

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2017-01

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL ADOPTING AN ALTERNATIVE ALLOCATION METHOD FOR THE FY 17 SHARED FISHERIES BUSINESS TAX PROGRAM AND CERTIFYING THAT THIS ALLOCATION FAIRLY REPRESENTS THE DISTRIBUTION OF SIGNIFICANT EFFECTS OF FISHERIES BUSINESS ACTIVITY IN THE BRISTOL BAY FISHERIES MANAGEMENT AREA (FMA 5)

WHEREAS, AS 29.60.450 requires that for a municipality to participate in the FY 17 Shared Fisheries Business Tax Program, the municipality must demonstrate to the Alaska Department of Commerce, Community, and Economic Development that the municipality suffered significant effects during calendar year 2015 from fisheries business activities; and

WHEREAS, 3 AAC 134.060 provides for the allocation of available program funding to eligible municipalities located within fisheries management areas specified by the Department of Commerce, Community, and Economic Development; and

WHEREAS, 3 AAC 134.070 provides for the use, at the discretion of the Department of Commerce, Community, and Economic Development, of alternative allocation methods which may be used within fisheries management areas if all eligible municipalities within the area agree to use the method, and the method incorporates some measure of the relative significant effect of fisheries business activity on the respective municipalities in the area; and

WHEREAS, THE Dillingham City Council proposes to use an alternative allocation method for allocation of FY 17 funding available within the FMA 5: Bristol Bay Fisheries Management Area in agreement with all other municipalities in this area participating in the FY 17 Shared Fisheries Business Tax Program;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council by this resolution certifies that the alternative allocation method fairly represents the distribution of significant effects during 2015 of fisheries business activity in the Bristol Bay Fisheries Management Area (FMA5).

PASSED and ADOPTED by the Dillingham City Council on January 12, 2017.

Alice Ruby, Mayor

ATTEST:

[SEAL]

Janice Williams, City Clerk

City of Dillingham Information Memorandum

Agenda of: January 12, 2017

Attachment to:

Ordinance No. _____ / Resolution No. 2017-01

Subject:

A resolution of the Dillingham City Council adopting an Alternative Allocation Method for FY17 Shared Fisheries Business Tax Program and certifying that this allocation fairly represents the distribution of significant effects of fisheries business activity in FMA:5 Bristol Bay

City Manager: Recommend Approval

Signature: Rose Doera

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

- spreadsheet - FY17 Shared Fisheries Business Tax Program

Summary Statement:

This is a routine annual resolution.

The Department's Shared Fisheries Business Tax Program was created in 1990 to help municipalities impacted by the effects of the rapidly expanding offshore fish processing industry. A previously existing fish tax sharing program (commonly referred to as the Raw Fish Tax Program), administered by the Department of Revenue, shares back to municipalities half of the state fisheries business tax collected from fish processors operating inside municipal boundaries. The Department's program extends tax sharing to include a sharing of fish taxes collected outside of municipal boundaries, primarily from floating processors. Applications are scheduled to be mailed to each eligible applicant by November 15 of each year and must be returned by February 15. Shared Fisheries Business Tax payments are issued in March of each fiscal year.

Under provisions of the Shared Fisheries Business Tax Program, the tax is levied against fishery resources processed or landed two years before. Dillingham falls under the Bristol Bay Area FMA 5, which calculates the funding under the Alternative Allocation Method in which all municipalities share equally 40% of the calculated allocation and the remaining 60% is shared on a per capital basis.

Shared Fisheries Business Tax allocation for FY17	\$amount not known at this time
Shared Fisheries Business Tax allocation for FY15	\$26,877
Shared Fisheries Business Tax allocation for FY16	\$18,268

Attachment to:
Ordinance No. _____ / Resolution No. 2017-01 _____

Summary Statement continued:

Route to	Department Head	Date
X	Finance Director	
X	City Clerk	

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2017-02

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR THE ARMSTRONG GARAGE TO ENCROACH ONTO THE ALASKA STREET RIGHT OF WAY

WHEREAS, according to Dillingham Municipal Code 12.08.010 an encroachment is any object above ground or below belonging to a private owner other than the municipality which has been constructed or located within streets, public rights of way, or other property dedicated to a public use; and

WHEREAS, the garage located on the northern property line of U.S. Survey 2732, Lot 17, Block 19, which lot is currently owned by JoAnn S. Armstrong (hereafter, the "Armstrong Garage"), extends into the Alaska Street Right of Way; and

WHEREAS, in the 1980's the Armstrongs negotiated with the City for a property exchange where the City agreed to vacate the right of way under and immediately around the Armstrong Garage and convey the City's interest, if any, in the property to the Armstrongs in exchange for the Armstrongs conveying their interest, if any, in another portion of land located at the southern end of Lot 17 to the City; and

WHEREAS, neither party is able to produce the original documentation thereof, but the parties agree that an exchange was intended to occur; and

WHEREAS, the Alaska Department of Transportation (AK DOT) is securing right of ways for the Dillingham Downtown Streets Rehabilitation Project; and

WHEREAS, AK DOT has provided a right of way map that depicts the location, measurements and angles of the Armstrong Garage's encroachment onto the Alaska Street Right of Way;

WHEREAS, it is in the public interest to allow this encroachment to continue to exist while the parties negotiate and formalize the property exchange; and

WHEREAS, DMC 12.08 requires City Council and Planning Commission approval for any object belonging to a private owner other than the municipality that is placed in streets, public rights-of-way or other property dedicated to a public use, for longer than one year; and

WHEREAS, the Dillingham Planning Commission recommended transferring title to the land to the Armstrong's at their October 12, 2016 meeting, which would allow the encroachment to continue; and

WHEREAS, it is the intent of the City of Dillingham and JoAnn Armstrong to formalize the property exchange and for each party to convey its interest in the lots as contemplated by the original agreement;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council approves the long term encroachment by the Armstrong Garage into the Alaska Street right of way with the following conditions:

1. The encroachment is approved effective January 12, 2017 and lasting the useful life of the building, or until the Right of Way is vacated, whichever comes first;
2. The encroachment is for the Armstrong garage extending 10.51' x 33.00' x 7.40' within the adjacent Alaska Street right of way. Any expansion, significant alteration or modification of the Armstrong Garage in the Alaska Street Right of Way shall require a new encroachment application if the right of way has not been vacated; and
3. After AK DOT finalizes the map for this parcel it will be presented to the City Council again if the dimensions change and will be documented with the Planning Commission and in the property card for USS 2732 Lot 17, Block 19.

BE IT FURTHER RESOLVED that the City will continue good faith negotiations with the Armstrongs to formally complete the land exchange to the best of each party's ability.

PASSED AND ADOPTED by the Dillingham City Council January 12, 2017

Alice Ruby, Mayor

ATTEST:

[SEAL]

Janice Williams, City Clerk

City of Dillingham Information Memorandum

Agenda of: January 12, 2017

Attachment to:

Ordinance No. _____ / Resolution No. 2017-02

Subject:

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR ARMSTRONG GARAGE TO ENCROACH ONTO THE ALASKA STREET RIGHT OF WAY

City Manager: Recommend Approval

Signature: Rose Doera

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

State of Alaska Department of Transportation Right of Way map

Summary Statement:

In the 1980's the Armstrongs and City of Dillingham agreed to a property exchange where the City would receive title for a southern portion of Lot 17, Block 19 USS 2732 to be used as parking for N&N Market and the land under the Armstrongs garage would be transferred to the Armstrongs. Neither the City of Dillingham nor Armstrong family were able to produce the documentation of this original exchange.

The Dillingham Downtown Streets Rehabilitation Project, requires the City to issue the Armstrongs an encroachment permit so that their garage is legally within the Alaska Street Right of Way.

However, the City and Armstrongs would still like to move forward with formalizing the land exchange and will continue working to transfer clear title of each portion of land to the interested party.

The encroachment permit is necessary to comply with Dillingham Municipal Code:

*12.08.010 Definitions. "Encroachments" shall be considered as any object above ground or below belonging to a private owner other than the municipality which has been or caused to be constructed or located within the streets, public rights-of-way or other property dedicated to a public use.

