotten, provides written comment regarding the revenue generated by the addition severance tax income that the petitioner would receive if the annexation is approved. He specifically, states, "The Lake and Peninsula Borough applauds the annexation effort begun by the City of Dillingham. The Borough regards it as a positive step, and believes it carries the promise of a fairer sharing of resources and revenues in the Bristol Bay region."

LBC Staff Findings: For the Nushagak Bay area, as stated by the petitioner, "fishery resources and the commercial fishing and seafood processing industries are the backbone of Dillingham's economy and integral to many residents' livelihoods and way of life."⁵ This is the case for all surrounding communities as well. The Department of Fish & Game annual management report ⁶ indicates that the 20 year and 10 year averages for annual salmon harvest has been steadily increasing. As indicated in 110.090(a)(1), LBC staff regards the commercial fisheries industry as the economic development of the territory. The industry will continue to require additional services and economic development from the city to meet the increasing demand of the annual harvests.

LBC staff finds that the petition does meet 110.090(a)(3).

⁴ See Petition, p. 8 & exhibit C-1 & 2

⁵ Petition, p. 6

⁶ Fishery Management Report 10-25: 2009 Bristol Bay Area Annual Management Report

The narrative above describes some of the improvements to be constructed and maintained by the City of Dillingham that the territory's fishing fleet can reasonably expect to receive and benefit from over time." (*Petition*, p. 47).

Respondent: Dillingham does not propose to assume new powers or responsibility for new services in the area to be annexed, other than the collection of raw fish tax. Nor does it propose to extend any services to the new territory that are now provided within the existing boundaries. Dillingham concedes that the services presently provided to the area sought to be annexed are adequate. (*Responsive Brief*, p. 19).

Comments: The City of Manokotak indicated that boats from its community are "infrequent users" of the harbor and other fishery-related facilities in the City of Dillingham. Other commenters, including the City of Aleknagik state their community dip and gillnet permit holders minimally use or do not use the Petitioner's harbor at all. They further note that since they do not use the services provided by the petitioner, they should not be required to pay a tax for services they do not regularly use. (*See Manokotak Resolution*).

LBC Staff Findings: Alaskan, non-Dillingham residents comprise 46% of permit holders with landings in the Nushagak Commercial Salmon Harvest district⁷. LBC staff views this information as conclusive evidence that the surrounding communities do, in fact, use the existing services provided by the petitioner. While the respondent is partially correct that the petitioner "does not propose to assume new powers or responsibility for new services in the area to be annexed", LBC staff believes the adequacy of existing services does not require the petitioner to add new powers or services. The municipal services including but not limited to safe and operational ramps and roads, adequate police and public safety staffing, along with proper waste, water, landfill and sewage maintenance; public restroom and facility upkeep, trash and waste removal, etc. have consistently been provided by the petitioner. Furthermore, the petitioner indicate that it will be responsible for new services with the purchase of the oil spill cache and the enhanced coordination with the Alaska State troopers and local search and rescue team(s).

LBC staff finds the petition does meet 110.090(a)(4) of this standard.

(5) extraterritorial powers available to the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and

City: The City does not exercise extraterritorial powers in the territory proposed for annexation nor do any other municipalities. Such powers are "available" under AS 29.35.020, however, the City has not sought to exercise power outside municipal boundaries. Annexation and full inclusion into the City is preferable to an extraterritorial or service area relationship. See, Alaska Constitution, Art. X, Sec. 5 ("[a] new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by . . . annexation to a city").

⁷ Petition, section 6 bottom of p. 6.

adoption of Resolution 2010-85 to express its commitment to communities outside the proposed expanded city boundaries⁹. "

Respondent: See number (4) above.

Comments: The Ekwok Village Council states, "As residents of Bristol Bay who commercial fish in the Nushagak District we are infrequent users of the harbor facilities of Dillingham during the fishing season and already pay an annual harbor usage fee to the City of Dillingham. The current petition put forth by the City of Dillingham could put tax our residents which only benefit the City of Dillingham instead of our community or region as a whole¹⁰. "

LBC Staff Findings: As discussed previously, LBC staff finds that the annexing cities, and the territory proposed to be annexed, are both receiving, at the present and through the foreseeable future, the benefit of services and facilities provided by the annexing city. The petitioner has continued to provide municipal services through harbor/dock assistance and maintenance, street and municipal facility upkeep, to name a few. These services would not be available to the fishery industry within the Nushagak Bay area if it were not for the city providing them. As a responsible local government entity, the city has continually provided these services at the expense of its residents and to the point of unsustainable expense.

LBC staff finds the proposed annexation will benefit the region as well as the city. The primary benefit to all of the region's local governments is the collection of local fish tax which has never been harnessed for economic sustainability in this region. Since no one in the Nushagak Bay region has petitioned to form a borough, the opportunity for the region to benefit from the disbursement of a locally collected fish tax was never realized. The petitioner has committed itself, if annexation is approved, to providing a "fisheries improvement fund" that will assist the fishery industry and the Nushagak Bay communities in fisheries-related needs.

While not indicated in either the petition or the reply brief, LBC staff believes there may be other potential benefits of annexation for all parties. One example may be the reduction or elimination of harbor fees for regional permit holders, reduced or eliminated fees for other municipal services provided by the city to fisheries-related activities, etc. While speculative, these and other examples are possibilities the city could explore if annexation is approved and the full benefit of the proposed territory to be annexed is implemented.

LBC staff finds that since there are no permanent residents or property owners in the territory to be annexed, and that many "essential municipal services" are already being provide by the petitioner to the region, 110.090(a)(6) has been met.

(b) Territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or by an

⁹ Reply Brief, p. 15

¹⁰ Ekwok Village Council Public Comment Letter opposing the City of Dillingham Annexation Petition

Commission determines to change the precedent established in 1987 and allow the City of Dillingham to annex the waters of the Nushagak Commercial Salmon District, Manokotak hereby states its intent to respond by filing a petition to annex the lands between the existing city boundary to and including Igushik Beach and the waters of Nushagak Bay Commercial Salmon District adjacent to those lands used by the people of Manokotak.”

LBC Staff Findings: Dillingham is the regional hub for the Nushagak Bay area. Nushagak Bay area communities, the seasonal population of the fishery industry, and the current residents of the city benefit from the essential municipal services provided by the petitioner. No other municipality has argued that it has the ability, or desires the responsibility of providing more efficient and more effective essential municipal services for the proposed expanded boundaries.

LBC staff finds no other existing municipality has the ability to provide essential municipal services to the territory to be annexed more efficiently and more effectively than the petitioner. The idea of regional government has only been theoretical with no petition filed with the LBC staff in almost fifty years since the incorporation of the city. LBC staff asserts that regional government could be a viable option, however, under the circumstances; the region has not produced the will or resources necessary to form such a government. Furthermore, the Local Boundary Commission should not deny an annexation on the basis of a potential petition for borough incorporation.

Conclusion: LBC staff views the region (as opposed to the territory proposed for annexation) to include all communities surrounding the bay. LBC staff finds that the entire region benefits from the sound economic growth and sustainability of the regional hub. LBC staff finds that the regional hub is Dillingham because of its relative size and institutions. LBC staff concludes that several of the Nushagak Bay area communities have populations that are relatively flat or declining¹³. In any given year, 10-15% of the commercial fish permit holders are not fishing in the district yet the fish harvest each season is increasing consistently. This dynamic means that local community's workforce is being stretched and stressed to produce these larger harvests. This dynamic also brings to light the fact that this resource, local fish tax revenue, is not serving the local communities to its maximum potential.

Robin Samuelson, Jr. points out “The Nushagak Bay is the virtually the only major commercial fishery in the region where there is no local fish tax in effect. This is like having money on the table and walking away¹⁴. ” LBC staff agrees. The seasonal commercial fish harvest is the region's economic engine. The petitioner recognizes its regional hub responsibility and that it has stated, in writing, its intention to share this tax revenue with the surrounding communities. The region will benefit from this resource.

As the regional hub, the petitioner has served the surrounding communities with its harbor, and other fisheries-related services. These and other essential municipal

¹³ AKDOL estimates, Division of Community and Regional Affairs, http://www.commerce.state.ak.us/dca/commdb/CF_CUSTM.htm.

¹⁴ Robin Samuelson, Jr. Public Comment regarding the City of Dillingham Annexation Petition

services have been provided to the commercial fishing fleet, other communities, and visitors to the region for decades at the expense of the city's residents. This poses a form of inequality that is economically unfair and unbalanced. The petitioner has the right to use extraterritorial powers, but that would mean that the city would formally take on the responsibilities of providing services without compensation, similar to the current situation.

LBC concludes because the commercial fishery industry in the territory uses and depends on services provided by the city, the territory exhibits a reasonable need for city government. The petitioner has also demonstrated its ability to provide essential municipal services more efficiently and more effectively than any other municipality or organized borough in the region.

LBC concludes the petition does meet the requirements of 3 AAC 110.090.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost-effective level.

Petitioner: "The proposed annexation is contiguous with the annexing city and does not create enclaves in the annexing city." (*Reply Brief p. 61*).

Respondent: While respondent writes extensively about 3 AAC 110.130, we do not see that it addressed 3 AAC 110.130(b) in its analysis of 3 AAC 110.130.

LBC Staff Findings: LBC staff finds that the territory is contiguous to the city, and would not create enclaves. LBC staff finds that because the territory is contiguous to the city and would not create enclaves, this standard's requirements have been met. Therefore, LBC staff need not address the land and water issue for 3 AAC 110.130(b).

(c) To promote the limitation of community, the proposed expanded boundaries of the city

(1) 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;

City: "The Local Boundary Commission has allowed cities in this region to incorporate or annex adjacent contiguous commercial fishing waters, which could be construed as large geographic regions and are only populated seasonally by those engaged in commercial and sport fishing. The Commission has recognized that in this part of Alaska, this territory is suitable for city government, needed to provide financial stability to cities, and fishery activities are commonly directly supported by the annexing local community allowing for reasonably predictable growth, development and public safety needs. The scale of this annexation petition is consistent with these past approvals. The City of Dillingham, having provided public services and facilities to the Nushagak Bay commercial salmon fisheries for years, is not biting off more than it can chew with this proposal." (*Petition p. 61*).

"Respondents have suggested the seasonal nature of the population of the participants in the commercial fishery means these persons are not members of "an existing local "community" as that phrase is used in 3 AAC 110.130(c)(1). Dillingham disagrees. "Seasonal population" is specifically identified as one of the factors that may support annexation. 3 AAC 110.050(a)(4), 110.120(4)." (*Reply Brief p. 12*).

"This community of interests among and between persons [the persons seasonally fishing] commercial fishing in the area proposed for annexation is sufficient to qualify these persons as a "community" as that term is used in 3 AAC 110.130(c)(1)." (*Reply Brief p. 12*).

"The presence of a large area of water within the proposed new boundaries of the City of Dillingham is not inconsistent with the existence of a community based in Dillingham. Other towns in Alaska include areas of water used by seasonal participants in commercial fisheries. St. Paul, (255 sq. miles of water, 40 sq. miles of land), Togiak, (45 sq. miles of land, 183 sq. miles of water); Unalaska (110 sq. miles of land, 110 sq. miles of water); Pilot Point, (25 sq. miles of land, 115 sq. miles of water); and Sand Point (7 sq. miles land, 21 sq. miles of water) for example. Clearly, the mere presence of a large area of water within a boundary is not determinative of the existence of a community connected with an incorporated city." (*Reply Brief pp. 12-13*).

"Commercial fishing harvest, processing and provisioning in Nushagak Bay, and at times in Wood River, is expected to continue." (*Petition p. 42*).

"Public Safety (police, fire, EMS)

- Ten percent of 2009's total calls for service (Dillingham city dispatch) are from the fishery related areas (the boat harbor, Wood River boat launch, city dock or processing plants).
- Twenty percent of all calls for service in June and July are from these areas.
- Ten percent of the FY 2010 public safety budget is \$211,990 (public safety includes patrol, dispatch, corrections, fire, animal services).
- There is no additional public safety staff in summer." (*Petition p. 7*)

"The City intends to enhance public safety response and coordination by: 1) Better support for volunteer search and rescuers (There currently is an all-volunteer group not associated with the City. The City does not intend to 'take on' search and rescue, however the City will look to more actively support these volunteers who assist the Alaska State Troopers on Search and Rescue operations); 2) Enhanced coordination with Alaska State Troopers; and 3) Cross-training and developing use procedures between harbor and police staffs for use of the City skiff.... Increased responsibilities in the harbor and adjacent offshore areas along with increased revenue will allow the City to purchase and maintain an oil spill response cache in the harbor to enhance environmental protection in the commercial fishing waters." (*Petition p. 42*).

Respondent: "A serious question presented by the petition is whether Dillingham is proposing to annex 'territory comprising an existing community.' Or, whether in reality Nushagak Bay is territory belonging to a regional community in which many municipalities and villages in the region share a common interest. A city is a community-based municipal government rather than one that is based on geography." (*Responsive Brief p. 11*).

"The LBC staff applied the doctrine of community in a 1986 annexation proceeding involving Dillingham and Nushagak Bay which is not distinguishable from the present petition. The LBC staff observed:

The statutes speak to "a community" when addressing city incorporation and "an area" when addressing borough incorporation. The definition of the word "community" as provided in Black's Law Dictionary is a "neighborhood" compared to the definition of the word "area" as "a territory, a region". The instant situation speaks to local boundary actions motivated by problems affecting a territory of people, not a community of people. Clearly a city is not the appropriate vehicle to adequately address problems that are of regional concern.

This decision rejected Dillingham's attempt to annex both substantial amounts of land and water. The quote set out above was addressing the regional character of water area consisting of Nushagak Bay. (*Responsive Brief p. 12*).

"In 1987, the former Department of Community and Regional Affairs, acting as staff for the LBC staff, issued a report on the city's amended petition to annex somewhat less territory but which also included the waters of Nushagak Bay. In the report, the department recounted the rationale of the LBC staff's December, 1986 decision in which it acted upon separate proposals from the Cities of Dillingham and Clark's Point for annexation of all or significant portions of Nushagak Bay. The department reported:

- 1. The size, configuration, level of development and other characteristics of Nushagak Bay are clear evidence that it is a region rather than part of a community. State laws governing municipalities provide that, to the extent territories are incorporated; regional territory shall be served by boroughs or unified municipalities, while community territory shall be served by cities. Thus annexation of all or substantial portions of Nushagak Bay by any city is inappropriate.**
- 2. The need for municipal jurisdiction over Nushagak Bay is of a regional nature. Issues of service delivery, revenue enhancement and impacts to public health and safety are shared by the cities of Clark's Point and Dillingham, as well as other areas bordering and or relying upon the resources of Nushagak Bay. Thus, regional municipal government was judged to be the most appropriate mechanism to address these needs. . ."(Responsive Brief p. 12-13).**

"The effect of granting the instant petition would be to transform Dillingham into a regional government without the responsibility for all of the territory of the region or for answering to the residents of other cities and villages that share interest in the waters proposed for annexation. To grant the petition may set in motion the Balkanization of Western Bristol Bay by forcing other municipalities in the region to seek the detachment of territory from Nushagak Bay in order to fairly allocate fishery related tax revenue to cover the impact of the fishery resource related to them." (*Responsive Brief p. 14*).

"Dillingham's argument that Nushagak Bay is part of its community should be rejected because it has a legal flaw. Dillingham argues that temporary seasonal participants in the fishing industry of the region who use city facilities and impact city services form a community with Dillingham that extends to the area to be annexed. A community "is a social unit comprised of 25 or more permanent residents".' The petition describes the community within the territory proposed for annexation as "a seasonal commercial fishing community whose need for public services is limited to port and harbor facilities, landfill services, and public safety.