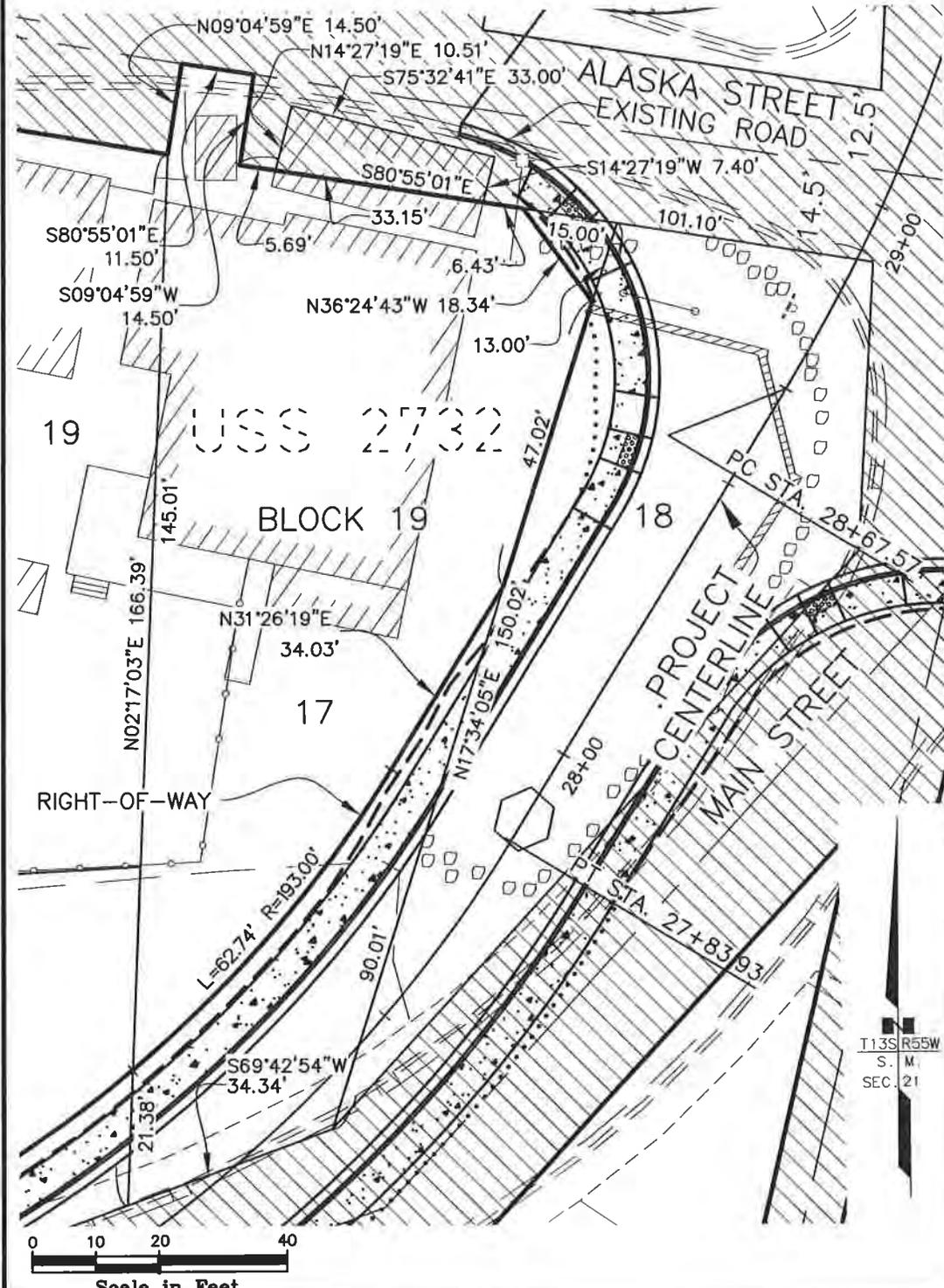
Attachment to:
Ordinance No. _____ / Resolution No. 2017-02 _____

Summary Statement continued:

12.08.020 (C) Approval of Long Term Permit. The city manager shall refer any encroachment permit application for a period exceeding one year to the city planning commission. The manager shall submit his recommendations regarding the application to the planning commission. The planning commission shall review the application, and forward a recommendation to the city council. The city council shall act upon the encroachment permit application only upon receipt and consideration of the recommendation of the planning commission.

Route to	Department Head	Date
X	Finance Director	
X	Public Works Director	
X	Planning Director	
X	City Clerk	

 EXISTING RIGHT-OF-WAY



T13S R55W
S. M.
SEC. 21

CITY OF DILLINGHAM - DILLINGHAM PLANNING DEPARTMENT	
ENCROACHMENT PERMIT DILLINGHAM: DOWNTOWN STREETS REHABILITATION 0001(335)/57180	OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ___ OF ___ DATED _____
1,631 S.F.	
DRAWN BY <u> JF </u>	
DATE <u> Jan 2017 </u>	

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2017- 03

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR NUSHAGAK COOPERATIVES TO INSTALL ELECTRIC SERVICE TO HIGH BUSH SUBDIVISION LOT 8

WHEREAS, according to Dillingham Municipal Code 12.08.010 an encroachment is considered as any object above ground or below belonging to a private owner other than the municipality which has been or caused to be constructed or located within streets, public rights of way or other property dedicated to a public use; and

WHEREAS, Nushagak Cooperative received a request to install residential electric service to High Bush Subdivision Lot 8; and

WHEREAS, there are no objections to the installation as proposed; and

WHEREAS, it is in the public interest to allow this installation; and

WHEREAS, DMC 12.08 requires City Council and Planning Commission approval for any object belonging to a private owner other than the municipality that is placed in streets, public rights-of-way or other property dedicated to a public use, for longer than one year; and

WHEREAS, the Planning Commission was not meeting during the application period; and

WHEREAS, Nushagak Cooperatives installed power to High Bush Lot 8 on December 5, 2016;

NOW, THEREFORE, BE IT RESOLVED that the Dillingham City Council approves the long term encroachment at the Small Boat Harbor with the following conditions:

1. That one form of location information be provided after the installation, whether an as-built or GPS coordinates;
2. That the road be returned to its original condition and compaction;
3. That prior to working in the street, at least 48 hours' notice be given to the City of Dillingham administration.

PASSED AND ADOPTED by the Dillingham City Council January 12, 2017.

Alice Ruby, Mayor

ATTEST:

[SEAL]

Janice Williams, City Clerk

City of Dillingham Information Memorandum

Agenda of: January 12, 2017

Attachment to:

Ordinance No. _____ / Resolution No. 2017-03

Subject:

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL APPROVING A LONG TERM ENCROACHMENT PERMIT FOR NUSHAGAK COOPERATIVES TO INSTALL ELECTRIC SERVICE TO HIGH BUSH SUBDIVISION LOT 8

City Manager: Recommend Approval

Signature: Rose Doern

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

Long Term Encroachment Application from Nushagak Cooperative

Summary Statement:

Nushagak Cooperatives submitted an application for a Long Term Encroachment to install power to a new residence that is being built on Lot 8, High Bush Subdivision. The application was received and construction was completed while the Planning Director was on maternity leave. There were no Planning Commission meetings during this time, therefore the LTE is going directly to the Council for approval.

The encroachment permit is necessary to comply with Dillingham Municipal Code:

*12.08.010 Definitions. "Encroachments" shall be considered as any object above ground or below belonging to a private owner other than the municipality which has been or caused to be constructed or located within the streets, public rights-of-way or other property dedicated to a public use.

12.08.020 (C) Approval of Long Term Permit. The city manager shall refer any encroachment permit application for a period exceeding one year to the city planning commission. The manager shall submit his recommendations regarding the application to the planning commission. The planning commission shall review the application, and forward a recommendation to the city council. The city council shall act upon the encroachment permit application only upon receipt and consideration of the recommendation of the planning commission.

Attachment to:
Ordinance No. _____ / Resolution No. 2017-03 _____

Summary Statement continued:

Route to	Department Head	Date
	Finance Director	
	Public Works Director	
X	Planning Director	
X	City Clerk	



Encroachment Permit Application
 City of Dillingham
 PO Box 889, Dillingham, Alaska 99576

Application received: ___/___/___ Fee Paid \$: 75.00

Applicant Name: Nushagak Cooperative

Phone Number: 907-842-5251

Owner's Name: Nushagak Cooperatie

Mailing Address: box 350

City, State, Zip Code: Dillingham, Alaska 99576

Phone Number: 907-842-5251 Fax: 907-842-2790

Email: wchaney@nushagak.coop

Property Location/Description: Feeding High bush Subdivision Lot 8, across High bush Drive

Basis for encroachment permit request: Service request from Conor Downey and Tiffany Bennett

Other special conditions: Purchase order # 2016-155

Short Term Permit Long Term Permit Period requested: from 12 / 1 / 16 to - / - / -

Provide all requested information above and attach appropriate as-built survey. You must include the \$75.00 non-refundable encroachment permit fee with your application to be processed.

Information included in this permit application is, to the best of my knowledge, true and complete. I acknowledge and will comply with the requirements set forth by this encroachment permit. I acknowledge that this permit does not grant approval to any other federal, state, or city permits that may be required.

Applicant's signature: *William Downey* Date: 12-5-16

Landowner's signature: _____ Date: _____

To Be Completed By City:

City Manager	Date
Planning Director	Date
Public Works Director	Date
Action Taken by City: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Incomplete, return to applicant	

CITY OF DILLINGHAM, ALASKA

RESOLUTION NO. 2017-04

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE FLOATING FENDERS FOR USE AT THE ALL-TIDE DOCK

WHEREAS, the City has been working this past year to repair the damages to the dock that occurred in 2014 and 2016 and to work on a solution to minimize damages in the future; and

WHEREAS, through Resolution No. 2016-29 the council authorized the installation of Dolphins at both ends of the All-Tide Dock at an estimated cost of \$174,000; and

WHEREAS, the City advertised the repairs and installation of the Dolphins and received three responses; and

WHEREAS, the bids for the Dolphins ranged from \$289,000 - \$395,000 which was substantially more than what was estimated by PND Engineering; and

WHEREAS, Cruz Construction came in as the lowest bidder for the repairs to the dock which is being awarded with Action Memorandum No. 2017-02; and

WHEREAS, in researching other avenues to protect the dock PND Engineering found slightly used floating fenders located in Dutch Harbor, owned by Delta Western, which they feel would serve our purpose; and

WHEREAS, the cost for the five floating fenders is \$34,000 plus shipping; and

WHEREAS, we recommend that we purchase the floating fenders directly and get them to Dillingham and then decide who and how we will install them;

NOW, THEREFORE, BE IT RESOLVED that Dillingham City Council authorizes the City Manager to purchase five floating fenders from Delta Western for \$34,000 plus shipping.

PASSED and ADOPTED by the Dillingham City Council on January 12, 2017.

Alice Ruby, Mayor

ATTEST:

[SEAL]

Janice Williams, City Clerk

City of Dillingham Information Memorandum

Agenda of: January 12, 2017

Attachment to:

Ordinance No. _____ / Resolution No. 2017-04

Subject:

A RESOLUTION OF THE DILLINGHAM CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE FLOATING FENDERS FOR USE AT THE ALL-TIDE DOCK

City Manager: Recommend Approval

Signature: Rose Loren

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

- None

Summary Statement:

The City has been working on repairing the damages that occurred in two separate incidents on the All-Tide Dock and also trying to minimize barges damaging the dock in the future. The first recommendation from PND Engineering was to install Dolphins at both ends which they estimated would cost about \$174,000 for both.

After an extensive advertising process with three responses, the bids for the Dolphins came in substantially more than what was estimated. After further review PND Engineering found floating fenders owned by Delta Western located in Dutch Harbor that they felt would work adequately to protect the dock. Attached are pictures of the fenders.

Staff is recommending that we proceed with the purchase of the floating fenders for \$34,000 plus shipping and once they are here in Dillingham will determine who would install them. It may be possible for us to do the work ourselves or see if the contractor working on the dock damages would be able to assist.

Attachment to:
Ordinance No. _____ / Resolution No. 2017-04

Summary Statement continued:

Route to	Department Head	Date
X	Finance Director	
X	Port Director	
X	City Clerk	

City of Dillingham
Fiscal Note

Agenda Date: January 12, 2017

Contract for purchase of 5 floating fenders from Delta Western for use at All-Tide Dock.

ORIGINATOR: Rose Loera

FISCAL ACTION (TO BE COMPLETED BY FINANCE)		FISCAL IMPACT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
AMOUNT REQUESTED: \$34,000		FUNDING SOURCE Dock Fund	
FROM ACCOUNT 2300 8120 70 70 \$34,000		Project Purchase floating fenders for use at All-Tide Dock	
TO ACCOUNT:	VERIFIED BY: <u>Navin Bissram</u>	Date:	<u>1/5/2017</u>

EXPENDITURES

OPERATING	FY17			
TOTAL OPERATING	\$ -	\$ -	\$ -	\$ -

CAPITAL	\$ 34,000			
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REVENUE				
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FUNDING

General & Special Rev. Funds	\$34,000			
State/Federal Funds				
Other				
TOTAL FUNDING	\$ 34,000	\$ -	\$ -	\$ -

POSITIONS

Full-Time				
Part-Time				
Temporary				

ANALYSIS: (Attach a separate page if necessary)

Resolution No. 2017-04

PREPARED BY: Navin Bissram

January 5, 2017

DEPARTMENT: Finance

APPROVED BY: _____





Janice Williams

Subject: FW: Text from Dane Grondin

I would like to be considered for an extension to continue serving on the library board.
Dane Grondin

Sonja Marx
Librarian

City of Dillingham
Dillingham Public Library
PO Box 870
306 D St W
Dillingham, AK 99576
T 907-842-5610
F 907-842-4237
librarian@dillinghamak.us
www.dillinghamak.us



This message and any attachments are intended only for the addressee(s) and may contain privileged or confidential information. If you have received this message in error, please delete the message and any attachments and destroy any copies. Thank you.



THE STATE
of **ALASKA**

GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

550 West Seventh Avenue, Suite 1640
Anchorage, AK 99501
Main: 907.269.4501 / 907.269.4580
Programs fax: 907.269.4539

December 27, 2016

Alice Ruby, Mayor
P.O. Box 889
Dillingham, AK 99576

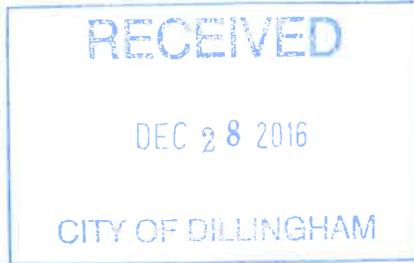
Mayor Ruby,

Please find the Statement of Decision regarding the City of Dillingham annexation petition enclosed. Please let LBC staff know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Eileen Collins".

Eileen M. Collins
Local Government Specialist IV



STATE OF ALASKA

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
DEVELOPMENT

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

AFFIDAVIT OF MAILING DECISION

I, Eileen Collins, Local Government Specialist IV for the Division of Community and Regional Affairs, 550 West Seventh Avenue, Suite 1640, Anchorage, Alaska, 99501, hereby certify that on December 27, 2016, I mailed true and accurate copies with postage thereon of:

1. Local Boundary Commission Statement of Decision in the matter of the Amended City of Dillingham Annexation Petition for 278± square miles of land and water approved on December 20, 2016 by the commission.

To: The petitioner and respondents listed below.

1. Alice Ruby, Petitioner's representative
2. Melvin Andrew, Mayor of the City of Manokotak, Respondent
3. Jim Baldwin, Ekuk, et al., Respondent
4. Lea Filippi, Southwest Region School District, Respondent

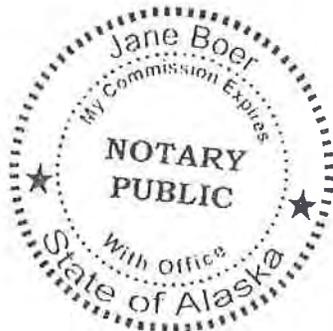
Eileen Collins

Dated: December 27, 2016

SUBSCRIBED AND SWORN BEFORE ME THIS 27th DAY OF December, 2016.

Jane Boer

Jane Boer
Notary Public in and for Alaska



My commission expires: with office

Local Boundary Commission Statement of Decision

Members

Lynn Chrystal
Chair
At Large

John Harrington
Member
First Judicial District

Bob Harcharek
Vice Chair
Second Judicial District

Darroll Hargraves
Member
Third Judicial District

Lavell Wilson
Member
Fourth Judicial District

In the matter of the
City of Dillingham
Annexation Petition
of approximately 399
square miles of land
and water

Section I Introduction

On June 12, 2015, the Local Boundary Commission staff accepted the City of Dillingham Legislative Review Annexation Petition of approximately 399 square miles of land and water. The petition was amended in the decisional meeting on December 1, 2016, and the amended boundaries are generally described as the Nushagak Commercial Salmon District and Wood River Sockeye Salmon Special Harvest area, and excluding the Igushik Section and Snake River Sections defined by Alaska Department of Fish and Game districts.

The amended territory also excludes territory generally described as the legal offshore fishing distance for set nets and the corresponding Fish and Game statistical areas along the shore on the east side of Nushagak Bay north and south of Clark's Point totaling approximately 9.34± and 2.44± square miles respectively.

The amended boundaries with all exclusions consist of approximately 278.52± square miles of land and water. The territory is wholly located in the Bristol Bay recording district and the Dillingham Census Area.



Map of Annexation Boundaries as Amended

Section II Proceedings

September 27, 2014: The City of Dillingham held the required pre-submission hearing for legislative review petitions.

January 22, 2015: The City of Dillingham submitted a legislative review petition.

June 12, 2015: The department accepted the City of Dillingham's petition for filing and opened the first public comment period.

September 1, 2015: The City of Manokotak submitted a legislative review petition for annexation to the Local Boundary Commission.

September 25, 2015: Manokotak asked the LBC to postpone the City of Dillingham annexation proceedings to consolidate the petitions so they would proceed on the same schedule.

December 3, 2015: The LBC granted Manokotak's request for consolidation.

December 4, 2015: The City of Manokotak's petition was accepted for filing and a public comment period for the consolidated petitions opened.