A temporary workforce or persons comprising a transient fishing fleet are not domiciled in the city or the fishing districts to be annexed. They are domiciled elsewhere. Many members of the fleet and set net permit holders reside in other communities in the Dillingham Census Area. They are not a social unit of permanent residents in the sense intended by the annexation standards in the LBC staff regulations. Their presence or activity in the area sought to be annexed cannot be used to establish a community of interest between the existing City of Dillingham and the waters of the Nushagak Commercial Salmon District." (*Responsive brief pp. 14-15*).

Comments: The City of New Stuyahok said that

"(1) The city of New Stuyahok relies on the precedent established by the Local Boundary Commission in 1987 that Nushagak Bay is an area of regional importance, not an area subject to the influence of a single community in the Bristol Bay Region. New Stuyahok has real social and economic connections to Nushagak Bay for income and food for its residents.

(2) The city of New Stuyahok opposes the annexation of the Nushagak Commercial Salmon District and the Wood River Sockeye Special Harvest Area to the City of Dillingham because the waters of Nushagak Bay and Wood River are not part of the community of Dillingham, but rather they belong to all of the cities and villages of the Dillingham Census Area."

[A similar position was taken by other Nushagak Bay communities and entities].

LBC Staff Findings:

Per 3 AAC 110.130(c)(1), the proposed expanded boundaries of the city must be on a scale suitable for city government. Both parties have exhumed and examined previous petitions' reports and decisions, and have argued why or not those reports and decisions should be viewed as precedent, or not. LBC staff views the importance of these documents differently for two reasons. First, the reports themselves are the analyses by LBC staff (in some cases, the responsible agency was the then Department of Community and Regional Affairs), and are not in themselves decisions issued by the LBC staff. Secondly, the applicable regulations have changed since those decisions were issued. What happened in the past, while pertinent, does not necessarily establish precedence. Past LBC staff reports and decisions may be but are in no way required to be used as a guide to the present situation.

It is reasonable, logical, and prudent to examine the proposed scale of city government. The regulations do not specify limitations, maximums, or specific formulas that determine certain square mileage for cities (or for boroughs, for that matter). First, the appropriate scale is based on the standards, which LBC staff has determined do not indicate any specificity. Secondly, appropriate scale is based on the facts as presented in the petition.

LBC staff 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. Togiak 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.

Historically, the size of the proposed expanded boundaries is exceeded by at least one other. While the proposed expanded boundaries are larger than most other municipalities cited, the petitioner's proposed expanded boundaries are proportionate per capita to all other above cited municipalities. With the exception of one, the aforementioned municipalities have populations well under that of the petitioner, yet they have relatively large municipal areas, particularly in proportion to their populations.

While the city, if annexation is approved, would be large, it is not without comparison or precedent. For those reasons, LBC staff finds that proposed expanded boundaries of the city are on a scale suitable for city government.

LBC staff examined whether the proposed expanded boundaries of the city 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. LBC staff finds that the city is an existing local community. As of 2009 census data, the city has a population of 2,264. It has a stable and established local government, a port, and other notable municipal features. The petitioner is the largest municipality in the Nushagak Bay area. The proposed expanded boundaries would include the existing community of the city and the territory proposed for annexation.

For additional predicable growth, development, and public safety needs, the petitioner's

economy (and that of the Nushagak Bay) is based on seasonal salmon harvest. The total annual salmon catch is increasing. According to the 2009 Bristol Bay Area Annual Management Report, over a 20 year period, the number of fish caught has increased from 3,406,958 in 1989 to 8,505,990 in 2008 (Alaska Department of Fish and Game, June 2010). The 20-year average was 5,825,425, and the 10-year average (1999-08) average was 7,314,211. (Information found at <http://www.sf.adfg.state.ak.us/FedAidPDFs/FMR10-25.pdf>, p. 84).

The petitioner (in partnership with the Corps of Engineers) annually dredges the harbor. The city is also steadily upgrading the harbor by adding and expanding ramps, shoreline protections, float extensions, and other improvements. The petitioner plans to continue the improvements. (Petition p. 46).

LBC staff finds there are existing and reasonably predicable future public safety needs. The city is currently providing public safety services. The city experiences higher demand for these and other services during the summer fishing season. These services are provided, predominately, at the boat harbor, Wood River boat launch, city dock or processing plants. As the city receives greater municipal services demands for these fishery-related areas, the fleet and cannery workers are benefiting from these municipal services on an annual basis. As the amount of fish caught continues to increase, it is a logical inference that the demand for public safety services will also continue to rise. This justifies the petitioner's plans to enhance its search and rescue involvement.

LBC staff finds that the proposed expanded boundaries of the city are not only on a scale suitable for city government, but that they include only that territory comprising an existing local community. LBC staff further finds there is reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

(2) 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 100.135 and are otherwise suitable for city government.

City: Please see "City" under 3 AAC 110.130(c)(1).

Respondent: Please see "Respondent" under 3 AAC 110.130(c)(1).

LBC Staff Findings:

3 AAC 110.990(28) states that "region"

"(A) means 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."

LBC staff finds that the proposed expanded boundaries of the city do not fit the definition of "region" because the proposed expanded boundaries of the city do not encompass a borough, or have multiple communities that share common attributes. The existing land based communities other than Dillingham are outside the proposed expanded boundaries of the city

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."

LBC staff finds that the proposed expanded boundaries of the city do not meet the definition of "area" because they do not describe a borough. They are not even a proposed borough because the model borough boundaries for Bristol Bay exceed that of the proposed expanded boundaries of the city.

LBC staff finds that the municipal area is extensively populated year round without the addition of the "seasonal community". The proposed expanded boundaries of the city are also populated during the annual fishing season. LBC staff finds that any contention about whether the proposed expanded boundaries of the city include large unpopulated areas is moot for reasons explained below.

LBC staff finds that the petition meets the standards of 3 AAC 110.090 - 3 AAC 110.135, and are otherwise suitable for city government. Per 3 AAC 110.130(c)(2), because the petition meets those two criteria, the provision that annexation may not include entire geographical regions or large unpopulated areas does not apply.

(d) If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough or detachment of the enlarged city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

City: "The Petition does not describe boundaries overlapping another existing city."
(Petition Ex. H p. 6).

Respondent: While respondent writes extensively on 3 AAC 110.130, we do not see that it addressed 3 AAC 110.130(d) in its analysis of 3 AAC 110.130.

3 AAC 110.135. Best Interests of the State

In determining whether annexation to a city is in the best interests of the state under AS 29.06.040(a), the commission may consider relevant factors, including whether annexation

(1) promotes maximum local self-government, as determined under 3 AAC 110.981;

City: The Petitioner stated that “[t]he proposal is to require voter approval of annexation. This is a pure expression of local self-government- a direct vote of the people.” (*Petition p. 63*).

“Moreover, if borough formation is ever going to be resurrected, there has to be a significant “game changer”. There is reason to believe approval of annexation will serve as the “game changer” and actually increase the likelihood of borough formation. Dillingham believes many of the past concerns regarding borough formation are based on the unknowns inherent in creation of a new government structure, and a failure to fully appreciate the benefits of the potential revenue stream from a local fish tax. Once other towns in the region actually see the benefits the additional revenue source creates, it is logical they would take a fresh look at the question of borough formation.” (*Reply brief p. 15*).

Respondent: The Respondent states that: “The LBC staff regulations interpret and make specific the statutory requirement that the commission consider whether an annexation to Dillingham is in the best interests of the state. The LBC staff regulations provide that two factors bear on a best interest determination: (1) whether the annexation will promote maximum local self-government and (2) whether the annexation will result in a minimum of local government units.

Whether an annexation to a city promotes maximum local self-government is a fairly simple determination. The LBC staff regulations provide:

for city ... annexation in the unorganized borough, whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists [citing 3 AAC 110.981(7)].

The petitioner literally does not meet this standard because the government it intends to provide in the territory, tax collection, will not be provided to any population resident there. Dillingham fails to offer other justification for adding unoccupied territory such as an immediate need presenting a clear and present threat to the public, health, safety or welfare of its community.” (*Responsive brief p. 24*).

"Respondent believes that the best interest determination must be interpreted broadly to include the concept that best interests of the state may only be achieved by the establishment of the appropriate kind of local government for the region. It cannot be in the best interest of the state to allow a city to annex fishing districts that are socio-economic centers shared with other communities as well, for the purpose of increasing the revenue source of the city. This is contrary to the best interests of the state when other communities are denied access to the wealth of a region that they have strong financial and social interests in. Without access to this wealth, these communities and their residents are more likely to remain dependent on the state for services." *(Responsive brief p. 25).*

"In light of the 'marginal' financial viability of a borough in the region, this annexation would have a "significant disincentive to formation of a borough in the region'." Contrary to the bare assertions made by petitioner, little evidence of substance is provided that there would be enough revenue available from the taxation of raw fish sales to support both Dillingham and a new borough. . . . In 1987, the LBC staff established the precedent that:

Annexation of all or substantial portions of Nushagak Bay by a city would diminish the incentive for, and indeed the feasibility of, borough formation. Thus, annexation of the area by any city was determined not to be in the best interests of the state or the region². *(Responsive brief p. 26).*

"While petitioner's motives are well intentioned, it should realize that the new boundaries it desires would maximize its financial resources to the detriment of adjacent communities. If it is allowed to tap into this source of tax revenue, Ekuk hopes that the LBC staff will inquire whether the governing body of Dillingham will be supporting the formation of a regional government or service area to benefit the Western Bristol Bay region. An annexation which serves as a disincentive to borough formation in the Dillingham Census Area cannot be in the best interests of the state." *(Responsive brief p. 27).*

"For the foregoing reasons Ekuk requests the LBC staff to find the annexation proposed in the petition is not in the best interests of the state." *(Responsive brief p. 27).*

¹ Citing Alaska Department of Community and Economic Development, *Chronicle of Borough Developments in the Bristol Bay Region and Update of Revenue Projects Concerning the Proposed Annexation to the Lake and Peninsula Borough* (March, 2000)

² Citing Department of Community and Regional Affairs, *Report and Recommendation to the Alaska Local Boundary Commission on the Petition of the City of Dillingham for the Annexation of Approximately 421.25 Square Miles of Territory* (September, 1987) at p. 15 (emphasis added by Respondent)

Comments:

The City of Manokotak wrote that: "The City of Manokotak opposes the annexation of the Nushagak Commercial Salmon District to the City of Dillingham because the waters of Nushagak Bay are not a part of the community of Dillingham, but rather they belong to all of the cities and villages of the Dillingham Census Area."

[A similar position was taken by other Nushagak Bay communities or entities].

Stanley Mack quoted the LBC staff's Statement of Decision in the Matter of the Petition for Annexation of Territory to the City of Dillingham, Alaska (dated December 10, 1986) (hereafter 1986 LBC staff Dillingham Decision) when he said that "would not only allow the City to obtain additional revenues without the encouragement to pursue borough formation, it would constrain the area in terms of a potential revenue base for any future borough." (*Stanley Mack's October 1, 2010, comment, p. 4, quoting p. 5 of the decision*).

Mr. Mack also quoted the January 16, 1988 LBC staff Statement of Decision in the matter of the Petition for Annexation of Territory to the City of Dillingham, Alaska (*hereafter 1988 LBC staff Dillingham decision*) when he wrote that "[C]ity government is intended to address local governmental needs on a community level and a borough government is intended to address such needs on a regional level." (*Stanley Mack October 1, 2010, comment, page 5, quoting p. 2 of the decision*). Mr. Mack further quotes the decision as stating that "[A] city is not the appropriate vehicle to address such needs on a regional level." (*Stanley Mack October 1, 2010, comment, page 5*). LBC staff reads the quote as stating somewhat differently stating that "[A] city is not the appropriate vehicle to adequately address these issues that are of the regional nature described above."

The Village of Clarks Point asserted that it would like a 2.5% tax levied on fishers, to be shared with all affected communities in the area. It also asserted that it recognized that the LBC staff had the power to do so.

LBC Staff Findings:

3 AAC 110.981(7) asks "for city incorporation or annexation in the unorganized borough, whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists." 3 AAC 110.981(7) is not by itself a requirement that the petition promotes maximum self government. Rather, it states that the LBC staff will consider AAC 110.981(7) when it considers maximum local self government. Maximum local self government is a factor which the LBC staff may consider under 3 AAC 110.135.

If the annexation were approved, it would extend city government to the territory proposed for annexation. No government currently exists there. LBC staff finds that the fishers already benefit from the municipal services the city currently provides. Further, the proposed annexation would extend local government to the territory and

seasonal population. For example, the fishers seasonally residing in the territory would be taxed by the city. 3 AAC 110.970(d) states that the LBC staff can consider levying and collecting taxes to be an essential municipal service of a city. The fishers would be subject to city taxes, but they would also continue to receive the services that they receive, primarily in the harbor area, because there would be increased revenue to pay for those services. LBC staff finds that the petition meets this factor.

(2) promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

City: The petitioner stated that "[t]he petition application enlarges the boundaries of an existing city. Accordingly, no additional governmental unit is created Since no new government unit is being created the proposal promotes a minimum number of local government units- namely no more than exist today. (*Petition p. 63*).

"The current formulation of "best interests of the state" focuses not on theoretical future boroughs, but existing boroughs. There is not an existing borough. Therefore, the only relevant inquiry regarding promotion of a minimum number of governmental units is whether annexation is preferable to incorporation of a new city. Annexation is obviously preferable to incorporation of a new city. The territory proposed for annexation could not possibly be incorporated as its own city. Accordingly, the only way to promote a minimum number of local government units that meets the current requirement is through annexation." (*Reply brief p. 14*).

Respondent: Please see further below.

LBC Staff Findings: 3 AAC 110.982(7) asks whether "for city annexation, whether the jurisdictional boundaries of an existing city are being enlarged rather than promoting the incorporation of a new city or creation of a new borough service area."

Art. X, sec. 1 of Alaska's constitution states that "[t]he purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units."

LBC staff finds that Dillingham is being enlarged, and that a new city is not incorporated, nor is a new borough service area being created. We also find that the annexation, if approved, would enhance the concept of a minimum of local government units, and would prevent the duplication of tax-levying jurisdictions.

Dillingham is an existing first class city. The territory is in the unorganized borough. The territory is not incorporated, or part of a municipality. We find that if the annexation is approved, the city would grow in size, but that the annexation would not increase the number of local government units. We further find that the proposed annexation promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska. For those reasons, LBC staff finds that the petition meets this factor.

(3) will relieve the state government of the responsibility of providing local services.

City: "The petition will not relieve state government from the responsibility of providing public safety services in the annexed area, however, it will create additional support for the exercise of public safety services in the annexed area." (*Petition p. 63*).

Respondent: "A factor mentioned in the regulations which bears on the best interest determination is whether the annexation would relieve state government of the responsibility of providing local service [citing 3 AAC 110.135(a)(3)]. The instant annexation petition clearly would not relieve the state government of a single expense." (*Responsive brief pp. 24-25*).

LBC Staff Findings: LBC staff finds that while the annexation creates additional support for public safety services, that it does not relieve the state of the responsibility of providing local services. This factor does not support annexing the territory, and is not met.

Conclusion: There are often factors mentioned in the pertinent regulations which the LBC staff may consider as examples. The commission is not required to address all factors outlined in each standard and it may consider others pertinent to the petition but not addressed by the factors.

Throughout the petition, the parties have emphasized the factors, and sometimes treated them as imperatives in themselves. In 3 AAC 100.135, as similar to many other regulations, the LBC staff may consider whether the proposed annexation promotes maximum local self government, a minimum number of local governments units, and whether the annexation will relieve the state of the responsibility of providing local services. But, LBC staff respectfully points out that these factors are examples for the LBC staff to consider, and determine whether the overall standard of 3 AAC 110.135 is met. They are not, however, mandatory "checklists" in themselves.