February 26, 2016: The public comment period on the consolidated petitions from cities of Dillingham and Manokotak ended.

June 3, 2016: A preliminary report to the LBC regarding the consolidated annexation petitions was released and a second public comment period began.

July 15, 2016: The second public comment period ended.

August 19, 2016: A motion from Ekuk, et al., was submitted to the LBC, and, consequently, an additional public comment period on the preliminary report opened and was extended through September 19, 2016.

October 28, 2016: A final report to the LBC regarding the consolidated annexation petitions was released.

November 28-30, 2016: A hearing was held in both Manokotak and Dillingham regarding the annexation petitions.

December 1, 2016: A decisional meeting was held in Anchorage. The commission determined that the annexation boundaries proposed by Dillingham must be altered. The decision to approve the annexation of the amended territory is described in Section III.

Section III Findings and Conclusions

Need – 3 AAC 110.090

The commission noted that the City of Dillingham was not planning on providing new services; rather, the city intends to enhance those services the city currently provides and which may have been cut, reduced, or are in jeopardy of being cut due to lack of funds to support those services. The commission found that the extension of city services or facilities into the territory was necessary to enable the city to provide adequate services to city residents. The commission noted that testimony demonstrated a need for increased city revenue in order to compensate for the services the city provides that are related to the fishing industry.

When Commissioner Hargraves suggested that the City of Dillingham could increase user fees for those using its facilities, Chair Chrystal said it is not up to the LBC to determine what amounts the city must charge for its services.

The chair polled the commission regarding 3 AAC 110.090(a). Three members stated they believe the standard is met: Commissioners Harrington and Wilson, and Chair Chrystal. Commissioners Hargraves and Harcharek stated that they do not believe it is met.

Regarding 3 AAC 110.090(b), the commission also found that no other existing city or organized borough could provide essential municipal services to the territory, as amended by the commission, more efficiently or effectively than the City of Dillingham because there is no other city or an organized borough in place to do this. The commission also found that no borough is likely to form and no existing city is near enough to provide these services. Commissioner Wilson said a borough could be more efficient in terms of service provision, but that was not relevant at this time without any foreseeable borough incorporation petition.

The commission found the territory proposed for annexation, as amended, exhibited a reasonable need for city government and found that the standard in 3 AAC 110.090 is met.

Character – 3 AAC 110.100

The commission noted that Dillingham is home to a large fishing fleet that uses the city as its base for fishing in the Nushagak District as well as other districts in Bristol Bay. These fishermen and crewmembers come in and out of the Dillingham port during the season. The commission also noted that the City of Dillingham demonstrated in public hearing testimony its reliance on and ties to the fishing industry. For these reasons, the commission found that the character of the territory proposed for annexation is compatible with the City of Dillingham and the standard regarding character found in 3 AAC 110.100 is met.

Resources – 3 AAC 110.110

The commission noted that the City of Dillingham demonstrated that the city has the human and financial resources and ability to provide essential municipal services to the city and the territory proposed for annexation, as amended, because the city had done so for two years before the previous annexation decision was vacated by the superior court.¹ The commission also noted that the testimony provided evidence of the need for additional revenues and the value of the taxable property (in this case, raw fish) found in the territory proposed for annexation.

Commissioner Hargraves stated for the record that there are no residents in the territory and that he opposes a finding that this standard is met. Commissioner Harrington noted that in order for the commission to be consistent with its previous decision regarding Manokotak, it must find that the community has met this standard.

The commission found that the proposed expanded city has the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level in the expanded boundaries, as amended, and meets the standard of resources found in 3 AAC 110.110.

Population – 3 AAC 110.120

The commission noted that population in the City of Dillingham is larger than Manokotak, which they also found to meet the standard regarding population. They noted the City of Dillingham does have a stable and large enough population to support this proposed annexation. The LBC also noted that the successful implementation of the prior annexation approved in 2011 (but vacated by the superior court in 2014) demonstrated that in the past, the city did indeed have the population to support the extension of city government into the expanded boundaries.

Commissioner Hargraves disagreed with this finding by noting again that only fish live in the territory and there is no permanent population as defined by 3 AAC 110.990(10) in the territory

¹ On December 14, 2011, the commission approved a petition by the City of Dillingham to annex the entire Nushagak Bay. That annexation was in effect for approximately two years before the superior court in Dillingham vacated the annexation on March 27, 2014 (Case No. 3D1-12-22CI).

proposed for annexation. However, the commission found, for the above reasons, that the population within the proposed expanded boundaries of the city is sufficiently large and stable enough to support the extension of city government and that the standard regarding population in 3 AAC 110.120 was met.

Boundaries – 3 AAC 110.130

The commission found the proposed boundaries are contiguous and do not create enclaves.

Commissioner Hargraves said that the territory proposed for annexation is a huge area with no permanent residents. Commissioner Harcharek said the annexation was not on a scale suitable for city government.

Commissioner Harrington said the territory proposed for annexation is on a scale suitable for city government consistent with prior commission decisions. Commissioner Hargraves disagreed because there was no need for government over an area with no population and that the area is too large for a small first- or second-class city.

The commission amended Dillingham's proposed boundaries to be consistent with statistical areas set by the Alaska Department of Fish and Game for the purposes of implementation of a fish tax, and noted that this was also a justification for the size of the area included in the amended boundaries.

Overall, the commission agreed that the original boundaries proposed by Dillingham include an entire geographical region and a large unpopulated area. However, a majority of the commission noted that the boundaries, as amended to exclude the Snake River District, the Igushik District, and the areas excluded on the east side of the bay, will include less than the entire geographical region of the bay, and are justified by the application of the rest of the annexation standards in 3 AAC 110.090 – 3 AAC 110.135.

The commission found that the proposed expanded boundaries of the city, as amended by the commission, are on a scale suitable for city government because the boundaries allow the city to exercise local control over the territory and to maximize local self-government. Additionally, the commission found that the expanded boundaries of the city, as amended, comprise an existing local community plus reasonably predictable growth and development in the next ten years. The chair polled the commissioners and four commissioners concurred that the standards in 3 AAC 110.130(c) have been satisfied.

The commission found that the proposed annexation did not describe boundaries that overlapped any other city or borough because there is none nearby. They noted that Dillingham's proposed boundaries do overlap the City of Manokotak's just-approved petition, but that amendment of Dillingham's petition to exclude the areas included in Manokotak's petition removes the overlapping area.

The commission further found that the proposed expanded boundaries, as amended, included all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level.

Best Interests of the State – 3 AAC 110.135

Maximum Local Self-Government

The commission found that the proposed annexation would expand government to an area in the unorganized borough and outside any city and would bring more territory under an incorporated city, maximizing the self-government of that area. The commission therefore found this annexation promoted maximum local self-government and meets the standard found in 3 AAC 110.981 and 3 AAC 110.135(1).

Minimum Number of Local Government Units

Because no new governmental units will be created by this proposed annexation, the commission found that the annexation proposed by the City of Dillingham would simply enlarge boundaries of an existing city rather than promote the incorporation of a new city. For this reason, the commission determined that the proposed annexation met the standard promoting 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.

Relief from State Provision of Local Services

Commissioner Harcharek stated that he believed the annexation is in the best interests of the state. Chair Chrystal said the annexation will relieve the state of some tasks in the territory. Commissioner Hargraves expressed concern over the possible effect such an annexation could have on the state. The commission noted the importance of healthy fisheries from a statewide perspective as well. After having found that the previous two sections regarding the promotion of maximum local self-government and a minimum number of local government units were met, the commission determined that the annexation, as amended, is in the best interest of the state and that the standards found in 3 AAC 110.135 were satisfied.

Legislative Review – 3 AAC 110.140

The commissioners considered the standards for annexation via legislative review under 3 AAC 110.140 and found that four of the eight listed circumstances were present.

The commission found that the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents. The commission noted that the testimony demonstrated a need for increased city revenue in order to compensate for the services the city provides that are related to the fishing industry. Subsection (3) of 3 AAC 110.140 is met.

The commission also found that subsection (7) is met because the commission had already determined that the annexation would promote maximum local self-government and a minimum number of local government units.

The commission also noted that the City of Dillingham has already demonstrated its ability to implement this annexation and administer the fish tax during the two years in which the prior annexation was in effect. The commissioners found that this demonstrated that the annexation would enhance the extent to which the City of Dillingham met the incorporation standards for cities.

In addition, the commission found that subsection (9) was met and that the specific policies set out in the Constitution of the State of Alaska and AS 29.06 are best served through annexation of the territory by the legislative review process. Moreover, the commission had already found that the annexation was in the best interests of the state.

Needing only to find one circumstance met under legislative review, the commission finds that the proposed territory, as amended, may be annexed to the City of Dillingham by the legislative review process under 3 AAC 110.140.

Transition – 3 AAC 110.900

The commission found that Dillingham's annexation petition includes a practical plan that demonstrates the capacity of the city to extend essential municipal services into the boundaries proposed for change in the shortest practicable time.