The question was raised as to whether the city would be the appropriate government for the territory. In examining whether the city is the appropriate government for the territory, we first examine Dillingham's importance as the regional hub. We next discuss how approving this annexation would not hinder borough formation, but would actually increase its chances of forming. Thirdly, we find that the city is the appropriate government for the territory because approving the annexation petition does not remove any present or future fish tax revenue for existing communities, or a future borough.

Regional Hub

LBC staff finds further support that the proposed annexation is in the best interests of the state. We find that if the LBC staff approved the annexation, that that would ensure a stronger, more vibrant local government. LBC staff finds the annexation meets the best interests of the state because the city is the appropriate government for the territory. The city is the appropriate government for the territory because the rest of the region's communities need a stronger regional hub for their sustainability. LBC staff finds that the annexation is necessary to sustain the city, thereby sustaining the regional hub. If the city were to continue its fiscal course, without annexation approval, the state could be forced to step in and assist Dillingham in order to maintain the economic integrity of the city and region. This would not be in the state's best interests.

Dillingham is the hub of the Nushagak Bay region. The Dillingham Census Area had a 2000 population of 4,922³. In 2000, Dillingham had a population of 2,466, or roughly half that of the entire census area. The city has the hospital the largest harbor, including a barge landing, a branch of the university, and governmental offices. The city has the most stores and businesses.

Without the approval of this annexation, Dillingham's economy or its population could potentially decline dramatically. Would the city, then, be able to continue to provide all these functions? For example, there might be a position advertised outside the city for a hospital employee, but would there be a position for that employee's spouse? Would the hospital be able to recruit and retain sufficient professional staff? Would the media still be able to maintain operations in the region without a strong regional hub? Would there be as many government offices and employees? Would the Bristol Bay Campus of the University of Alaska Fairbanks remain open? There are hypothetical questions, with no easy answers – but they are questions worth asking.

As a first class city, Dillingham is responsible for its own public schools. If this annexation is not approved, the city could attempt to reclassify as a second class city. If it did so, and if such a reclassification petition were approved, the state would be responsible for paying that portion of education which the city currently pays. Such a transfer of spending from a municipality to the state would not be in the state's best interest.

We understand that the bay communities view the bay as being of regional interest, and not belonging solely to the city. But, LBC staff takes the view that this proposed annexation would not help only the city, but would benefit the entire Nushagak Bay region. If the city which is the center of activities, and has half the region's population diminishes, the other communities will also fade because there will not a hub to depend on, directly or indirectly. Should annexation not be approved, we do not see a bright or sustainable future for Dillingham. LBC staff feels that Dillingham would diminish in time, and would not be able to serve the region as it does now. This would hurt the entire region. The city is the appropriate government for the territory because the rest of the region's communities need a stronger regional hub for their sustainability.

³ http://en.wikipedia.org/wiki/Dillingham_Census_Area,_Alaska

Borough Formation

LBC staff finds that the city is the appropriate government for the territory because approving the annexation petition does not prevent, and could act as an incentive for, future borough formation in the region. LBC staff respectfully points out that in the fifty two years since statehood, no borough has formed in Nushagak Bay, nor are we aware of any borough incorporation petition for Nushagak Bay being presented to the staff. The region's communities could have reaped the benefits from local fish taxes for decades, as the Bristol Bay Borough did when it formed in 1962.

Parties and commenters have referred to annexation petitions from the mid-1980s as precedent. Both regulations and facts have changed, and what might have been the case then is not necessarily the case now. Those previous decisions are not legal precedent. The LBC staff evaluates a petition on the basis of the current standards, not past circumstances.

The argument has been made that this petition, if approved, will hinder the chance of borough formation. There is no guarantee one way or the other that a borough incorporation petition would be approved - such a petition would have to meet the standards. But, filing a petition would be a first step to forming a borough.

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

LBC staff makes no recommendations as to whether to file a borough formation petition, or which type of borough to form. We merely point out that options (please see "Policy Review" section) still exist to form a borough should such a petition be filed and approved.

If annexation is not approved, LBC staff does not expect that a borough incorporation petition will be filed, due to the fact that no such petition has ever been filed for Nushagak Bay. We do not believe that the city should have to wait indefinitely to annex territory on the possibility that some day, perhaps, a borough might (or might not) form.

For all of these reasons, LBC staff finds that the city is the appropriate government for the territory because approving the annexation petition does not prevent future borough formation in the region, but instead enhances its possibility. We find that approving the annexation is in the best interests of the state for that reason.

Taxation

LBC staff finds that the city is the appropriate government for the territory because approving the annexation petition does not remove any present or future fish tax

revenue for existing communities, or a future borough. We find that approving the annexation is in the best interests of the state for that reason.

LBC staff finds that it is both practical and equitable to encourage the providing of services to an important state industry. It is in the state's best interests to have services provided to the fishers because fishing is an important part of the state's economy. Dillingham is providing a lot of those services, particularly a safe harbor. This annexation better ensures the continuation and improvement of those services.

It has been contended that the annexation would reduce the potential income to the regional communities. There are state and local fish taxes. Basically, there are two kinds of state fish taxes: A state fishery business tax (informally called a raw fish tax, which is what we will call it), and the landing tax (also called the state fishery resource landing tax).

With the raw fish tax (AS 43.75.130), the state keeps 50% for the general fund. The DOR distributes the other 50% to the municipality in which the fish is processed. If the processing occurs in a city located within a borough, the city and borough split the 50%. If the fish is not processed in a municipality (extraterritorial), then the state still keeps 50% for the general fund, and the other 50% is distributed by Commerce. Commerce distributes that 50% to eligible municipalities that suffer significant effects from fishing. (AS 29.60.450).

Of the funds that DOR distributes, 50% goes to the municipality where the fish were processed. That means that no municipality presently benefits from the raw fish tax on the fish processed in the territory, because there is no processing in the territory. Further, there are no municipalities in the territory (Clark's Point and the present borders of Dillingham are outside of the territory). Thus, no municipality would lose anything, because no municipality currently derives income from the Nushagak Bay potential raw fish tax distributed by DOR.

The regional communities argue that they are losing potential income. That potential income would only occur if a borough was formed, and the resultant borough would have to share with Dillingham the DOR distributed revenue from the fish processed in the territory. The sharing would depend on the kind of borough formed, if any, and on whether the annexation petition is approved.

Commerce distributes raw fish tax revenue for fish not processed within a municipality. In that case, the communities could theoretically lose if the fish that formerly were processed outside a municipality were now processed within an expanded Dillingham. But, there is no processing that is currently done in the territory.

The processing at Ekuk (which is not a municipality, and which would not receive these funds in any event), is done on shore. If it is done on shore, it is outside of the territory. As the potential revenue from the Ekuk processors is outside of a municipality, the revenue is not subject to DOR distribution. As the potential revenue from the Ekuk processors is outside of the territory, it is not affected by the annexation, and would still

be distributed by Commerce.

Regarding the landing tax, that affects fish harvested and processed in federal waters, and first landed in the state. That tax would not be affected by the proposed annexation.

Regarding the local tax, it is typically either a sales tax, or a severance tax. There is not a legal limit as to how much fish tax a borough can add to existing city fish taxes. If the Dillingham annexation was approved and a borough was formed, a borough tax could be piggybacked upon the city tax. That is done in the Lake and Peninsula Borough. It is also possible, as said above, that a petition could be filed to form a borough and detach that territory from Dillingham, or a petition could be filed to form a unified borough, which would dissolve all cities in the borough. If either of those were to occur, then the local fish tax revenue would go to the borough. For those reasons, an approved annexation petition would not deny potential tax revenue to the potential borough.

Commenters have stated that other local communities' fishers infrequently use the harbor, or do not use it during the fishing season. LBC staff also received a comment that almost everyone with a boat used the harbor at some time. Regardless of the amount of use, the number of local fishermen is declining. This means that less of the tax impact will be felt by local fishers over time.

We respectfully disagree with the Village of Clarks Point's assertion that the LBC staff could impose a tax on fishers, for the benefit of the entire region. The LBC staff considers proposed local boundary changes, but does not impose taxes. Further, the state taxes are only distributed to municipalities, not to unincorporated communities.

For all of these reasons, we find that the city is the appropriate government for the territory because approving the annexation petition does not remove any present or future fish tax revenue for existing communities or a future borough. We find that approving the annexation is in the best interests of the state for that reason.

In conclusion, we find that the annexation meets the best interests of the state standard because it promotes maximum local self government and because it promotes a minimum number of local government units. Further, we find that the annexation meets the best interests of the state standard because the city is the appropriate government for the territory. We find that it is the appropriate government for the territory because the city is the region's hub, because the annexation would encourage, not hinder, borough formation, and because approving the annexation petition does not remove any present or future fish tax revenue for existing communities or a future borough.

LBC staff findings: Please see 3 AAC 110.090(b).

Comments: Please see 3 AAC 110.090(b).

3 AAC 110.981. Determination of maximum local self government

In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider... (7) for city incorporation or annexation in the unorganized borough, whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists;

City: Please see 3 AAC 110.135(1).

Respondent: Please see 3 AAC 110.135(1).

Comments: Please see comments for 3 AAC 110.135(1).

LBC Staff Findings: In 3 AAC 110.135(1), LBC staff explained "If the annexation were approved, it would extend city government to the territory proposed for annexation. No government currently exists there. LBC staff finds that the fishers already benefit from the municipal services the city currently provides. Further, the proposed annexation would extend local government to the territory and seasonal population. For example, the fishers seasonally residing in the territory would be taxed by the city. 3 AAC 110.970(d) states that the LBC can consider levying and collecting taxes to be an essential municipal service of a city. The fishers would be subject to city taxes, but they would also continue to receive the services that they receive, primarily in the harbor area, because there would be increased revenue to pay for those services."

LBC staff finds that the proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska. There is no local government for the territory and population. We find that the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists.

3 AAC 110.982. Minimum number of local government units

Among the factors to be considered in determining whether a proposed boundary change promotes a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, the commission will consider...(7) for city annexation, whether the jurisdictional boundaries of an existing city are being enlarged rather than promoting the incorporation of a new city or creation of a new borough service area.

City: Please see 3 AAC 110.135(2).

Respondent: Please see 3 AAC 110.135(2).

LBC Staff Findings: In 3 AAC 110.135(2), LBC staff finds that Alaska's constitution promotes minimizing local government units unless creating additional units are found to serve the best interests of the state. Annexing the territory would not increase the number of local government units. Annexation would just change the size of the city. LBC staff finds that if no new local government units are created by an approved proposal, then the annexation would promote the principal of a minimum number of local government units. LBC staff finds that this annexation proposal will not create new local government units. For that reason, LBC staff finds that the requirements of 3 AAC 110.982 have been met by the petition

Policy Review

LBC staff has considered, in addition to the standards, the unique regional nature of the Nushagak Bay communities. In particular, consideration for borough formation or "regional government" was mentioned in one form or fashion in several public comments and briefs presented to the Local Boundary Commission. Historically, the petitioner has served as the regional hub for the Nushagak Bay area since before incorporation as a second class city in 1963¹. Since incorporation, the region has been unsettled with disputes over whether a regional government (a borough), should or should not be established. Shortly after the incorporation of the City of Dillingham, a dispute came before the LBC regarding the incorporation and boundaries of the city.

The LBC's Statement of Decision stated:

"1. Every opportunity for settlement of the problem at the local level should be allowed before solution is imposed by the State.

2. The Dillingham-Wood River area needs and can support only a single unit of local government.

3. The residents of the Dillingham-Wood River area should look into the possibility of forming a first class organized borough as the area's single unit of local government. If a borough were incorporated, the Commission would recommend dissolution of both cities. The borough would succeed to the bond obligations of the former Dillingham PUD and would have a choice of several alternative methods for retiring the bonded indebtedness. A borough incorporation election would be conducted impartially by the Secretary of State². "

The LBC further required the dispute's participants to resolve the boundary issues internally by a set deadline, or the LBC would be forced to resolve the issues as a mediator. The dispute was not resolved, and the LBC commissioners dissolved the City of Wood River and upheld their decision to incorporate the City of Dillingham.

While the process for which incorporation of a city or borough has changed several times over the course of the past almost fifty years, the underlying regional dispute seems to continue. Since the incorporation dispute, Dillingham and the region have been at odds over resources, municipal boundaries, state versus local municipal obligations, and what LBC staff views as a regional rivalry. The City of Dillingham has petitioned two other times, once in 1986³ and the second in 1988⁴, to annex considerably larger territories than the current proposed expanded boundaries.

1 <http://www.commerce.state.ak.us/dca/commdb/CIS.cfm>, "Dillingham"

2 Memoranda of the Local Boundary Commission, RE: Dillingham-Wood River Dispute October 8, 1964

3 1986 Local Boundary Commission Dillingham Annexation Petition of 918.25 miles Statement of Decision

4 1987 Local Boundary Commission Dillingham Annexation Petition of 421.25 miles Statement of Decision

The Department of Commerce, Community and Regional Affairs produced several reports on the feasibility of borough formation for the region ⁵. Extensive state and local resources have gone into providing the Nushagak Bay area communities options and opportunities to work cooperatively to form a "regional government". The undertone of discord regarding boundaries and municipal borders has continued almost fifty years with no serious individual or collective effort to incorporate as a borough presented to the LBC.

After forty plus years, borough formation, or a "regional government" as alluded to in several public comments submitted, might or might not even be feasible for this region. The Budget Projections for a Prospective Dillingham Census Area Borough Report, produced by the Department of Community and Regional Affairs in 1994 evaluated the feasibility of a number of tax combinations for borough formation. The report concluded that 5 of 9 variations made borough formation viable. It is important to note, however, that the report was written more than fifteen years ago. Today, the question regarding whether borough formation is feasible would require new budget projections, in addition to whether additional taxation within the region, in particular bed/lodging tax, property tax, etc. could or would realistically be borne by local residents.

As time has progressed, the region has become, like it or not, more dependent on its regional hub. Transportation, goods, and services to and from the surrounding Nushagak Bay area communities almost always arrive by way of Dillingham. Members of the surrounding communities use several of the petitioner's essential municipal services regularly. The seasonal commercial fishing fleet and other government entities also use several of these services as well with little to no comparable form of compensation to the City. At the same time, the regional hub has continued to take on more responsibility to include the regional harbor and other municipal services within Nushagak Bay on behalf of the region, particularly during the annual fishing season.

LBC staff recognizes the sensitive nature of the regional relationships. However, LBC staff does not believe the Nushagak Bay area communities are taking into account the full scope of the economic effects of an unsustainable regional hub. Based on the budget projections provided by the petitioner, the city's annual budget had a deficit during fiscal year 2010 of more than \$70,000. Without annexation, the annual budget deficit could exponentially grow to more than a quarter of a million dollars by Fiscal Year 2013. This makes local government unsustainable.

It could be argued that the deficit is the city's concern but as the regional hub, LBC staff believes that the petitioner has done more than it is obliged to do including sales taxes, bed/lodging taxes, property taxes, alcohol taxes, etc. Short of charging new and higher user fees for current municipal services provided within city limits, the petitioner has reached its maximum capacity for generating necessary revenue for sustainable local government. The sustainability of this regional hub is the sustainability of this region.

⁵ See *Borough Budget Projections for Dillingham Census Area (1994)*, *Model Borough Boundaries Study (1997)*, *Unorganized Areas of Alaska that Meet Borough Incorporation Standards (2003)*

LBC staff also recognizes that the uniqueness of this region may provide, at a later date, what seems to be a unique opportunity to end the undertone of discord thereby unifying, literally, the region as a borough. Should the LBC commissioners follow the recommendation of this report and approve the annexation of the proposed expanded boundaries, there are at least three options LBC staff believes still remaining for the region to form a borough.

The first option, while potentially less viable, would be to incorporate as a first class, second class, or home-rule borough. This option would leave the local municipalities, their current existing boundaries, borders and municipal obligations intact, and add a regional government that is responsible for certain regional municipal services (i.e. typically regional education, land use and planning, the ability to levy and collect taxes, etc.). The mill and taxation levied by this borough option would be in addition to the current local governments' existing mill and tax rates.

The second option would be for all municipalities within the borough's boundaries to dissolve their municipal governments and incorporate as a unified borough. This option makes only one municipality for the region. No individual local government [city] would keep its current local government. All cities incorporated within the unified borough become part of the regional government (borough) and all municipal services are provided by that borough. Unified borough formation is only viable if all municipalities within the boundaries of the borough dissolve their local governments to incorporate as a unified borough.

The third option, while controversial, is still possible. Should the Local Boundary Commission Commissioners follow the recommendation of this report and approve the annexation of the proposed expanded boundaries, any municipality could file a petition to detach territory from Dillingham and incorporate the detached territory and region to form a borough. This option, if proposed this way, would transfer taxation rights for those areas detached to the borough. This would transfer the revenue from Dillingham to the borough.

These options are all theoretical and would have to meet the basic standards for their individual petition standards in order to be approved by the Local Boundary Commission. Moreover, since the region has never formally petitioned the LBC for borough formation, there is no guarantee one way or the other, that a petition would be approved.

LBC staff believes the regional hub has to be economically sustainable for the surrounding communities to also be sustainable. Borough formation may be a viable option for the Nushagak Bay area communities. Since no community within the Nushagak Bay area has ever filed a petition to incorporate the region as a borough, nor does it appear to LBC staff that any community intends to file one presently, or in the near future, LBC staff does not consider this proposed annexation a "Harm [to] the Viability of a Future Borough in the Region⁶⁷."

6 Responsive Brief: p. 24

General Conclusion and Recommendation

Based on the findings and conclusions set forth in Section 3 of this report, LBC staff concludes that all of the relevant standards and requirements for annexation are satisfied by the city of Dillingham's petition. The LBC staff's recommendations are that of the LBC staff alone.

LBC staff finds that the requirements of 3 AAC 110.090(a) are met because the commercial fishery industry in the territory uses and depends on services provided by the city. The territory exhibits a reasonable need for city government. LBC staff finds that the requirements of 3 AAC 110.090(b) are met because the petitioner has also demonstrated its ability to provide essential municipal services more efficiently and more effectively than any other municipality or organized borough.

LBC staff finds that the petition does meet the requirements of 3 AAC 110.100 because LBC staff finds that Dillingham is compatible in character with the territory proposed for annexation. It is compatible in character in part because of the many services it provides to the fishing fleet. This creates a bond between the city and the territory. The territory is only seasonally populated. That seasonal activity, however, is the economic engine of the entire bay. LBC staff finds that no other community or municipality provides the level of services that the city does. While the city is not the exclusive provider of services or fish processing in the region, the fleet heavily depends on the city. The mutual economic dependence and impact creates a bond that makes the territory and the city compatible in character.

LBC staff concludes that 3 AAC 110.110 is met because the economy within the proposed expanded boundaries of the city includes the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level.

LBC staff concludes that 3 AAC 110.120 is met because the population within the proposed expanded boundaries of the city is sufficiently large and stable to support the extension of city government.

LBC staff concludes that the 3 AAC 110.130(a) is met because the proposed expanded boundaries of the city include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level.

LBC staff concludes that the 3 AAC 110.130(b) is met because the territory is contiguous to the annexing city, and does not create enclaves in the annexing city. LBC staff concludes that 3 AAC 110.130(c) is met because the proposed expanded boundaries of the city promote the limitation of community. We find this because the proposed expanded boundaries of the city are on a scale suitable for city government. Further, we find that they 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.

Also, LBC staff concludes that 3 AAC 110.130(c) is met. 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. As the petition meets those two criteria, the provision that annexation may not include entire geographical regions or large unpopulated areas does not apply.

Also, LBC staff concludes that the annexation has successfully met 3 AAC 110.130(d) because the petition for annexation to a city does not describe boundaries overlapping the boundaries of an existing organized borough, or another existing city.

LBC staff finds that the annexation meets 3 AAC 110.135 because it promotes maximum local self government and because it promotes a minimum number of local government units. Further, we find that the annexation meets the best interests of the state standard because the city is the appropriate government for the territory. We find that it is the appropriate government for the territory because the city is the region's hub, because the annexation would encourage, not hinder, borough formation, and because approving the annexation petition does not remove any present or future fish tax revenue for existing communities or a future borough.

LBC staff finds that the annexation meets the requirements of a transition plan under 3 AAC 110.900.

LBC staff finds that the annexation meets the requirements of 3 AAC 110.910. There is no indication in this proceeding that annexation would result in imposing or applying voting qualifications, voting prerequisites, or standards, practices, or procedures to deny or abridge the right to vote on account of race or color, or because a person is a member of a language minority group.

Under 3 AAC 110.970, the LBC staff identifies essential municipal services to include the harbor as an essential municipal service. Further, we identify "levying and collecting taxes" and "public safety protection" as services which the LBC staff can consider to be essential municipal services.

The LBC staff finds that the petition meets the requirements of maximum local self government under 3 AAC 110.981, and a minimum number of local government units under 3 AAC 110.982.

LBC staff recommends that the Local Boundary Commission approve the July 2, 2010, petition of the City of Dillingham for the annexation of approximately 396 square miles of water and 3 square miles of land (small islands) consisting of the Nushagak Commercial Salmon District waters and Wood River waters.

Exhibit P



City of Dillingham Harbor Improvement Projects since 1988

1. Seafood Industrial Park Plan Resolution 87-58	\$31,000
2. Sheetpile Bulkhead Reso. 90-12	\$6,300
3. Harbor Improvements Reso. 94-25	\$100,000
4. Harbor road Upgrade Reso. 98-56	\$85,000
5. Harbor Bulkhead Improvements Reso. 98-06	\$398,850
6. Harbor and Ramp Reconstruction Reso. 99-07	\$58,635
7. Ice Machine Electrical Reso. 02-01	\$20,000
8. All-Tides Dock Reso. 04-07	\$5,313,000
9. South Boat Ramp Improvements Reso. 2006-03	\$39,450
10. North Bulkhead Extension Design (Grant) Reso 2007-18	\$100,000
11. North Boat Ramp Construction Reso. 2008-17	\$257,500

EXHIBIT N
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City of Dillingham Harbor Improvements Projects Since 1988(cont.)

12. Shoreline Bank Stabilization Reso. 2008-38	\$1,500,000
13. Harbor Improvements on 2 ramps Reso. 2008-49	\$224,525
14. South Boat Ramp Improvements Reso. 2009-12	\$198,875
15. New Crane Reso. 2009-13	\$23,000
16. Small Boat Harbor Improvements (access, parking) Reso. 2009-24	\$215,000
17. North Bulkhead extension (grant) Reso. 2009-52	\$1,000,000
18. Shoreline Emergency Bank Stabilization Reso 2009-54 City's top Federal Legislative priority	\$18,530,000
19. Small Boat Harbor Renovations-Phase II Reso 2010-35	\$1,039,000
20. Request for Fed. Transportation Funding for Bank Stabilization Reso. 2010-57	\$9,430,000
TOTAL	\$38,570,135

EXHIBIT N
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Exhibit Q

1
2 **IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**
3 **THIRD JUDICIAL DISTRICT AT DILLINGHAM**

4 NATIVE VILLAGE OF EKUK,)

5 Appellant,)

6 v.)

7 LOCAL BOUNDARY COMMISSION)
8 AND CITY OF DILLINGHAM,)

9 Appellee.)

Case No.: 3DI-12-00022 CI

10
11 **APPEAL FROM THE DECISION OF THE LOCAL BOUNDARY COMMISSION OF**
12 **THE STATE OF ALASKA DATED JUNE 12, 2010, TO THE SUPERIOR COURT,**
13 **THIRD JUDICIAL DISTRICT AT DILLINGHAM**
14 **HON. PATRICIA P. DOUGLASS, SUPERIOR COURT JUDGE**

15 **APPELLEE'S BRIEF**

16 **MICHAEL C. GERAGHTY**
17 **ATTORNEY GENERAL**

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1
2 Annexation Public Hearing of April 25-26, 2011 Mayor Ruby testified to the failed
3 efforts to amend boundaries reaching back to at least 1988. (Exc. 534-38 [Tr. 4/26/11
4 Vol. II at pp.162 -166]) But even further back in time, during 1963 - 1965, a boundary
5 dispute arose between Dillingham and Wood River, a nearby area. At that time,
6 Alaska's ". . . boundary commission issued a memorandum providing that if by
7 January 1, 1965 the residents of the Dillingham-Wood River area had not taken positive
8 steps towards formation of an organized borough or a single city capable of meeting the
9 area's needs and responsibilities in local government, the commission would propose a
10 solution. *Nothing was done by the residents of the area to solve the problem, . . .*"
11 (*Oesau v. City of Dillingham*, 439 P.2d 180, 182 (Alaska 1968)) (Emphasis added.)
12 Accordingly, the Local Boundary Commission itself took steps to dissolve the City of
13 Wood River, transfer Wood River's assets and liabilities to the City of Dillingham and
14 redraw the boundaries of the City of Dillingham to include the areas of Wood River.
15 (*Oesau v. City of Dillingham*, 439 P.2d 180, 181-82 (Alaska 1968)) Detrimental
16 inaction has characterized boundary change efforts, including borough incorporation, in
17 the Dillingham area since statehood. The inertia against action has weighed heavily on
18 the region to its detriment, including loss of raw fish tax. Absent a city or borough fish
19 tax applicable to the fishing grounds, the fish tax value simply "swims away".
20 (Exc. 517, 576, 582, 590, 596; [Tr. 4/25/11 Vol. II at pp. 208, 222, 269, 323]) The City
21 of Dillingham, with its LBC approved, voter approved and U.S. Department of Justice
22 approved annexation has finally broken free of that multi-decade negative inertia in a
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1
2 way that strengthens it and the region and allows capture of the raw fish tax that
3 heretofore swam away.

4 The Native Village of Ekuk appeals the December 14, 2011 decision by
5 the State of Alaska's Local Boundary Commission (LBC). The LBC is a single, state-
6 wide commission with a constitutional mandate to set local government boundaries in
7 the best interest of the state as a whole.⁶ When a city or borough petitions to change its
8 boundaries, the LBC provides a lengthy comment, study and hearing period before
9 rendering a decision. On December 14, 2011 (Exc. 241-56) the LBC approved the
10 expanded boundaries of the City of Dillingham following Petitioner City of
11 Dillingham's satisfaction of a condition, additional communication with specified
12 entities. These new boundaries went into effect March 13, 2012 (Exc. 633). The LBC's
13 decision accepted the City of Dillingham's plan to annex into the city the fishing
14 grounds referred to as "Nushagak Commercial Fishing District" (Exc. 241)) and the
15 "Wood River Sockeye Salmon Special Harvest Area" (Exc. 241), collectively
16 approximately 399 square miles. (Exc. 241) Voters thereafter approved the annexation
17 and the City of Dillingham's amended boundary certificate was issued and recorded
18 August 23, 2012 concluding the matter. (Exc. 633-35)

19 The appellant, Native Village of Ekuk (sometimes referred to as Ekuk), is
20 located outside of the post annexation Dillingham municipal boundaries yet has filed
21 this appeal. Evidentially only two people live at Ekuk during the year. Ekuk tribal
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26 ⁶ Alaska Const. Art. X Section 12.

1
2 members fish at Ekuk during the summer and live elsewhere, including Dillingham.
3 Ekuk's population came to light in question/answer between Ekuk's attorney,
4 Mr. Baldwin and an unidentified Commissioner:

5 UNIDENTIFIED VOICE: And I'd like to ask, what's the
6 population of Ekuk?

7 MR. BALDWIN: The population of Ekuk? In the summertime it's
8 about 200 people.

9 UNIDENTIFIED VOICE: And the rest of the year?

10 MR. BALDWIN: About two.

11 UNIDENTIFIED VOICE: How many?

12 MR. BALDWIN: About two.

13 UNIDENTIFIED VOICE: Oh, really? Two as in two people?

14 MR. BALDWIN: Two people.

15 UNIDENTIFIED VOICE: Thank you.

16 (Exc. 473; TR 4/25/11 Vol. I p. 16)

17 Ekuk raises three issues, specifically, A) it challenges the "local option" or
18 "local action" mode of annexation the City elected to use, B) Ekuk questions the
19 standards applied by the LBC in approving the annexation, and C) Ekuk questions the
20 LBC's "Best Interest of the State" determination.

21 The LBC followed proper procedures in all respects and the appeal should
22 be denied and the LBC affirmed.

23 **B. There Is A Reasonable Basis For The LBC's Final December 14, 2011
24 Decision Approving The Annexation.**

25 The LBC specifically addressed all standards required by law,
26 3 AAC 110.090-.135 and 3 AAC 110.900-.982, which incorporate the constitutional
requirements of ART X Sec. 12 and applicable statutes. The exhaustive review

1
2 conducted by the LBC staff and commissioners, and inherent in the macro process and
3 Micro process, supra, gives rise to ten pages (Exc. 245-54) of supported analysis,
4 findings and conclusions, in the December 14, 2011 decision. The LBC's decision
5 should be affirmed.

6
7 By way of example, based on testimony and filings with the Commission
8 the commissioners concluded that the territory proposed for annexation needed city
9 government. Under 3 AAC 110.090 Need, there are two standards to be met and each
10 were met. The first, 3 AAC 110.090(a), is whether or not the territory to be annexed
11 has a reasonable need for city government and second can that need be fulfilled by
12 another city or borough. The Commission determined that

13
14 [T]he territory proposed to be annexed, is receiving, at the
15 present and through the foreseeable future, the benefit of services
16 and facilities provided by the annexing city. The petitioner has
17 continued to provide municipal services. These services would
18 not be available to the fishery industry within the Nushagak Bay
19 area if it were not for the city providing them. As a responsible
20 local government entity, the city has continually provided these
21 services at the expense of its residents and to the point of
22 unsustainability. (Exc. 246)

23 The second factor, 3 AAC 110.090(b), is whether essential city services could be
24 provided by another existing city, by an organized borough, or through a borough
25 service area.

26 The Commission determined that

Dillingham is the regional hub of the Nushagak Bay area. No other municipality has argued that it has the ability, or desires the responsibility of providing more efficient and more effective essential municipal services for the proposed expanded boundaries.