The commission noted that the City of Dillingham had operated within and administered a fix tax over the entire bay for two years before the prior annexation was vacated. In this way, Dillingham has demonstrated its ability to extend services into the expanded boundaries of the city.

Dillingham's transition plan includes a plan for the assumption of all relevant powers, duties, rights, and functions by the city, as well. Commissioner Harrington noted that the city is providing environmental protection within city boundaries, as well as enhancing public safety and response coordination by volunteers. The commission found that the petitioners consulted with relevant

entities and documented the dates and subjects of such consultations in the transition plan. The transition plan also indicated that it was designed to effect an orderly, efficient, and economical transfer within the shortest practical time.

The commission found that a section in the plan regarding the transfer and integration of assets and liabilities was not applicable and therefore not necessary to include. The commission also found it was not necessary to require an agreement between any entities because there are no other governmental entities within the proposed annexation area, as amended.

The commission determined that the information contained in testimony, the petition, and the entire record is sufficient to meet the standard in 3 AAC 110.900 regarding transition.

Statement of Nondiscrimination – 3 AAC 110.910

The commission found no evidence that the adoption of the annexation proposal from the City of Dillingham would deprive any person of any civil or political rights because of sex, creed, national origin, or race. The commissioners found the standard under 3 AAC 110.910 is met.

Determination of Essential Municipal Services – 3 AAC 110.970

Because essential municipal services were discussed, the commission did identify those that are reasonably necessary to the community and promote maximum, local self-government, as well as services that cannot be provided more efficiently or more effectively by the creation or modification of some other political subdivision of the state.

The commission noted that the City of Dillingham does offer those services that are necessary for the safety and well-being of residents, including taxation, platting, oil spill response, and the operation of a school system.

Several commissioners noted that a borough could better provide services, but at this time, with no anticipated borough formation petition, the commission found that the City of Dillingham was the most appropriate and most able entity to provide those essential municipal services.

Conclusion and Vote

After a discussion of the standards described above, Commissioner Harrington moved to approve the Dillingham petition as presented; Commissioner Harcharek seconded the motion.

Commissioner Harrington moved to amend his motion to exclude the area already granted in approval of the City of Manokotak's annexation petition, and that territory on the east side of Nushagak Bay, which was depicted and described in the two exhibits E-30 and E-31 presented by respondents Ekuk, et al., at the public hearing.

The amendment provides for exclusion of the legal offshore fishing distance for set nets and the corresponding Fish and Game statistical areas, which were described during the public hearing and during the decisional meeting. The amendment also excluded the Igushik and Snake River Sections that were included as part of the City of Manokotak's annexation petition approved by the commission earlier in the decisional meeting.

Commissioner Wilson seconded the motion to amend the motion to approve the annexation. A roll call vote was taken on whether to approve the amendment which excluded the above-noted areas from the territory proposed for annexation. Four commissioners voted yes. Commissioner Hargraves voted no and stated that he supported only part of the amendment and, therefore, had to vote against the motion to amend.

After a discussion, a roll call vote on the amended motion to approve the petition was called. All five commissioners voted in favor of approving the City of Dillingham's petition as amended by the commission.

A legal description of the amended annexation boundaries approved by the commission is set out below in Section IV.

Section IV

Order of the Commission

Beginning at the northwest corner of protracted Section 31, T12S, R55W, Seward Meridian (SM)
The **True Point of Beginning** (Map of USGS Quad Dillingham A-7, 1952);

Thence, east to the mean high tide line on the west bank of the Wood River;

Thence, meandering north and northwesterly along a line paralleling the mean high tide line of the west bank of the Wood River to the intersection with 59° 12.11' North Latitude and 158° 33.38' West Longitude;

Thence, east across the Wood River to mean high tide line on the east bank of the Wood River at 59° 12.11' North Latitude and 158° 33.11' West Longitude;

Thence, meandering south and southeasterly along a line paralleling the mean high tide line of the east shore of the Wood River and the northeastern shore of the Nushagak River to the intersection with R55W, SM;

Thence, south along the eastern boundary of protracted Sections 12, 13, and 24, T13N, R55W, SM to the intersection with mean high tide line on the southern shore of Nushagak River;

Thence, meandering southerly along a line paralleling the mean high tide line of the southeastern shore of Nushagak River and Nushagak Bay, including Grass Island, to a point identified at GPS Coordinates (5 AAC 06.206) 58°56.79' North Latitude, 158°29.53' West Longitude and referenced in Alaska Code 5AAC 06.350(1);

Thence, Northwesterly along the closing line described in Alaska Code 5 AAC 06.350(1) to a point at the intersection of the North section line of Section 19, T14S R55W, SM;

Thence, due South to the intersection of a point located 300 feet seaward of the Mean Lower Low Tide Line (MLLTL);

Thence, Southerly along a line being 300 feet seaward and parallel to the MLLTL of Nushagak Bay to the intersection of the North boundary of Section 25, T15S, R56 W, SM;

Thence, Westerly along the Northerly boundary of Section 25, T15S, R56W, SM to the Northwest Corner of Section 27, T15S, R56W, SM;

Thence, Southerly along the Westerly boundary of Section 27, T15S, R56W, SM to the North 1/16 Corner of Section 3 and Section 4, T16S, R56W, SM being the extension of the southerly seaward boundary of the City of Clark's Point;

Thence, Easterly along the North 1/16 of Section 2 and Section 3, T16S, R56W, SM to a point approximately 500 feet seaward of the Mean High Tide Line (MHTL) in Section 1, T16S, R56W SM;

Thence, Southerly along a line being approximately 500 feet seaward and parallel to the MHTL to a point being perpendicular from GPS Coordinates (5 AAC 06.206) 58°49.29' North Latitude, 158°33.10' West Longitude and referenced in Alaska Code 5 AAC 06.350(n)(2);

Thence, Southerly along said perpendicular line approximately 250 feet to a point approximately 750 feet from the MHTL of Nushagak Bay;

Thence, Southerly along a line being approximately 750 feet seaward and parallel to the MHTL to a point approximately 750 feet perpendicular from First Creek identified at GPS Coordinates (5 AAC 06.206) 58°47.15' North Latitude, 158°30.57' West Longitude and referenced in Alaska Code 5 AAC 06.350(n)(2);

Thence, Southerly along said perpendicular line approximately 200 feet to a point approximately 950 feet from the MHTL of Nushagak Bay;

Thence, Southerly along a line being approximately 950 feet seaward and parallel to the MHTL to a point approximately 1050 feet perpendicular from Third Creek identified at GPS Coordinates (5 AAC 06.206) 58°46.81' North Latitude, 158°28.10' West Longitude and referenced in Alaska Code 5 AAC 06.350(n)(3);

Thence, Southerly along said perpendicular line approximately 350 feet to a point approximately 1450 feet from the MHTL of Nushagak Bay;

Thence, Southerly to a point approximately 1450 feet perpendicular to GPS Coordinates (5 AAC 06.206) 58°39.37' North Latitude, 158°19.31' West Longitude and referenced in Alaska Code 5 AAC 06.350(n)(4);

Thence, Easterly along the line perpendicular to GPS Coordinates (5 AAC 06.206) 58°39.37' North Latitude, 158°19.31' West Longitude and referenced in Alaska Code 5 AAC 06.350(n)(4) to a point on the MHTL of Nushagak Bay;

Thence Southerly along the MHTL of Nushagak Bay to a point at 58° 39.37' North Latitude and 158° 19.31' West Longitude;

Thence, southwesterly to 58° 33.92' North Latitude and 158° 24.94' West Longitude;

Thence, southwesterly to 58° 29.27' North Latitude and 158° 41.78' West Longitude.

Thence west approximately 855 feet to the mean high tide line along the east shore of Nushagak Bay;

Thence, meandering northerly along a line paralleling the mean high tide line to a point at 58° 33.77' North Latitude and 158° 46.57' West Longitude;

Thence, northeasterly to 58° 36.28' North Latitude and 158° 34.40' West Longitude at mean high tide line along the east shore of Nushagak Bay;

Thence, northwesterly to 58° 44.80' North Latitude and 158° 41.50' West Longitude at mean high tide line along the east shore of Nushagak Bay;

Thence, northwesterly following a line going to a point 58° 52.90' North Latitude and 158° 43.30' West Longitude to a point where the line intersects with the mean high tide line (approximately 1085± feet from the point) along the east shore of Nushagak Bay;

Thence, meandering north easterly along a line paralleling the mean high tide line of Nushagak Bay to the intersection with the line common to the northeast corner of protracted T14S, R56W, SM (USGS map of Quad Nushagak Bay D-2, 1952, minor revision 1985);

Thence, west along the northern boundary of protracted Sections 1, 2, and 3, T14N, R56W, SM (USGS map of Quad Nushagak Bay D-2, 1952, minor revision 1985) to the northwest corner of Section 3;

Thence, north to the northwest corner of protracted Section 3, T13S, R56W, SM (USGS map of Quad Nushagak Bay D-2, 1952, minor revision 1985);

Thence, west to the protracted southwest corner of Section 31, T12S, R55W, SM (USGS map of Quad Dillingham A-7, 1952);

Thence, north to the northwest corner of protracted Section 31, T12S, R55W, SM, the **True Point of Beginning**, containing approximately 33.6± square miles of land and 280± square miles of water, more or less, all within in the Third Judicial District, Alaska (USGS map of Quad Dillingham A-7, 1952).