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The commission finds no other existing municipality had the ability to provide essential municipal services to the territory to be annexed more efficiently and more effectively than the petitioner. The idea of regional government has only been theoretical with no petition formally filed and accepted by the LBC since the incorporation of the city. Regional government could be a viable option; however, under the circumstances the region has not produced the will or resources necessary to form such a government. The LBC finds that the petition meets 3 AAC 110.090(b)'s requirements. (Exc. 246)

The record supports the LBC's analysis and conclusion. For instance Mayor Ruby of Dillingham testified that the point of the annexation is all about sustaining our community. It's not about expanding Dillingham's authority; it's not even about expanding services. She noted that *the services Dillingham is providing already are regional in nature and support the territory proposed for annexation and Dillingham is the regional hub.* (Exc. 472; Tr. 4/25/11 Vol. I at p. 9) Dillingham's Port Director Barrett shared with the Commission that over 400 and upwards of 550 commercial fishing boats use the services that Dillingham provides, from waste oil disposal to net loading with a city crane and possible ice delivery and many more services. (Exc. 475-76 Tr. 4/25/11 Vol I at p.18) The Port Director noted that the port sold 280 harbor permits and only 24% of those were *Dillingham* boats. (Exc. 478; Tr. 4/25/2011 Vol I at p. 21) Therefore about 76% of the boats using Dillingham services are from elsewhere and presumably do not contribute to city operations by virtue of real property taxes and the like. Mr. Hjalmar Olson, lifelong resident of Dillingham and commercial fisher, noted that about 30% of fish caught in the region are caught by Dillingham locals, the balance of about 70% are caught by non-residents of

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Dillingham. But they still use the city services. (Exc. 481; Tr. 4/25/11 Vol I at p.25)
Mr. Dunaway testified that during his 22 years living in Dillingham there have been two
tries to form a borough, each of which failed, while much needed services and
maintenance are languishing. (Exc. 583; Tr. 4/26/11 Vol II at p. 227) Mr. Pauling, a
Dillingham resident, business and property owner stated Dillingham is faced with
increasing costs and lack of resources to cover the services they provide and a raw fish
tax is a revenue stream that other fishing communities in the state utilize to support their
communities and to provide services to the local fishery. (Exc. 585-86; Tr. 4/26/11
Vol II at p. 236-7)

These witness observations are reinforced by the sworn testimony of
Mr. Keggie Tubbs, Dillingham City Council member and chair of the city's finance
committee which is charged with formulating the city budget. Mr. Tubbs pointed out
that the City's main sources of revenue are sales tax (6%) and property tax
(13 mils)(though 40% of the property tax base is reduced by exemptions, including "a
new home development exemption" enjoyed by *Etkuk* tribal members with property in
Dillingham); (Exc. 486) Dillingham municipal deferred maintenance is valued at an
estimated \$57 million including the emergency bank stabilization/erosion control
project in the harbor; (Exc. 487) the property tax and sales tax are not enough to support
the city or its pending projects; (Exc. 487). (Exc. 484-93; Tr. 4/25/11, Vol I at 29-37,
and Exc. 558-564; Tr. 4/26/11 Vol II at pp.187-92) Essential municipal services are best
provided by the city and the economy has financial resources necessary to support those
services in the form of a fish tax; (Exc. 492, Tr. 4/25/11 Vol I at 36) the post annexation

1
2 fish tax is necessary for the city's financial health going forward. Mr. Tubbs and the
3 City of Dillingham provided extensive financial information in support of the
4 Dillingham annexation petition. A challenge by Ekuk to Dillingham's financial
5 situation was effectively rebutted by Dillingham's rebuttal witnesses April 26th, such as
6 Mr. Tubbs (Exc. 588-54; Tr. 4/26/11 Vol II, p.187-92) and city finance director
7 Carol Shade. (Exc. 565-66; Tr. 4/26/11 at pp. 194-5)⁷

8
9 Such reasoned analysis is consistent throughout the LBC's decision.
10 (Exc. 241-56) In Section III, for nine pages (Exc. 245-53) under "Findings and
11 Conclusions" the applicable regulation is stated, together with an analysis based on the
12 record. And in conclusion at Exc. 253 the Commission found that "all of the standards
13 and requirements for annexation of the territory (the Nushagak Bay Commercial Fishing
14 District) are satisfied by the City of Dillingham's petition." There is a reasonable basis
15 for approval of Dillingham's petition by the LBC and the December 14, 2011 decision
16 should be affirmed.
17

18 **1. LBC's Application of Regulations to the Petition was Correct**
19 **and Sensible.**

20 Beginning at page 29 of appellant's brief Ekuk challenges the LBC's
21 petition analysis under 3 AAC 110.130(c)(1) & (2). Ekuk focuses only on subparts of
22 (c)(1) & (2) and characterizes the LBC's analysis as "new interpretations" of the
23 regulation. But Ekuk's concern is a virtual non-issue when all clauses of the subparts
24 are considered. That is because 3 AAC 110.130(c)(2) expressly incorporates all of
25

26 ⁷ Barbara Sheinberg rebutted concerns relating to fish tax too. (Exc. 567-575)

1
2 3 AAC 110.090-.135 in the exception clause of the 3 AAC 110.130(c)(2). That includes
3 3 AAC 110.090 Need; 3 AAC 110.100 Character; 3 AAC 110.110 Resources;
4 3 AAC 110.120 Population; and 3 AAC 110.135 Best Interest of the State.
5 What 3 AAC 110.090(c)(2) means is that 'entire geographical regions or large
6 unpopulated areas may be annexed if those boundaries are justified by the application of
7 standards in 3 AAC 110.090-.135 and are otherwise suitable for city government.'

8
9 By way of example 3 AAC 110.090(a) provides that an area [to be
10 annexed] must exhibit a reasonable need for city government. That regulation was
11 satisfied with the support documents and the testimony of Jean Barrett, Dillingham Port
12 Director (Exc. 474-80; Tr. 4/25/11 Vol I at pp.17-24), Tim Sands, Dillingham City
13 Council member (Exc. 494-97; Tr. 4/25/11 Vol I at pp. 39-42), and Jody Seitz, City of
14 Dillingham Planning Director, (Exc. 498-503; Tr. 4/25/11 Vol I at pp. 42-8) for
15 example, that the city is already providing services to Nushagak Bay and those working
16 there.
17

18 Further, by way of example, pursuant to 3 AAC 110.110 Character, the
19 territory must be compatible with the annexing city. It is undisputed that the City of
20 Dillingham sits on the shores of Nushagak Bay, rendering the Bay as Dillingham's front
21 yard, and rendering the annexed territory compatible with Dillingham. Furthermore,
22 plenty of evidence was provided that those working the bay, fishers, and others, used
23 and benefitted from the municipal services of Dillingham. (*Id.* and (Exc. 543-48;
24 Tr. 4/26/11 Vol. II Hjalmar Olson testimony pp.172-77)) Just as 3 AAC 110.090 and
25
26

1
2 3 AAC 110.100 support and justify annexation of the territory Dillingham sought, so do
3 3 AAC 110.110, .120 and .135.

4 3 AAC 110.110 requires that the economy within the proposed expanded
5 boundaries of the city must include the human and financial resources necessary to
6 provide essential municipal services on an efficient, cost effective level. As
7 Mayor Ruby outlined, the city has been and will continue to provide services within the
8 annexed territory. Also the testimony of Mr. Liedberg, chair of the Dillingham
9 Planning Commission who spoke on behalf of the Planning Commission and who
10 referred to the Dillingham updated comprehensive plan reiterated the same. (Exc. 505-
11 509; Tr. 4/25/11 Vol I at p.50-54)⁸

12
13 3 AAC 110.120 population provides that population within the proposed
14 expanded boundaries of the city must be sufficiently large and stable to support the
15 expansion of the city government, which may include "seasonal population changes,"
16 which is what the seasonal commercial salmon fishery is all about. That seasonal
17 population change puts pressure on the City's finances and resources and the raw fish
18 tax following annexation will help alleviate that.⁹

19
20 As for Best Interest of the State, 3 AAC 110.135, there was extensive
21 debate among the commissioners (Tr. 4/26/2011 Vol II at pp.322-332). The
22 commission found many reasons, not the least of which was school funding.
23

24
25 ⁸ The annexed territory is formerly a portion of the unorganized borough
not part of any other municipality.

26 ⁹ Barbara Sheinberg gave a rather comprehensive review concerning fish
taxes and Alaska municipalities. (Exc. 512-521; Tr. 4/25/11 Vol I pp. 64-73).

1
2 (Tr. 4/26/2011 Vol II at pp.322-332) Commissioners discussed that the post annexation
3 raw fish tax that will be generated will help Dillingham continue to fund their schools,
4 rather than converting from a first class city to a second class city thereby transferring
5 school support from the city to the state. (Exc. 598-99; Tr. 4/26/11 Vol II at pp. 331-
6 332) It is in the best interest of the state to have a strong hub community. (Tr. 4/26/11
7 Vol II at pp. 323) Culturally and economically sustainable rural communities is in the
8 state's best interest and a strong hub facilitates that. (Tr. 4/26/11 Vol II at p 325) Also,
9 ongoing decline of Dillingham's finances, and unaddressed ongoing deterioration of its
10 infrastructure bodes poorly for Dillingham and the region as testified to by Mr. Tubbs
11 and others. (Exc. 564) The final staff report reached the same conclusion, "[i]f the
12 annexation is not approved, [], based on budget and other materials, we find there
13 will be a steady decline. This would hurt Dillingham, the rest of the Nushagak Bay
14 communities, and the fishers that all depend on Dillingham." (Exc.450; R. 927)

15
16
17 So Ekuk's argument about 3 AAC 110.130(c)(1) & (2) and it's allegation
18 that the LBC applied new standards inconsistent with its existing regulations, is without
19 merit, considering the big picture, considering application of each clause of
20 3 AAC 110.130(c)(2) including the exception clause, and considering the abundant facts
21 presented by Dillingham. The LBC's annexation decision should be affirmed.

22
23 **C. The Local Action/Local Option Petition was Appropriate and**
24 **Appropriately Considered by The Local Boundary Commission in Its**
25 **Discretion.**

26 The appellant contends that LBC consideration of the City annexation
petition as a local action petition was error. It was not error. Appellant cites Art. X,

1
2 (8) expert witnesses (R. 843-46), and more, all of which was read or considered by staff
3 (Exc. 591-92) and the commissioners. (Exc. 593-94)¹¹ Chair Chrystal confirmed that
4 the Commission's decision making was to be based on the regulations, statutes, and
5 constitutional provisions the LBC is subject to and not emotions, as he opened the
6 decisional meeting April 26, 2011. (Exc. 593) With regard to hard-look and reasoned
7 decision making Chair Chrystal fortuitously noted on the record that the LBC wasn't
8 just showing up at Dillingham, hearing a few words and making the important decision.
9

10 He said:

11 And just for the audience and whatever, the two days that we
12 have spent here on this is only a small portion of the time we've
13 spent on this issue. We've had these [materials]¹² for weeks and
14 we've all been studying at length and I spent, I don't know, a
15 hundred hours reading this thing. I don't know for sure. But it's a
16 lot. And so it's not as if we're just all of sudden showing up here
17 in Dillingham and hearing a few words and just making a
18 decision that is so important. And this is -- I know for me it's
19 going to be a very difficult decision. And my intention, unless the
20 Commission, you know, doesn't see it this way, is to go through
21 each standard that we're required to follow and as we go through
22 each standard we'll decide if it generally meets the consensus of
23 the Commission, or whatever, and at the end we'll make any
24 motions that are appropriate.

20 (Exc. 593-94; Tr. 4/26/11 Vol II at pp. 308-9)

21 Accordingly, it was a reasoned deliberative process. In addition to
22 countless staff hours inherent in the analysis, reports and meetings the commissioners
23

24
25 ¹¹ "fake bunny ears", should be "materials" at line 15.

26 ¹² Again "materials" replaces an apparent transcription error, "fake bunny cars".

1
2 spent countless hours reviewing the issues before arriving at Dillingham for hearings.
3 That inherently contributed to a hard look and reasoned decision making.

4 Just because the commissioners didn't agree with Ekuk's position doesn't
5 mean the commissioners didn't give the issues a hard look or consider Ekuk's concerns
6 in the reasoned decision making process. If Ekuk's disagreement with the LBC's
7 boundary decision meant no boundary change could happen the boundary change
8 process in Art. X s 12 of the Alaska Constitution would be destroyed.

9
10 Robert Heyano is recognized in the record as President of Native Village
11 of Ekuk. (Exc. 1266) He personally and on behalf of Ekuk provided extensive input.
12 For example, (R. 1267-70 a 4-page affidavit; testimony at the April 25, 2011 Public
13 Hearing [Tr. 4/15/11 Vol I at pp.96-108; R. 782-94]; input during the consultation
14 phase, ie. Exc. 620, 621, 622, 624, 629; and testimony at the November 5, 2011 Public
15 Meeting, Exc. 266-69; and more.)

16
17 The LBC staff acknowledged in the Final Report, Native Village of
18 Ekuk's comments within the "Best Interest of the State" section (Exc. 442-52) under the
19 sub-headings of "The effect of the Annexation on the Interests of the Rest of the
20 Nushagak Bay Communities" and "Financial Impact." (Exc. 442-44) The Native
21 Village of Ekuk wrote, in commenting on LBC staff's preliminary report that the
22 annexation was a bad idea because the fish tax would have a disproportionate impact on
23 lower income residents living outside of the annexed area but who fish within the
24 annexed area. (Exc. 442) But applying a statewide perspective to the situation, the staff
25 noted that it "understands and respects these comment's intent, but disagrees with the
26

1
2 notion that the staff has failed to consider the effects of annexation on the Nushagak
3 Bay communities.” (Exc. 442) In the final report, the LBC reiterated a point it made in
4 the preliminary report that “. . . this annexation is in the best interest of the rest of the
5 Nushagak communities and not just Dillingham [] [which] is the hub of Nushagak
6 Bay.” (Exc. 442) The final report further noted that Dillingham, the hub, also has the
7 regional airport and hospital among other facilities. And that a healthy hub is critical to
8 viable regional communities, such as Native Village of Ekuk. As the staff stated: “[i]f
9 the hub is not sustainable in the long run, how will these other communities [i.e. Native
10 Village of Ekuk] that rely on the hub continue to exist?” (Exc. 442) The final staff
11 report further elaborated that “[w]hile the tax revenue is not going directly to those
12 [impoverished] individuals, a strengthened Dillingham would be stronger economically.
13 It is our hope and belief that this would help those individuals living in poverty, both in
14 and out of Dillingham.” (Exc. 443-44). And further the final staff report noted: “. . .
15 Dillingham is the community petitioning to annex Nushagak Bay and seek the fish tax
16 revenue. In doing so, it makes clear that it is providing financially unsustainable
17 services to the fishing industry. The city is not asking for anything more than the ability
18 to continue to provide such services that are paid for by those who use it. It wants to
19 continue to improve the harbor for the fishing industry. The city as a first class city, has
20 shown that it is maximizing the powers of local government by providing services to the
21 fishers and to the community.” (Exc. 445)

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25 The final report republished a public comment by Izetta Chambers
26 supporting the annexation which stated in part that “[w]hile I emphasize with the plight

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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 analysis and do whatever is in their power to provide benefits to all fishermen in the form of improved infrastructure. . . ." (Exc. 445)

Commissioner debate concerning the best interest of the State was extensive too. (Exc. 309-19) And in that debate the commissioners recognized the potential impact of the tax burden on certain fishers. Commissioner Wilson remarked "In the best interest of the state I cannot believe that adding a tax burden to a lot of people, particularly low income or near low income, is in the best interest of the state. For one thing it's going to put them in need of more state services. Health and welfare services and so on." (Exc. 314; Tr. 4/26/2011 at p.327) That comment acknowledges that the Commissioners heard and considered the concerns of regional residents and fishers, including those of Native Village of Ekuk. But the Commissioners must apply a statewide perspective to their petition evaluation, and weigh the issues and concerns, since ". . . the process [is] at a level where area-wide or state-wide needs can be taken into account. By placing authority in this third-party [LBC], arguments for and against boundary changes can be analyzed objectively." *Fairview Pub. Util. Dist No. 1, v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962). *Fairview* further noted that relevant minutes of the local government committee show the concept that was in mind when section 12 of Art X was being considered-local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. (*Id.*)

1
2 (See also, *Oesau v. City of Dillingham*, 439 P.2d 180 (Alaska, 1980) and *City of*
3 *Douglas v. Borough of Juneau*, 484 P.2d 1040 (Alaska 1971)).