Shoreline boundaries were derived using satellite imagery from Alaska's Statewide Digital Mapping Initiative. Imagery was collected on July 9, 2009.

Approved in writing on this 20 day of December, 2016

Local Boundary Commission

By: 
Lynn Chrystal, Chair

Attest: 
Eileen Collins, Staff

Based on the findings and conclusions set out in Section III of this decisional statement, the Local Boundary Commission notes that all of the relevant standards and requirements for annexation are satisfied by the annexation proposal filed by the City of Dillingham. Accordingly, the commission hereby approves the January 22, 2015, petition of the City of Dillingham as amended.

The commission will submit a recommendation for the annexation of the territory in question to the First Session of the Thirtieth Alaska Legislature in accordance with the provisions of Article X, Section 12 of the Constitution of the State of Alaska.

Reconsideration by the Commission

Regulation 3 AAC 110.580 titled "Reconsideration" provides as follows:

(a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.

(b) Within 30 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.

(c) A person filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

(d) If the person filing the request for reconsideration is a group, the request must identify a representative of the group. Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.

(e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that

- (1) a substantial procedural error occurred in the original proceeding;
 - (2) the original vote was based on fraud or misrepresentation;
 - (3) the commission failed to address a material issue of fact or a controlling principle of law;
- or

(4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

(f) If the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.

(g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

Judicial Appeal

A decision of the Local Boundary Commission may be appealed to the Superior Court under AS 44.62.560(a) and Rules of Appellate Procedure 602(a)(2). Per 3 AAC 110.570(g), this is the final decision of the commission, unless reconsideration is timely requested or the commission orders reconsideration. A claimant has 30 days to appeal to the Superior Court.



THE STATE
of **ALASKA**

GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

550 West Seventh Avenue, Suite 1640

Anchorage, AK 99501

Main: 907.269.4501 / 907.269.4580

Programs fax: 907.269.4539

RECEIVED

DEC 22 2016

CITY OF DILLINGHAM

December 20, 2016

Alice Ruby, Mayor
P.O. Box 889
Dillingham, AK 99576

Mayor Ruby,

Please find the Statement of Decision regarding the City of Manokotak annexation petition enclosed. Please let LBC staff know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Eileen Collins".

Eileen M. Collins
Local Government Specialist IV

STATE OF ALASKA

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
DEVELOPMENT

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

AFFIDAVIT OF MAILING DECISION

I, Eileen Collins, Local Government Specialist IV for the Division of Community and Regional Affairs, 550 West Seventh Avenue, Suite 1640, Anchorage, Alaska, 99501, hereby certify that on December 20, 2016, I mailed true and accurate copies with postage thereon of:

1. Local Boundary Commission Statement of Decision in the matter of the City of Manokotak Annexation Petition for 155.12± square miles of land and water approved on December 20, 2016 by the commission.

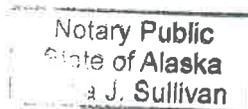
To: The petitioner and respondents listed below.

1. Melvin Andrew, petitioner's representative
2. Alice Ruby, Mayor of the City of Dillingham, Respondent
3. Jim Baldwin, Ekuk, et al., Respondent
4. Lea Filippi, Southwest Region School District, Respondent

Eileen Collins

Dated: December 20, 2016.

SUBSCRIBED AND SWORN BEFORE ME THIS 20th DAY OF December, 2016.



Lydia J. Sullivan

Lydia J. Sullivan
Notary Public in and for Alaska

My commission expires: with office

Local Boundary Commission Statement of Decision

Members

Lynn Chrystal
Chair
At Large

John Harrington
Member
First Judicial District

Bob Harcharek
Vice Chair
Second Judicial District

Darroll Hargraves
Member
Third Judicial District

Lavell Wilson
Member
Fourth Judicial District



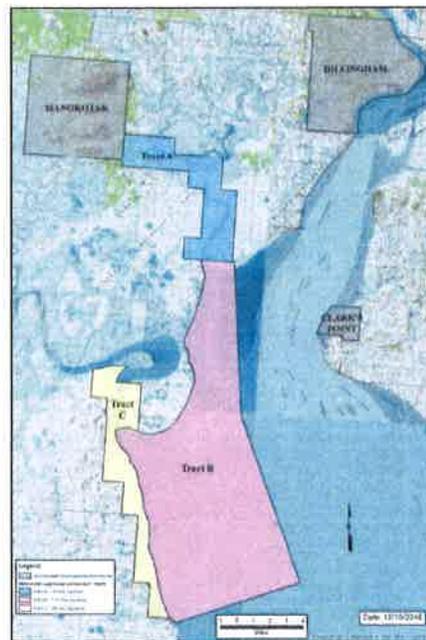
In the matter of the
City of Manokotak
Annexation Petition
for 155.12± square
miles of land and
water

Section 1 **Introduction**

On September 1, 2015, the City of Manokotak submitted a legislative review petition to annex 155.12± square miles of land and water to the Local Boundary Commission (LBC). The petition identified the territory proposed for annexation in three parts described generally as follows:

Tract A contains a segment of the Weary River as it flows into the Snake River and then into the Nushagak Bay where Tract A meets Tract B (described below). Tract A is approximately 20.93 square miles. Tract B consists of 113.7 square miles of water and includes the Snake River and Igushik Sections of the Nushagak Commercial Salmon District. Tract C is approximately 20.5 square miles of land called Igushik Village or Igushik Beach.

A summary of petition proceedings is in Section II of this Decisional Statement. This territory is wholly located in the Dillingham Census Area in southwestern Alaska and within the Bristol Bay Recording District.



Map of Proposed Annexation by the City of Manokotak

Section II Proceedings

August 6, 2015: The City of Manokotak held the required pre-submission hearing for legislative review petitions.

September 1, 2015: The City of Manokotak submitted a legislative review petition for annexation to the Local Boundary Commission.

September 25, 2015: Manokotak asked the LBC to postpone the City of Dillingham annexation proceedings to consolidate the petitions so they would proceed on the same schedule.

December 3, 2015: The LBC granted Manokotak's request for consolidation.

December 4, 2015: The City of Manokotak's petition was accepted for filing and a public comment period for the consolidated petitions opened.

February 26, 2016: The public comment period on the consolidated petitions from cities of Dillingham and Manokotak ended.

June 3, 2016: A preliminary report to the LBC regarding the consolidated annexation petitions was released and a second public comment period began.

July 15, 2016: The second public comment period ended.

August 19, 2016: A motion from Ekuk, et al., was submitted to the LBC, and, consequently, an additional public comment period on the preliminary report opened and was extended through September 19, 2016.

October 28, 2016: A final report to the LBC regarding the consolidated annexation petitions was released.

November 28-30, 2016: A hearing was held in both Manokotak and Dillingham regarding the annexation petitions.

December 1, 2016: A decisional meeting was held in Anchorage whereby the petition was approved as presented. A legal description is found in Section IV.

Section III Findings and Conclusions

Need – 3 AAC 110.090

The commission noted that Manokotak demonstrated, particularly in the testimony at the public hearing, a strong need for city government in the territory proposed for annexation, including the need for city services such as waste disposal and ice machines to support fishing by city residents.

The commission also noted that the whole community moves from the existing city limits to Tract C in the summer and are without city services in Tract C. The commission found that Tract A was a necessary corridor and an integral part of the annexation because in order to provide the needed services in Tract C, Manokotak indicated that site control in the corridor (Tract A) through municipal jurisdiction was required.

The commission also found that no other existing city or organized borough could provide essential municipal services to the territory more efficiently or effectively than the City of Manokotak because there is no other city or an organized borough in place to do this. The commission found that no

borough was likely to form in the area in the foreseeable future and that there is not an existing city near enough to provide these services to the territory proposed for annexation.

The commission found the proposed annexation exhibits a reasonable need for city government and found that the standard in 3 AAC 110.090 is met.

Character – 3 AAC 110.100

The commission found that the land proposed for annexation is primarily used by current residents of the City of Manokotak. The commission also noted the historical and current community ties to the land and the water described in the annexation boundaries. The commission noted testimony that Manokotak residents find it hard to differentiate between the city and Igushik Village because they consider it such an integral part of their community.

For these reasons, the commission found that the character of the territory proposed for annexation is compatible with the City of Manokotak and the standard regarding character found in 3 AAC 110.100 is met.