4 That state-wide perspective was evident in ensuing discussion among
5 commissioners who hail from around the state. (Exc. 432, Final Report) and (Exc. 403-
6 04, Preliminary Report) Later that same Commissioner (Wilson) was engaged in an
7 exchange balancing the state-wide concerns. Commissioner Semmens stated "Yeah. I
8 think the burden clearly would come in if Dillingham quit providing services that the
9 area residents need and then the state would have to provide those services." (Exc. 599;
10 Tr. 4/26/11 Vol. II at p. 332) And notwithstanding his previously expressed tax concern
11 Commissioner Wilson added, "I agree with [what] you just said because in the past
12 there's been talk about the City of Dillingham petitioning to dissolve itself as a first
13 class city and become a second class city. This additional income will I think will be a
14 catalyst to prevent that. If it becomes a second class city the state would then have the
15 responsibility for education. And if you listened tonight, you know, one of the, -and
16 yesterday, the comments were about improving this school which is now the
17 responsibility of the city. But if they become a second class city that responsibility
18 would automatically transfer to the state. Thank you." (Exc. 599; Tr. 4/26/11 Vol. II at
19 p. 332)) So, the record is clear that the "hard look" was applied to the articulated
20 concerns. The commissioners applied a macro-view to the petition and issues while
21 simultaneously considering the local, or micro-concerns, in reasoned decision making.
22 In applying the hard look and conducting reasoned decision making written submittals,
23 lay witness testimony and expert witness testimony all support the LBC's "Best Interest
24
25
26

1
2 of the State” and other determinations. The best interest of the state discussion
3 (Tr. 4/26/2011 Vol II at pp.322-332) is also reflected in the LBC’s final report of
4 December 14, 2011 at p.10 (Exc 250). The report states,

5
6 [t]he annexation further meets the best interests of the state
7 requirement because the city is the appropriate government for
8 the territory. The rest of the region’s communities need a
9 stronger regional hub for their sustainability. The annexation is
10 necessary to sustain the city thereby sustaining the regional hub.
11 If the city were to continue its fiscal course, without annexation
12 approval, the state would be forced to step in and assist
13 Dillingham in order to maintain the economic integrity of the city
14 and the region. This would not be in the state’s best interests.
15 Dillingham is the hub of the Nushagak Bay region.

16
17 The City is the appropriate government for the territory because
18 the rest of the region’s communities need a stronger regional hub
19 for their sustainability. We find that the City of Dillingham is the
20 appropriate government for the territory because the city is the
21 region’s hub, because the annexation could encourage, not hinder
22 borough formation, because the proposed annexation would have
23 no effect upon the number of local governments units, and
24 because approving the annexation petition does not remove any
25 present or future fish tax revenue for existing communities or a
26 future borough.

(Exc. 250)¹³

20 **E. The LBC Has Broad Authority in Annexation Matters and in
21 Exercising that Authority the LBC Properly Applied Applicable Law
22 to this Decision.**

23 Ekuk has no right to insist that the Dillingham City annexation take place
24 only with Ekuk’s consent or on conditions specified by Ekuk, but that is essentially
25 what it is arguing. As noted in *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*,

26 ¹³ Dillingham is acknowledged as a hub by many witnesses. (R. 589.
Don Moore; R. 573, Ms. Muir; R. 541, Mr. Bouker; R 532, Mr. Johnson.)

Exhibit R



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Bristol Bay Commercial Fishery Celebrates 125 Years

Bristol Bay Commercial Fishery Celebrates 125 Years

We pulla da nets, to maka da mon, to buya da bread, to getta da stren', to pulla da nets
—Lament of a Bristol Bay fisherman

As Alaskans mark the 50th anniversary of statehood this year, the commercial fishermen of Bristol Bay set sail on their 125th season on June 7th. They do so in much more comfort and with better gear than the pioneering fishermen of the Bay. Fishing today is very different from the time up until 1951 when salmon were netted from sailboats. Despite the differences, however, the essential activity remains the same – it still takes two hands to pick a salmon out of the net. In the last century and a quarter tens of thousands of pairs of hands have picked hundreds of millions of salmon from the nets of Bristol Bay.



The fishery began in 1884 when San Francisco businessman Carl Rohlfs organized the Arctic Packing Company and built the first cannery on the Bay at the Native village of Kanulik across the Nushagak River from present day Dillingham. The first commercial pack of canned salmon was only about 400 cases or 8000 fish. A meager beginning for what would become the most productive wild salmon fishery on earth. Over time more than 50 canneries would be built in Bristol Bay. Most have since succumbed to fire or neglect.

The Bristol Bay fishery embodies the enduring struggle in Alaska's history to determine who will manage our resources and who will benefit from their exploitation. With statehood Alaskans wrestled the management of fisheries away from the canneries and the federal government. Enlightened state management is often credited with saving the Bristol Bay fishery. The last two decades have experienced some of the greatest sockeye returns in history. Statehood, however, has not made the distribution of benefits from the fishery any easier. Differences in expectations and need between local and non-resident fishermen, drifters and setnetters, and differences among all users of fish in Bristol Bay continue to foment controversy over gear restrictions and allocation.

Despite all of the wrangling, however, Bristol Bay's fishermen are blessed - after 125 years they still have a fishery to squabble about. In the same period most of the other great salmon fisheries have risen and disappeared or barely limp along as shadows of former abundance. The reason is no mystery – the Bay's

EXHIBIT PAGE 1 of 2

EXHIBIT B Page 1 of 4

rec'd 9-20-06



Project #	Move-in	Term	Taxable Date	Name	Unit Number Sequence Number	Legal Description	
3	AK10-06	7/18/1994	15	7/18/2009	Elton Sampson	0628-03	Lot 23, Block 2, Snagpoint Subdivision, Plat 83-3, Bristol Bay Recording District
	AK10-06	12/2/1988	25	12/2/2011	Evangeline Egeland	0632-02	Lot 19, Block 2, Snagpoint Subdivision, Plat 83-3, Bristol Bay Recording District
	AK10-08	12/4/1990	25	12/4/2015	Doreen Farler	0639-02	Lot 11, Block 2, Snagpoint Subdivision, Plat 83-3, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Leroy Waltona	3001-01	Lot 4, Block 4, Nerka IV Subdivision, 88 Recording District
	AK10-30	6/30/1995	15	6/30/2010	Isaac Wood IV	3002-1	Lot 4, Ahikun View Estates, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Teresa Seybert	3003-01	Lot 12, Nerka Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Martha Nelson	3004-01	Lot 3, Block 2, Nerka II Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Marina Jo Nelson	3005-01	Lot 7, Wood River Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Kenneth Wilson	3006-01	Lot 2, Nerka Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Brenda Mulkrat	3006-01	Lot 14, Block 1, Nerka IV Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Lubi Akutok, Jr	3009-01	Lot 2, Block 1, Ahikun View Estates, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	William Johnson, Jr	3010-01	Lot 6, Block 4, Nerka IV Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Anuska Teden	3011-01	Lot 5, Cedar Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Chen Johnson	3012-01	Lot 3, Kaffenberg's Knob Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Ronald Johnson	3013-01	Lot 14c, Par 1, Sampson Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Daniel E. Savo	3014-01	Lot 3, Firweed Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Horman Shade, Jr	3015-01	Lot 4a, Horman Shade Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Bill Manza	3016-01	Lot 8, Wood River Subdivision, Bristol Bay Recording District
	AK10-30	6/30/1995	15	6/30/2010	Anusak T. Ishnook	3017-01	Lot 2, Block 1, Nerka II Subdivision, Bristol Bay Recording District <i>RECAL ON SCHEDULE 1017</i>
	AK 10-45	12/19/2001	10	12/19/2011	Fred Washington		Lot 13, Block 1, Neqleq Subdivision, Plat 86-1, Bristol Bay Recording District
	AK 10-45	12/19/2001	10	12/19/2011	Venita Gomez		Lot 5, Block 1, Neqleq Subdivision, Plat 86-1, Bristol Bay Recording District
	AK 10-45	12/19/2001	10	12/19/2011	Tambra Dull		Lot 4, Block 2 Neqleq Subdivision, Plat 86-1, Bristol Bay Recording District
	AK 10-45	12/19/2001	10	12/19/2011	Robert Mayer		Lot 6, Block 1, Neqleq Subdivision, Plat 86-1, Bristol Bay Recording District
	AK 10-45	12/19/2001	10	12/19/2011	John Stelling		Lot 3, Block 9, Nerka VII Subdivision, Plat 84-21, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Marilyn Casteel	1	Tract "A" of 4M Subdivision, Plat 93-2, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	William Chaney	2	Lot 8 Block 2, Napaq Subdivision, Addition 2, Plat 97-8, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Hugh Schroeder	3	Lot 7, Block 1, Napaq Subdivision, Addition 3, Plat 2000-1, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Otsenna V. Petia	4	Lot 9, Block 2, Napaq Subdivision, Addition 2, Plat 97-8, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Flora Huffman	5	Lot 10, Block 3, Napaq Subdivision, Addition 2, Plat 97-8, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Bonnie Kropoff	6	Lot 5, Block 1, Napaq Subdivision, Addition 3, Plat 2000-1, Bristol Bay Recording District
	AK10-47	1/7/2003	10	1/7/2013	Nick J. Johnson	7	Lot 13, U. S. Survey 4985, Bristol Bay Recording District
	AK10-53	2/1/2004	15	2/1/2019	Rose Nicholson	5301-01	Lot 1, Etuk-Dillingham Subdivision, Bristol Bay Recording District
	AK10-53	2/1/2004	15	2/2/2019	Alfred Brothers	5302-01	Lot 2, Etuk-Dillingham Subdivision, Bristol Bay Recording District
	AK10-53	2/1/2004	15	2/3/2019	Melody Hiratsuka	5303-01	Lot 3, Etuk-Dillingham Subdivision, Bristol Bay Recording District
	AK10-53	2/1/2004	15	2/4/2019	Kikoro Savo	5304-01	Lot 4, Etuk-Dillingham Subdivision, Bristol Bay Recording District
	AK10-53	2/1/2004	15	2/5/2019	Thomas Hiratsuka	5305-01	Lot 3, Sunny Acres Subdivision, Plat 87-14, Bristol Bay Recording District

DRAFT B Page 2 of 4

freshwater salmon habitat remains intact. In 1950 the newly formed Alaska Territorial Board of Fisheries observed in its Annual Report that while commercial fishing is often blamed for fish declines:

... there is evidence to show that in numerous cases it is of minor or no consequence. The actual reasons are often found to be changes in the environment of the salmon due to natural and unnatural (man-made) conditions. Luckily the advance of civilization has, as yet, had but very minor adverse effects on our fisheries. However, a new era of progress and industrialization for Alaska is at hand. With it will come the attendant evils to our fish and game resources, just as it came to every other frontier territory. It behooves us to profit by the mistakes of others before it is too late.

This warning has come to roost in Bristol Bay. The world's greatest wild salmon fishery will not likely be compromised by management or allocation decisions. Rather, man-made changes to habitat may pose the greater threat. In the debate over fish and development we are often wooed to the latter by claims that science and technology make it possible for us to have both. Many fisheries have fallen victim to this claim. So as we celebrate our history in this anniversary year of both Statehood and the Bristol Bay Fishery we should also heed the lessons of our history. Whether we do so may well determine whether Bristol Bay fishermen will be pullin' da nets 125 years from now.

Tim Troll enjoys researching the history of Bristol Bay
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Source URL: <http://www.tu.org/conservation/alaska/bristol-bay-commercial-fishery-celebrates-125-years>

EXHIBIT B
PAGE 2 OF 3

EXECUTIVE SUMMARY

CHANGES IN THE DISTRIBUTION OF ALASKA'S COMMERCIAL FISHERIES ENTRY PERMITS, 1975 to 2009

CFEC Report Number 10-5N-EXEC

Alaska Commercial Fisheries Entry Commission
8800 Glacier Highway, Suite 109
P.O. Box 110302
Juneau, Alaska 99811-0302
(907) 789-6160

EXHIBIT 2
PAGE 1012

EXHIBIT B PAGE 4 of 4

Exhibit S

Community Facts - Find popular facts (population, income, etc.) and frequently requested data about your community.

Enter a state, county, city, town, or zip code:

GO

- Population
- Age**
- Business and Industry
- Education
- Governments
- Housing
- Income
- Origins and Language
- Poverty
- Race and Hispanic Origin
- Veterans
- Show All

Togiak city, Alaska

Population

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[Print](#)

2014 ACS 5-Year Population Estimate

765

Source: 2010-2014 American Community Survey 5-Year Estimates

Popular tables for this geography:

2010 Census

- [General Population and Housing Characteristics \(Population, Age, Sex, Race, Households and Housing, ...\)](#)
- [Race and Hispanic or Latino Origin](#)
- [Hispanic or Latino by Type \(Mexican, Puerto Rican, ...\)](#)
- [Households and Families \(Relationships, Children, Household Size, ...\)](#)

2014 American Community Survey

- [Demographic and Housing Estimates \(Age, Sex, Race, Households and Housing, ...\)](#)

2014 Population Estimates Program

- [Annual Population Estimates](#)

Census 2000

- [General Demographic Characteristics \(Population, Age, Sex, Race, Households and Housing, ...\)](#)

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All Cities (/) / Alaska (/city/Alaska.html), AK smaller cities (/city/Alaska2.html), AK small cities (/city/Alaska3.html)
 / Lake and Peninsula Borough (/county/Lake_and_Peninsula_Borough-AK.html)
 / Pilot Point, AK housing info (/housing/houses-Pilot-Point-Alaska.html) / Pilot Point, Alaska

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Pilot Point, Alaska



Submit your own pictures of this city and show them to the World
 See promotion details and to upload your Pilot Point, Alaska photos (/sendpic.php?w=Pilot-Point-Alaska&img=Pilot%20Point)

(/sendpic.php?)

Population in 2013: 69 (0% urban, 100% rural). Population change since 2000: -31.0%

Males: 44 (65.1%)
 Females: 25 (34.9%)

Median resident age: 48.4 years
 Alaska median age: 33.1 years

Zip code: 99649 (/zips/99649.html)

Estimated median household income in 2013: \$26,798 (it was \$41,250 in 2000)

Pilot Point: \$26,798
 AK: \$72,237

Estimated per capita income in 2013: \$17,447 (it was \$12,627 in 2000)

Estimated median house or condo value in 2013: \$151,055 (it was \$81,700 in 2000)

Pilot Point: \$151,055
 AK: \$254,000

Mean prices in 2013: All housing units: \$182,987; Detached houses: \$179,168

Median gross rent in 2013: \$603.

Pilot Point, AK residents, houses, and apartments details (/housing/houses-Pilot-Point-Alaska.html)

Point-Alaska.html&n=Pilot%20Point)
 OSM Map General Map Google Map MSN Map



Rate: Median household income (\$) Most recent value Options
 Find City, State, County or Zip Code Get link % change since 79

Driving



STATISTICS BY RACE

OTHER STATES

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- DC
- Delaware
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nebraska
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Oregon
- Pennsylvania
- Puerto Rico
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
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- Virginia
- Washington
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- Wisconsin
- Wyoming

Learn more by clicking the Google or Facebook button below.



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What was wrong with this ad?