Resources – 3 AAC 110.110

The commission noted that annexation will provide jurisdiction and site control over the territory proposed for annexation, thereby allowing the expanded city to qualify for more grant funding for its anticipated needs. The commissioners indicated that the city's fish tax will primarily be levied against residents of Manokotak, demonstrating the city residents' sincere intentions to fund needed services.¹ Revenue is anticipated from the proposed fish tax to provide services such as ice machines.

The commission noted that the testimony demonstrated that the area is economically depressed, and found that an additional income source and the city's desire to improve or extend city services is favorable for annexation.

The commission noted that the transition plan in the petition included a budget with anticipated expenses from the proposed annexation. They also found that the hearing included testimony providing more detail on the costs of providing some services. The commission found the testimony to present a fair estimate of the high costs of the services desired by Manokotak and the city's plans for securing funding sources.

Commissioner Hargraves noted that the size of the territory proposed for annexation meant that it would be difficult to administer city services throughout the entire territory. The commission, however, finds that the proposed expanded city has the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level, and meets the standard regarding resources found in 3 AAC 110.110.

Population – 3 AAC 110.120

The commissioners found that the City of Manokotak is a growing community with a flourishing local school. In addition, the commission gave considerable weight to the statements in the petition and testimony describing the seasonal population shifts to the annexation territory. The commissioners did not all agree whether the territory had a permanent population, but found that the historical ties with the land and water, as well as the movement of the community to Igushik Village each season to set net was more important with respect to this standard concerning the population.

For these reasons, the commission finds that the population within the proposed expanded boundaries is sufficiently large and stable enough to support the extension of city government and that the standard regarding population found in 3 AAC 110.120 is met.

¹ The City of Manokotak passed a two percent severance tax on raw fish in November 2016 in an election that has not yet been certified.

Boundaries – 3 AAC 110.130

The commission considered that Tract A represented a necessary piece of the annexation with regard to the city's need to improve the boat launch in that area. The commission found that Tract A also provides the community's means of traveling to fish each season for commercial and subsistence purposes.

The commission finds that the proposed expanded city as presented with Tracts A, B, and C did not create enclaves or noncontiguous sections in the City of Manokotak.

The commission finds that the entire annexation was on a scale suitable for city government because each section of territory proposed for annexation is necessary to meet all the annexation standards.

As noted earlier, Tract A is necessary for transportation access as well as for necessary improvements to the boat launch. Tract B is made up of established statistical areas set by the Alaska Department of Fish and Game (ADFG) and splitting this section of the Nushagak District further than the way it is described by ADFG for Manokotak is impractical. Tract C is consists of land that is important to and utilized by the residents of Manokotak. The commission found that the ties between each section proposed for annexation are essential.

The commission also found that the annexation did include entire geographical regions or large unpopulated areas. But, the commission justified this by stating that the standards for annexation are otherwise met. The boundary for Tract B is justified because it conforms to the statistical area boundaries drawn by ADFG, and the commission did not think it would be prudent to deviate from those boundaries. The commission finds that, overall, the boundaries proposed by Manokotak are necessary and justified for administration of a fish tax. This area is in the unorganized borough and not under other local government jurisdiction, and because of the coastal ties with the current City of Manokotak, the standard regarding the exclusion of large unpopulated areas is overcome.

The commission agreed that the proposed annexation does not describe boundaries that overlap any other city or borough because there is none nearby.

The commission, considering the factors described above in this section, finds that the proposed expanded boundaries include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level.

Best Interests of the State – 3 AAC 110.135

Maximum Local Self-Government

The commission found that the proposed annexation was expanding local government to an area in the unorganized borough and outside any city and would bring more territory into the organized areas of the state. The commission, therefore, finds this annexation promotes maximum local self-government and meets the standards found in 3 AAC 110.981 and 3 AAC 110.135(1).

Minimum Number of Local Government Units

No new local government units will be created by this proposed annexation, and the commission found that the annexation proposed by the City of Manokotak is merely expanding an existing unit of local government. For this reason, the commission determined that the proposed annexation meets the standard promoting 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.

Relief from State Provision of Local Services

The commission, as described above, found that 3 AAC 110.135 (1) and (2) were met. With regard to subsection (3), the commission noted that the state does not currently provide any services to the proposed annexation territory. Commissioner Hargraves expressed concern that second class cities should not take the place of boroughs particularly with regard to size, and that this annexation will not relieve the state of provision of local services. The chair polled the commissioners regarding this standard. Commissioner Harrington, Commissioner Wilson, and Chair Chrystal indicated they believe the standard is met. Commissioner Hargraves and Commissioner Harcharek stated their

opposition. Because a majority of three commissioners found the annexation is in the best interests of the state and will not require the state to provide additional services, the commission found that the standard regarding the best interests of the state is met.

Legislative Review – 3 AAC 110.140

The commissioners considered the standards for annexation via Legislative Review under 3 AAC 110.140 and found that four of the eight subsections describe circumstances that are present.

The commission found that subsection (1) is not met because the territory is not wholly or substantially surrounded by the annexing city. Regarding (2), the commission found conditions in the proposed territory were not detrimental or dangerous such that annexation is necessary for the city to regulate or control those conditions. Regarding the third subsection, the commission found that the city services Manokotak wishes to extend to the territory do require that the territory be within the city's jurisdiction through municipal boundaries, and that it is impractical for the city to extend these services unless the territory is within the city.

Subsection (4) was found not to apply because no city services are being extended to the territory by the city at this time. The commission found that the circumstances described in subsection (5) exist because Manokotak wishes to extend its regulation of alcohol to the territory, as well as land use planning, which cannot be done extraterritorially. As noted earlier, circumstances described in subsection (7) were determined to have been met. The commission also found that the annexation would strengthen and empower the City of Manokotak, and, therefore, subsection (8) is met, which states that the annexation will enhance the extent to which the existing city meets the standards for incorporation. The commission did not address subsection (9) because only one subsection must be met.

The commission finds that at least one of the circumstances in 3 AAC 110.140 is met, and that, therefore, the territory may be annexed to the City of Manokotak by the legislative review process.

Transition – 3 AAC 110.900

The commission found that the petition and testimony heard during the public hearing included a practical plan that demonstrated the capacity of the City of Manokotak to extend essential municipal services into the boundaries proposed for change within a reasonable timeframe. The commission noted that a practical plan was described adequately in testimony and included some costs and descriptions from well drillers and descriptions of potential grants.

The commission noted that the plan did not need to address the transition of powers, duties, rights, and functions because there is no existing borough, city, or borough service area currently exercising these. The commission also found subsection (c) not applicable because there are no assets or liabilities to transfer or integrate because there is no existing borough, city, or borough service area in the territory proposed for annexation. For the same reason, the commission found no reason for the petitioner to consult other officials or to require an agreement between any entities. The commission determined that the information contained in testimony, the petition, and the entire record is sufficient to meet the standard in 3 AAC 110.900 regarding transition.

Statement of Nondiscrimination – 3 AAC 110.910

The commission found no evidence that the adoption of the annexation proposal from the City of Manokotak would deprive any person of any civil or political rights because of sex, creed, national origin, or race. The commissioners found the standard under 3 AAC 110.910 is met.

Determination of Essential Municipal Services – 3 AAC 110.970

Because essential municipal services were discussed, the commission did identify those that are reasonably necessary to the community and promote maximum, local self-government, as well as services that cannot be provided more efficiently or more effectively by the creation or modification of some other political subdivision of the state.

Land use, planning, public safety, road maintenance, water and wastewater, utilities, refuse collection, search and rescue, and emergency medical services (EMS) were listed in the petition as

existing powers. The commission also identified garbage service, ice machine, alcohol regulation, and taxation as essential municipal services for the proposed annexation.

Several commissioners noted that a borough could better provide some of the identified services, but at this time, with no anticipated borough formation petition, the commission found that the City of Manokotak was the most able entity to provide those essential municipal services.

Conclusion and Vote

After a discussion of the standards described above, Commissioner Harcharek moved to approve the Manokotak petition as presented; Commissioner Wilson seconded the motion. A discussion followed the motion.

Three commissioners voted in favor of the petition: Chair Lynn Chrystal, and Commissioners Robert Harcharek and Darroll Hargraves. Commissioners John Harrington and Lavell Wilson voted against approval. With three votes in the majority for approval, the commission approved the City of Manokotak's annexation petition to annex approximately 155 square miles of land and water. A legal description of the approved boundaries is set out in Section IV.