- Inappropriate
- Irrelevant
- Repetitive



Population Demographics for Egegik, Alaska in 2016 and 2015

[Other Counties And Cities in Alaska](#)

Population By Races

Race	Population	% of Total
Total Population	109	100

Population By Races And Gender

	Male	Female	Total
Total Population	79	30	109

Relevant Related information

Demographic Population Totals

Total Population In Egegik	
Total Population:	109
Male Population:	79
Female Population:	30

Demographic Median Age By Sex

Median Age In Egegik	
Both sexes	47
Male	47
Female	44

Exhibit T

Abstract

This report provides detailed information on changes in the distribution of permanent entry permits in Alaska's limited fisheries. From 1975 through 2009, 79 permit types have been issued in 65 fisheries. The report provides both statewide and fishery-specific data on the number of permit transfers, the geographic distribution of permit holders, changes due to permit transfers, changes due to the relocation of permit holders and the year-end 2009 geographic distribution of permit holders.

The report also includes extensive information on the age of permit holders, age differences between transferors and transfer recipients, the incidence of intra-family and business partner transfers, transfer acquisition methods, and financing of permit purchases. The information contained in the report is derived from the Commercial Fisheries Entry Commission's permit and transfer survey files.

The report is published as two separate documents: an executive summary and the principal report, which is primarily a reference document.

List of Preparers

Kurt Iverson
Nancy Free-Sloan

EXHIBIT 2
PAGE 2 OF 12

EXHIBIT I Page 1 of 12

Contents

- 1 Introduction
- 2 Transfer Incidence
 - Permit Transfers
 - Transfer Rates
- 4 Geographic Distribution of Permits: Changes Due To Transfers, Migrations, and Cancellations
 - Classification of Permits and Permit Holders
 - Changes in the Distribution of Permits
- 15 Age Patterns Among Permit Holders
- 16 Transfer Survey Results
 - Relationships of Transfer Participants
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Introduction

In 1972, voters amended Alaska's constitution to allow limited entry into the state's commercial fisheries. Following this amendment, in 1973 the State Legislature enacted Alaska's Limited Entry Act (AS 16.43), creating the state's limited entry program and giving the Commercial Fisheries Entry Commission (CFEC) the responsibility for administering the program.

Limited entry was implemented in 19 of the state's salmon fisheries in 1974. By the end of 2009, entry permits had been issued in a total of 65 commercial fisheries: 26 salmon fisheries, 19 herring fisheries, 9 crab fisheries, 5 sablefish fisheries, 3 shrimp fisheries, and 3 dive fisheries. In some limited fisheries, more than one type of permit was issued to help contain increases in fishing power. Some permits constrain the amount of gear that can be used, while others constrain the length of the vessel. To date, a total of 79 permit types have been issued in the 65 limited fisheries.¹

A legal prerequisite of the Limited Entry Act was that permits could not be locked in the hands of those who were originally issued them (i.e., the "initial issuees"). After much study and debate, the legislature chose free transferability as the means to allow permit holders to enter and exit the fisheries.

Free transferability allows the transfer of permits from parents to their children and allows family members to inherit a permit upon the death of a permit holder. It allows fishermen to enter and exit fisheries at times opportune to them, and it eliminates the need for an expensive and time-consuming bureaucratic process to handle permit reallocation. Many other transfer options were considered but were found lacking with respect to these criteria.

In 1983, the Alaska State Supreme Court decided *State of Alaska v. Ostrorsky*, which challenged the constitutionality of the Limited Entry Act, particularly the free transferability provisions. The court upheld

the constitutionality of both the Act and of free transferability, and also affirmed the legislative objectives in adopting the transferability option. The decision was subsequently allowed to stand by the United States Supreme Court when it dismissed the Ostrorsky appeal in *Ostrorsky v. State*.

Despite the benefits of free transferability, many people remain concerned that permit transfers might result in undesirable consequences with regard to the distribution of permits. There is a concern that permits will leave the state, or that permits will disappear from isolated fishing communities which are local to a limited fishery, thereby eroding the economic base. Because of these concerns about free transferability, CFEC has produced this updated report so that the legislature, the administration, and other interested parties will be kept accurately apprised of the facts.

This edition of *Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits* has been published as two separate documents. The executive summary provides tables that address the most common questions about limited entry permits. It includes information on permit holdings, and how holdings are affected by permit transfers and by the migration (relocation) of permit holders. There is also summary information from the results of permit transfer surveys. The principal report is primarily a reference document and includes more detailed fishery-specific and time series tables on the topics addressed in the executive summary. The main report also contains special sections on rural permit holders, and on permit holders who live locally to the fisheries where they hold permits.

Both the executive summary and the principal report cover all the limited fisheries and permit types for which permanent permits have been issued from 1975 through 2009. Information from Census 2000 is used to determine rural and urban classifications.

Transfer Incidence

CFEC issues both transferable and nontransferable permits in the state's limited fisheries; therefore, not all permits are available for transfer. The Limited Entry Act requires CFEC to initially allocate permits using hardship ranking systems, often called "point systems," which rank individuals based upon the relative hardship they would suffer if they were denied a permit. The Act also requires CFEC to determine levels within the point systems where persons would experience only minor economic hardship if excluded from the fishery. Persons who receive permanent permits and who are ranked at or below the minor economic hardship level receive nontransferable permits. From 1975 through 2009, 16,491 permanent limited entry permits were issued in 65 fisheries: 14,149 permits were fully transferable,² and 2,342 were non-transferable.

Some permits for a fishery may be initially issued several years after the main body of permits has been issued. This is because some applicants are difficult to classify under a hardship ranking system, and a final determination of their standing may come only after an extensive hearing and adjudication process. In other cases, permits have been issued at a later date as the result of lawsuits brought against CFEC.

Permit Transfers

During the 1975-2009 time span there were 35,132 permanent permit transfers. At the end of 2009, there were 13,580 transferable permits, and original permit holders had transferred 11,563 permits, indicating that approximately 85% of all transferable permits had changed hands at least once. Over the entire period, the average annual number of transfers per number of transferable permits was 8.4% (35,132 total transfers / 416,694 sum of all annual transferable permits).

Transfer Rates

Two types of annual transfer rates are shown in Table 1. The first is the ratio of permits transferred for the first time to the total number of transferable permits. Permits transferred for the first time are those that are held by initial issuees. Over time, this ratio would decline if no new permits were issued because each year there would be fewer permits held by initial issuees. As expected, the ratio declined, from 0.08 to 0.01, over the 1975-2009 period. Over the same period, the average annual ratio of transfers from initial issuees to transferable permit years is 0.03.

The second type of annual transfer rate is the ratio of all transfers to available transferable permits, which provides a measure of the annual turnover rate for transferable permits. This ratio varied between 0.06 and 0.13 from 1975 through 2009, and averaged 0.08 for all years combined.³ As can be seen in Table 1, the ratio dropped below the all-years average in 1989 and has remained relatively low through 2009.

TABLE 1. Statewide Transfer Data on Permanent Permits by Year, 1975-2009

Year	Number of Permanent Permits	Number of Transferable Permits	Annual Number of Transfers From Initial Issues	Ratio of Transfers From Initial Issues to Transferable Permit	Total Annual Number of Transfers **	Ratio of Transfers to Transferable Permits
1975	6,762	6,762	663	0.09	590	0.09
1976	9,173	9,160	650	0.07	776	0.08
1977	9,772	9,719	760	0.08	1,105	0.11
1978	9,975	9,895	777	0.08	1,314	0.13
1979	10,104	10,019	557	0.06	1,209	0.12
1980	10,132	10,040	522	0.05	1,060	0.11
1981	10,204	10,112	565	0.06	1,032	0.11
1982	11,030	10,836	553	0.05	1,144	0.10
1983	12,489	10,993	558	0.05	1,211	0.11
1984	12,531	11,009	414	0.04	1,053	0.10
1985	12,509	11,173	387	0.03	1,111	0.10
1986	12,517	11,226	402	0.04	1,191	0.11
1987	12,482	11,253	305	0.03	1,120	0.10
1988	12,584	11,409	345	0.03	1,125	0.10
1989	12,665	11,455	278	0.02	1,114	0.09
1990	13,027	11,911	270	0.02	950	0.08
1991	13,568	12,000	250	0.02	929	0.08
1992	13,419	12,366	208	0.02	952	0.08
1993	13,423	12,446	219	0.02	854	0.07
1994	13,404	12,460	217	0.02	908	0.07
1995	13,367	12,461	232	0.02	1,016	0.08
1996	13,347	12,482	228	0.02	941	0.08
1997	13,530	12,786	252	0.02	961	0.08
1998	14,075	13,171	188	0.01	860	0.07
1999	14,291	13,321	172	0.01	874	0.08
2000	14,336	13,400	179	0.01	964	0.07
2001	14,802	13,788	255	0.02	958	0.07
2002	14,801	13,730	163	0.01	793	0.06
2003	14,864	13,630	163	0.01	842	0.07
2004	14,488	13,569	149	0.01	884	0.07
2005	14,556	13,651	176	0.01	1,142	0.08
2006	14,534	13,640	163	0.01	1,025	0.08
2007	14,472	13,611	165	0.01	1,082	0.08
2008	14,390	13,573	173	0.01	1,083	0.08
2009	14,413	13,560	88	0.01	902	0.07

Years	Sum of Annual Transferable Permits	Total Transfers From Initial Issues	Ratio	Total Number of Transfers	Ratio
1975 - 2009	416,684	11,563	0.03	35,132	0.08

Notes:

* 2,249 permits have been cancelled. Except for 171 that were reinstated, these have been excluded from the year of cancellation forward.

** The number of transfers includes 334 loan foreclosures by the Department of Commerce, Community and Economic Development or by the Commercial Fishing and Agriculture Bank, and 321 subsequent transfers from these entities.

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Geographic Distribution of Permits: Changes Due to Transfers, Migrations, and Cancellations

Classification of Permits and Permit Holders

This report measures changes in permit distribution by classifying permit holders based upon where they reside. Five resident type classifications are defined. Permit holders who reside in Alaska are classified into "rural" or "urban" and "local" or "nonlocal" groups. Nonresidents are classified into a single category. The resident types and their acronyms are listed below:

ARL: *Alaska* resident of a *Rural* community which is *Local* to the fishery for which the permit applies;

ARN: *Alaska* resident of a *Rural* community which is *Nonlocal* to the fishery for which the permit applies;

AUL: *Alaska* resident of an *Urban* community which is *Local* to the fishery for which the permit applies;⁴

AUN: *Alaska* resident of an *Urban* community which is *Nonlocal* to the fishery for which the permit applies;

NR: *Nonresident* of Alaska.

DCCED / CFAB: Signifies permits that have been foreclosed upon by the Alaska Department of Commerce, Community and Economic Development (DCCED), or by the Commercial Fishing and Agriculture Bank (CFAB), and have yet to be transferred.

An example of how this classification works could be a permit holder who lives in Dillingham and holds

two limited entry permits. If one permit is for the Bristol Bay drift gillnet fishery, it will be classified as a permit held by an Alaska rural local because Dillingham is a rural community and is local to Bristol Bay. If the other permit is for the Cook Inlet herring seine fishery, then that permit will be classified as one held by an Alaska rural nonlocal because Dillingham is rural, but not local to Cook Inlet.

Urban and rural designations are based upon information from Census 2000. Because editions of this report prior to 2003 used 1990 census criteria, some changes have occurred in the rural/urban designations. In general, there are now more Alaska places designated as rural, and consequently more permits issued to persons classified as rural residents.

Changes in the Distribution of Permits

Table 2 provides summary information on the initial issuance and changes in permit holdings for the assigned resident types. Between 1975 and the end of 2009, 16,491 permanent permits were issued in Alaska's limited fisheries. Alaska residents received 81.6% of the total (13,462 permits), and nonresidents received 18.4% (3,029 permits). Almost half of all permits issued (46.0%) went to Alaska rural locals, with 26.0% issued to Alaska urban locals. The remaining permits issued to Alaskans were divided between the Alaska rural and urban nonlocal resident types.

The number of permits held by each resident type can change for three reasons: permits can be transferred to other resident types; permit holders can simply move from one locale to another (migration); or permits may be cancelled.

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TABLE 2. Initial Issuance, Total Net Changes, and Year-end 2009 Permanent Limited Entry Permits by Resident Type

Residency	Total Initially Issued		Transfer		Migration		Cancelled		Total		Total 2009	
	Count	Pct	Change	Pct	Change	Pct	Change	Pct	Change	Pct	Year-end	Pct
Alaska Rural Local	7,594	48.0%	-565	-7.4%	-888	-11.7%	-705	-9.3%	-2,158	-28.4%	5,438	37.7%
Alaska Rural Nonlocal	892	4.2%	263	33.7%	-6	-0.9%	-83	-12.4%	176	25.4%	868	8.0%
Alaska Urban Local	4,283	28.0%	200	8.1%	-330	-7.7%	-758	-17.6%	-826	-19.2%	3,487	24.1%
Alaska Urban Nonlocal	893	5.4%	178	19.8%	329	37.3%	-140	-16.8%	357	40.4%	1,240	8.6%
Nonresident	3,029	18.4%	-153	-5.1%	895	29.5%	-383	-12.6%	359	11.9%	3,388	23.5%
DCCED / CFAB	0	0.0%	14	0.0%	0	0.0%	0	0.0%	14	0.0%	14	0.1%
Total	18,491	100.0%	0		0		-2,078		-2,078		14,413	100.0%

By the end of 2009, the total number of permits had decreased to 14,413 due to the cancellation of 1,695 Alaskan permits and 383 nonresident permits. Note that at year-end 2009, 14 permits had been foreclosed upon by DCCED or CFAB and had yet to be transferred.

Cancellation normally occurs on nontransferable permits when a permit holder dies or does not renew the permit. In this report, the number of cancelled permits also includes permits that were administratively removed or reconsidered through CFEC's adjudication process. Most of the cancelled permits were in the hand troll fishery (1,107, or 53.3% of the total; see Table 5) where a large number of nontransferable entry permits were issued.

When the effects of cancellation, transfers, and migration were combined at the end of 2009, Alaska residents held 11,025 permits (76.5% of the total, including the 14 permits held by DCCED or CFAB). Nonresidents held 3,388 permits (23.5%).

Decreases in the number of permits held by Alaska residents are countered by increases in the number of nonresident permits. Migration, or the change in residence of permit holders, has changed the resident / nonresident balance to a greater degree than permit transfers. By the end of 2009, the net result of permit transfer activity had decreased the number of permits held by nonresidents by 153 permits, whereas permit holders moving into and out

of Alaska resulted in a net increase of 895 nonresident permits.

Tables 3 and 4 show permit distribution at initial issuance and at the end of 2009, for the 65 fisheries and 79 permit types where limited entry permits have been issued. Table 5 shows the net effects of transfer, migration, and cancellation for the same fisheries. Table 6 also shows the results of transfers, migrations, and cancellations, but does so over all fisheries annually for the 5 resident types.

Some of the more noteworthy changes are:

The overall decline of 2,158 permits held by Alaska rural locals represents 28.4% of all transferable and nontransferable permits originally issued to them. Although migration accounted for the majority of this decrease (888 permits), Alaska rural locals also lost permits through transfer activity (565 permits) and cancellations (705 permits).

Of the decline in permits due to transfers involving Alaska rural locals, 72.6% of the decrease occurred in the Bristol Bay drift (257 permits) and set gillnet (153 permits) fisheries.

As mentioned, permit holders moving into and out of Alaska brought about a net increase of 895 nonresident permits. Net increases in nonresident permits due to migration occurred in 53 separate

permit types, especially in the hand troll fishery (114 permits) and the salmon fisheries in Bristol Bay (207), Kodiak (110), and Cook Inlet (106).

Also mentioned previously is the transfer activity that resulted in an overall net decline of 153 permits held by nonresidents. Through transfers, nonresidents increased their permit holdings in 18 permit types, but registered net decreases in 38 permit types. Some fisheries in particular show large increases in nonresident-held permits through transfers, most notably the Bristol Bay salmon fisheries, the Cook Inlet setnet fishery, and the salmon hand troll fishery.

Conversely though, in other fisheries the net result of transfers led to large decreases of permits held by nonresidents. For example, the power troll fishery, the Kodiak salmon seine fishery, the Prince William Sound salmon drift gillnet fishery, and the Cook Inlet salmon drift gillnet fishery all show substantial declines.

Alaska urban locals show a total net decrease of 826 permits from initial issuance through 2009. Cancellation of permits accounts for 91.5% of the decline. The majority of the cancelled permits are in the hand troll fishery and were cancelled due either to the death of a nontransferable permit holder, or to the forfeiture of the permit for non-payment of permit renewal fees. Combining with the drop in permits due to cancellation, Alaska urban local permit holders show a net decrease of 330 permits through migration, but a net gain of 260 permits by transfer.

Both transfers and migrations have contributed to an increase in permits held by Alaska urban nonlocals. Over the 1975-2009 period, there was a cumulative net gain of 357 permits held by this resident group, which represents a 40.4% increase in the number of permits originally issued to them. Transfer and migration activity in the Bristol Bay salmon fisheries accounted for 116 of the total net gain in permits. Altogether, Alaska urban nonlocals show net increases due to transfer in 21 permit types, and net increases due to migration in 40 permit types.

Alaska rural nonlocals are the smallest resident group. They recorded an overall net gain of 176 permits, especially through migration in the Arctic /Yukon/Kuskokwim salmon fisheries, and through transfers mainly in the Prince William Sound salmon fisheries, the Peninsula/Aleutians drift gillnet fishery, and the Norton Sound herring gillnet fishery.

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TABLE 3. Total Number of Initial Permit Holders by Permit Type and Resident Type, 1975-2009

Permits First Issued In:	All Permits Issued to					All Transferable Permits Issued to					All Permits	
	ARL	ARN	AUL	AUN	NR	ARL	ARN	AUL	AUN	NR	Alaska Total	Grand Total
1975												
SE Salmon Seine	108	0	108	0	207	108	0	108	0	207	212	419
SE Salmon Drift Gillnet	118	1	195	4	157	118	1	195	4	157	318	475
Salmon Power Troll	284	5	408	11	288	284	5	408	11	288	668	972
Yakutat Salmon Setnet	129	3	0	22	18	129	3	0	22	18	154	172
PWS Salmon Seine	188	12	0	14	55	188	12	0	14	55	212	267
PWS Salmon Drift Gillnet	350	20	0	28	139	350	20	0	28	139	358	537
PWS Salmon Setnet	21	0	0	2	7	20	0	0	2	7	23	30
Cook Inlet Salmon Seine	76	0	7	1	1	76	0	7	1	1	84	85
Cook Inlet Salmon Drift	167	11	197	11	187	167	11	197	11	187	368	573
Cook Inlet Salmon Setnet	202	16	448	26	56	202	16	448	26	56	680	748
Kodiak Salmon Seine	76	25	162	10	111	76	25	162	10	111	273	384
Kodiak Salmon Beach Seine	13	2	18	1	2	12	1	17	1	1	34	38
Kodiak Salmon Setnet	44	3	77	13	51	44	3	77	13	51	137	188
Chignik Salmon Seine	29	12	0	29	21	29	12	0	29	21	70	91
Pen/Aleutian Salmon Seine	101	0	2	3	15	101	0	2	3	15	108	121
Pen/Aleutian Salmon Drift	98	1	1	13	49	98	1	1	13	49	113	162
Pen/Aleutian Salmon Setnet	99	0	0	9	8	99	0	0	9	8	108	116
Bristol Bay Salmon Drift	713	184	0	232	746	713	184	0	232	746	1,129	1,875
Bristol Bay Salmon Setnet	661	64	0	181	155	557	49	0	140	137	888	1,041
	3,453	359	1,617	590	2,271	3,347	343	1,616	569	2,252	6,019	8,290
1976												
Upper Yukon Salmon Gillnet	66	3	13	2	1	56	3	13	2	1	74	76
U Yukon Salmon Fish Wheel	141	2	16	2	2	141	2	16	2	2	163	165
Kuskokwim Salmon Gillnet	665	2	172	0	0	665	2	172	0	0	839	839
Kotzebue Salmon Gillnet	54	3	157	5	1	54	3	157	5	1	219	220
Lower Yukon Salmon Gillnet	660	19	0	12	1	680	19	0	12	1	711	712
Norton Sound Salmon Gillnet	178	1	23	2	0	178	1	23	2	0	204	204
	1,774	30	383	23	5	1,774	30	383	23	5	2,210	2,215
1977-78												
SE Roe Herring Seine	4	0	37	0	5	4	0	37	0	5	41	46
SE Herring Gillnet	18	0	65	1	27	18	0	65	1	27	84	111
PWS Roe Herring Seine	32	42	0	20	11	32	42	0	20	11	94	105
Cook Inlet Herring Seine	46	3	4	14	8	46	3	4	14	8	67	75
	100	45	108	35	51	100	45	108	35	51	288	337
1980-87												
Salmon Hand Troll	782	10	1,155	48	158	324	1	332	11	37	2,005	2,161
NSEI Sebastes Longline	7	2	32	2	16	7	2	32	2	16	43	59
SSEI Sebastes Longline	0	0	7	0	3	0	0	7	0	3	7	10
SSEI Sebastes Pots	1	0	1	0	1	1	0	1	0	0	2	3
SE Red,Blue King Crab Pot	1	0	3	0	2	1	0	3	0	2	4	6
SE Red,Blue,Bm King Crab Pot	0	0	5	0	2	0	0	4	0	1	5	7
SE Brown King Crab Pot	0	0	8	0	1	0	0	3	0	1	8	9
SE Red,Blue King/Tanner Pot	1	0	12	0	1	1	0	12	0	1	13	14
SE Brown King/Tanner Pot	1	0	2	0	3	1	0	1	0	2	3	6
SE All King/Tanner Pot	5	0	22	0	2	5	0	20	0	2	27	29
SE Tanner Crab Pot	2	1	13	0	9	2	1	12	0	5	16	25
PWS Roe Herring Gillnet	20	0	0	0	4	20	0	0	0	4	20	24
PWS Her Spaw on Kelp Pound	67	8	0	17	38	67	8	0	17	38	92	128
Kodiak Roe Herring Seine	11	10	44	2	14	9	5	36	1	6	67	81
Kodiak Roe Herring Gillnet	5	29	53	19	13	5	21	38	12	6	108	119
Kodiak Roe Her Seine/Gillnet	0	0	1	0	1	0	0	1	0	0	1	2
	913	60	1,358	83	264	443	38	502	43	122	2,419	2,683
1988-91												
EBay Herring Spaw on Kelp	275	5	0	5	5	275	5	0	5	5	285	290
Norton Snd Her Beach Seine	0	1	0	2	3	0	1	0	2	3	3	6
Nelson Island Her Gillnet	153	7	0	9	9	138	6	0	9	7	169	178
Nunatak Island Her Gillnet	45	3	0	11	5	41	3	0	7	3	59	64
Lower Yukon Herring Gillnet	94	5	0	4	3	88	2	0	2	0	103	103
Norton Snd Herring Gillnet	149	27	7	45	61	149	27	7	45	61	228	289
	718	48	7	76	86	689	44	7	70	79	847	933

(cont.)

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Table 5. Net Changes in Permit Holdings Due to Transfers, Migrations, and Cancellations, by Permit and Resident Type, 1975 - 2010

Permits Issued in:	Alaska Rural Local		Alaska Rural Nonlocal		Alaska Urban Local		Alaska Urban Nonlocal		Nonresident		DDED / CFAB
	Transfers	Migrations Cancelled	Transfers	Migrations Cancelled	Transfers	Migrations Cancelled	Transfers	Migrations Cancelled	Transfers	Migrations Cancelled	
1975											
SE Salmon Seine	43	0	4	0	44	-13	17	-5	0	14	29
SE Salmon Drift Glnet	0	21	11	-10	33	-14	3	6	-42	-3	0
Salmon Potnet / Ice	70	-27	0	-27	70	24	0	3	-131	33	0
Yakutat Salmon Seine	-7	-15	10	-3	0	0	-11	8	8	10	2
PWS Salmon Seine	-30	-43	44	-3	0	0	0	25	-11	25	-1
PWS Salmon Drift Glnet	-50	-50	80	-23	0	0	12	28	-1	-55	45
PWS Salmon Seine	-10	4	2	0	0	0	12	3	1	0	0
Cook Inlet Salmon Seine	-8	-6	1	-2	4	3	3	-3	0	-1	8
Cook Inlet Glnet Drift	43	7	2	-3	11	-51	0	0	-49	48	2
Cook Inlet Salmon Seine	18	17	-7	4	-26	-60	-9	-13	0	24	52
Kodiak Salmon Seine	-14	-22	19	7	80	55	14	12	2	-40	55
Kodiak Salmon Beach Seine	0	-5	1	2	-6	-2	2	2	0	6	2
Kodiak Salmon Seine	7	-20	4	4	48	-35	0	7	0	-30	42
Croquet Salmon Seine	3	6	5	-4	0	0	0	-9	0	7	0
Pen/Aleutian Salmon Seine	-34	-5	2	2	1	0	0	0	0	-1	0
Pen/Aleutian Salmon Drift	-60	0	35	-1	2	-2	0	9	-6	14	9
Pen/Aleutian Salmon Seine	4	-27	4	1	0	0	-13	19	1	9	0
Bristol Bay Salmon Drift	-267	-71	22	-35	0	0	85	-17	2	147	123
Grady Bay Salmon Seine	163	-120	8	-2	0	0	5	-13	15	60	0
	-561	-414	255	-82	227	-211	168	108	26	-113	578
1976											
Upper Yukon Salmon Glnet	2	-23	1	1	2	14	2	3	0	-7	5
Upper Yukon Salmon Fishhead	1	-33	-3	5	4	16	-1	8	2	-1	3
Kodiak Salmon Seine	13	-62	7	9	0	5	-4	49	7	0	3
Kotzebue Salmon Glnet	-8	-11	14	4	13	-28	-4	27	11	-2	8
Lower Yukon Salmon Glnet	25	-101	-29	25	0	0	10	54	5	-6	11
Horton Sound Salmon Glnet	-11	-30	-4	8	-4	1	-8	-18	7	-2	-1
	42	-252	-43	64	11	0	-4	152	37	-9	32
1977-78											
SE Herring Seine	2	1	5	0	-9	7	5	0	0	7	0
SE Herring Glnet	2	1	1	-1	8	-11	-1	0	0	-11	11
Plus Herring Seine	4	-13	-6	-4	0	0	0	-6	0	-6	23
Cook Inlet Herring Seine	-8	-6	-1	3	-1	-3	-13	-17	0	-3	0
	0	-18	-9	-2	-11	7	27	-23	0	-13	51
1980-87											
Salmon Potnet / Ice	20	-75	5	5	-24	-69	3	25	43	61	114
NSEI Subfish Longline	4	-4	1	0	0	1	-2	2	0	-3	1
SSE Subfish Longline	0	0	1	0	2	-2	-1	1	0	2	1
SSEI Subfish Pots	1	0	0	0	-1	0	0	0	0	0	0
SE Trawl/Boat Rig Data Pkt	1	0	0	0	1	0	0	0	0	0	0

(cont.)

Executive Summary: Changes in the Distribution of Alaska's Commercial Fisheries Entry Permits, 1975 to 2009

EXHIBIT 2
TABLE 10 OF 12

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Endnotes

1. (page 1) By the end of 2009, maximum number regulations have been adopted for 66 fisheries. No permanent entry permits have been issued in the Prince William Sound sablefish pot gear fishery, and therefore the fishery does not appear in this report. In addition, 2 fisheries are under a vessel limited entry program, and are also not reported herein.
2. (page 2) Although 14,149 transferable permits were initially issued (Table 3), the number of transferable permits remaining at the end of 2009 was 13,580 (Tables 1 and 4). The net loss of 569 transferable permits is due to the cancellation of 697 transferable permits and the addition of 128 permits that were converted from nontransferable to transferable status due to additional point awards through the CFEC adjudication process.
3. (page 2) Because some permits may be transferred more than once during a year, the ratio of permits transferred to available transferable permits would be slightly less.
4. (page 4) The Alaska Urban Local category is not applicable for several fisheries which have no local urban communities. These fisheries are: Yakutat salmon setnet; Chignik salmon seine; Bristol Bay salmon drift and setnet; Bristol Bay herring spawn on kelp; Lower Yukon salmon and herring gillnet; Prince William Sound salmon seine, drift and setnet; Prince William Sound herring seine, gillnet and spawn on kelp pound; Prince William Sound sablefish; and the Nelson Island, Nunivak Island, and Goodnews Bay herring gillnet fisheries.
5. (page 15) Because a person may hold more than one permit, the annual mean age may include the age of a person more than one time in its calculation. A person's age is included in the calculation for each permit held.
6. (page 16) For the purposes of this document, the transfer of a permit as part of an inheritance is considered a gift.
7. (page 18) See *CFEC Changes in the Distribution of Permit Ownership in Alaska's Limited Fisheries, 1975-1981*; February, 1983.
8. (page 19) The percentage of state-financed permits increases to 22.1% when only the purchases by Alaska residents are considered (Table 12).
9. (page 22) Permit price estimates produced for this report may differ from the CFEC monthly permit value report due to more stringent criteria for exclusion used in the monthly report.

MapStats

Anchorage (municipality), Alaska

People MapStats	Anchorage	Alaska
? Population, 2006 estimate	278,700	670,053
? Population, percent change, April 1, 2000 to July 1, 2006	7.1%	6.9%
? Population, net change, April 1, 2000 to July 1, 2006	18,417	43,122
? Population, 2000	260,283	626,932
? Persons under 5 years old, percent, 2000	7.7%	7.6%
? Persons under 18 years old, percent, 2000	29.1%	30.4%
? Persons 65 years old and over, percent, 2000	5.5%	5.7%
? Female persons, percent, 2000	49.4%	48.3%
? White persons, 2000	188,009	434,534
? Black or African American persons, 2000	15,199	21,787
? American Indian and Alaska Native persons, 2000	18,941	98,043
? Asian persons, 2000	14,433	25,116
? Native Hawaiian and Other Pacific Islander persons, 2000	2,423	3,309
? Persons reporting some other race, 2000	5,703	9,997
? Persons reporting two or more races, 2000	15,575	34,146
? Persons of Hispanic or Latino origin, 2000	14,799	25,852
? White persons, percent, 2000 (a)	72.2%	69.3%
? Black persons, percent, 2000 (a)	5.8%	3.5%
? American Indian and Alaska Native persons, percent, 2000 (a)	7.3%	15.6%
? Asian persons, percent, 2000 (a)	5.5%	4.0%
? Native Hawaiian and Other Pacific Islander, percent, 2000 (a)	0.9%	0.5%
? Persons reporting some other race, percent, 2000	2.2%	1.6%
? Persons reporting two or more races, percent, 2000	6.0%	5.4%
? Persons of Hispanic or Latino origin, percent, 2000 (b)	5.7%	4.1%
? Living in same house in 1995 and 2000, pct 5 yrs old & over	41.6%	46.2%
? Foreign born persons, percent, 2000	8.2%	5.9%
? Language other than English spoken at home, pct age 5+, 2000	13.6%	14.3%
? High school graduates, persons age 25+, 2000	144,409	105,812
? Bachelor's degree or higher, pct of persons age 25+, 2000	28.9%	24.7%
? Mean travel time to work (minutes), workers age 16+, 2000	19.5	19.6
? Households, 2000	94,822	221,600
? Persons per household, 2000	2.67	2.74
? Housing units, 2000	100,368	260,978
? Homeownership rate, 2000	60.1%	62.5%