Section IV Order of the Commission

The territory of the City, should the proposed annexation be approved by the Legislature, is generally described as all lands and waters contained within the following metes and bounds:

Beginning at MC 1 of USS 4875 Manokotak Townsite (recorded as Book 17, Page 252, Bristol Bay Recording District), Thence North 4.0 miles to a point on the North Boundary of the City of Manokotak and the **True Point of Beginning**;

Thence, Easterly along the Northerly boundary of the City of Manokotak, 5 miles, to the Northeast Corner of the City of Manokotak;

Thence, Southerly along the Easterly boundary of the City of Manokotak 23,002± feet to the intersection with the Northerly boundary of Section 10, Township 14 South (T14S), Range 58 West (R58W), Seward Meridian (SM);

Thence, Easterly along the Northerly boundary of Sections 10, 11 and 12, T14S, R58W, SM and Section 7, T14S R57W, SM to the Northeast Corner of Section 7, T14S, R57W, SM;

Thence, Southerly along the Easterly boundary of Section 7, to the Northwest Corner of Section 17, T14S, R57W, SM;

Thence, Easterly along the Northerly boundary of Sections 17, 16 and 15 to the Northeast Corner of Section 15, T14S, R57W, SM;

Thence, Southerly along the Easterly boundary of Sections 15 and 22, to the Northwest Corner of Section 26, T14S, R57W, SM;

Thence, Easterly along the Northerly boundary of Section 26, to the Northeast Corner of Section 26, T14S, R57W, SM;

Thence, Southerly along the Easterly boundary of Sections 26 and 35, to the Northeast Corner of Section 2, T15S, R57W, SM;

Thence, Southerly along the Easterly boundary of Sections 2, 11 and 14, to the North 1/16th Corner, being the SE Corner of the NE1/4 NE1/4 of Section 14, T15S, R57W, SM;

Thence, Northeasterly to a point on the Mean High Water (MHW) Line of the Snake River and an Alaska State Fish and Game marker, identified as geodetic position 58°52.90' North Latitude, 158°43.30' West Longitude and referenced in Alaska Code 5 AAC 06.200(a)(2);

Thence, Southeasterly to a point in Nushagak Bay to a geodetic position 58°44.80' North Latitude, 158°41.50' West Longitude and referenced in Alaska Code 5 AAC 06.200(a)(1);

Thence, Southeasterly to a point in Nushagak Bay to a geodetic position 58°36.28' North Latitude, 158°34.40' West Longitude and referenced in Alaska Code 5 AAC 06.200(a)(1);

Thence, Southwesterly to an Alaska State Fish and Game marker, identified as geodetic position 58°33.77' North Latitude, 158°46.57' West Longitude and referenced in Alaska Code 5 AAC 06.200(a)(1);

Thence, Northwesterly to the intersection with the MHT Line of the Nushagak Bay and the Southerly boundary line of Section 36, T18S, R58W, SM;

Thence, Westerly along the Southerly boundary of Sections 36 and 35, to the Southwest Corner of Section 35, T18S, R58W, SM;

Thence, Northerly along the Westerly boundary of Sections 35 and 26, to the Southeast Corner of Section 22, T18S, R58W, SM;

Thence, Westerly along the Southerly boundary of Section 22, to the Southwest Corner of Section 22, T18S, R58W, SM;

Thence, Northerly along the Westerly boundary of Sections 22, 15, 10 and 3 to the Southeast Corner of Section 33, T17S, R58W, SM;

Thence, Westerly along the Southerly boundary of Section 33, to the Southwest Corner of Section 33, T17S, R58W, SM;

Thence, Northerly along the Westerly boundary of Sections 33 and 28, to the Southeast Corner of Section 20, T17S, R58W, SM;

Thence, Westerly along the Southerly boundary of Sections 20 and 19, to the East-West-East 1/256th Corner, being the SW Corner of the SE1/4 SE1/4 SW1/4 SE1/4 of Section 19, T17S, R58W, SM;

Thence, Northerly through Sections 19, 18, 7 and 6 along the East-West-East 1/256th line, to the East-West-East 1/256th Corner Section 6, being the NE Corner of the NW1/4 NE1/4 NW1/4 NE1/4 of Section 6, T17S, R58W, SM;

Thence, Westerly along the Township Line, to the Southwest Corner of Section 35, T16S, R58W, SM;

Thence, Northerly along the Westerly boundary of Section 35, to the Southeast Corner of Section 27, T16S, R58W, SM;

Thence, Westerly along the Southerly boundary of Section 27, to the Southwest Corner of Section 27, T16S, R58W, SM;

Thence, Northerly along the Westerly boundary of Sections 27 and 22, T16S, R58W, SM to the intersection with the MHW Line of the Igushik River;

Thence, Northeasterly along the MHW Line of the Igushik River, to the intersection with the MHW line and the Northerly boundary of Section 23, T16S, R58W, SM;

Thence, Easterly along the Northerly boundary of Section 23, to the Northeast Corner of Section 23, T16S, R58W, SM;

Thence, Southerly along the Easterly boundary of the Section 23, T16S, R58W, SM to the MHW Line of the Igushik River;

Thence, Southerly along the MHW Line of the Igushik River to the intersection with the Northerly boundary of Section 26, T16S, R58W, SM;

Thence, Easterly along the Northerly boundary of Sections 26 and 25, to the Northeast Corner of Section 25, T16S, R58W, SM;

Thence, Southerly along the Westerly boundary of Sections 25 and 36, to the Southeast Corner of Section 36, T16S, R58W, SM;

Thence, continuing Southerly through Sections 4 and 9, T17S, R58W, SM, parallel with the Easterly boundary of Sections 4 and 9, to the intersection of the MHW Line of the Igushik River;

Thence, Easterly and Northerly along the MHW Line of the Igushik River, Nushagak Bay and the Snake River, to a point on the Southern boundary of the NW1/4 NW1/4 of Section 15, T15S, R57W, SM;

Thence Westerly through Sections 15 and 16 along the North 1/16th line to the North 1/16th Corner Section 16, being the SW Corner of the NW1/4 NW1/4 of Section 16, T15S, R57W, SM;

Thence, Northerly along the Easterly boundary of Sections 16 and 9, to the Northwest Corner of Section 9, T15S, R57W, SM;

Thence, Easterly along the Northerly boundary of Section 9, to the Southwest Corner of Section 3, T15S, R57W, SM;

Thence, Northerly along the Westerly boundary of Section 3, to the Southwest Corner of Section 34, T14S, R57W, SM;

Thence, Northerly along the Westerly boundary of Sections 34 and 27 to the Southeast Corner of Section 21, T14S, R57W, SM;

Thence, Westerly along the Southerly boundary of Section 21, to the Southwest Corner of Section 21, T14S, R57W, SM;

Thence, Northerly along the Westerly boundary of Section 21, to the Northwest Corner of Section 21, T14S, R57W, SM;

Thence, Westerly along the Southerly boundary of Sections 17 and 18, to the Southwest Corner of Section 18, T14S, R57W, SM, and continuing Westerly to the Southwest Corner of Section 14, T14S, R58W, SM;

Thence, Westerly 671± feet, along the Southerly boundary of Section 15, to a point due South of the Southeast Corner of boundary of the City of Manokotak (recorded as Book 17, Page 252, Bristol Bay Recording District);

Thence, North 1,961± feet to the Southeast Corner of the City of Manokotak boundary,

Thence, Westerly along the Southerly boundary of the City of Manokotak, 6 miles, to the Southwest Corner of the City of Manokotak;

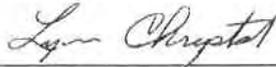
Thence, Northerly along the Westerly boundary of the City of Manokotak, 6 miles, to the Northwest Corner of the City of Manokotak;

Thence, Easterly along the Northerly boundary of the City of Manokotak, 1 mile, to the **True Point of Beginning**, containing approximately 191± square miles (of which 118± square miles is water), all within the Third Judicial District, Alaska.

Description based on USGS Quads Dillingham A-8 [1952 (Revised 1963)], Goodnews Bay A-1 [1979 (Revised 1979)], Nushagak Bay C-3 [1950 (Revised 1981)], Nushagak Bay D-3 [1952 (Revised 1955)] and Nushagak D-4 [1952 (Revised 1955)].

Approved in writing on this 20th day of December, 2016

Local Boundary Commission

By: 
Lynn Chrystal, Chair

Attest: 
Eileen Collins, Staff

Based on the findings and conclusions set out in Section III of this decisional statement, the Local Boundary Commission notes that all of the relevant standards and requirements for annexation are satisfied by the annexation proposal filed by the City of Manokotak. Accordingly, the commission hereby approves the September 1, 2015, petition of the City of Manokotak.

The commission will submit a recommendation for the annexation of the territory in question to the First Session of the Thirtieth Alaska Legislature in accordance with the provisions of Article X, Section 12 of the Constitution of the State of Alaska.

Reconsideration by the Commission

Regulation 3 AAC 110.580 titled "Reconsideration" provides as follows:

- (a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.
- (b) Within 30 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.
- (c) A person filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.
- (d) If the person filing the request for reconsideration is a group, the request must identify a representative of the group. Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.

(e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that

- (1) a substantial procedural error occurred in the original proceeding;
 - (2) the original vote was based on fraud or misrepresentation;
 - (3) the commission failed to address a material issue of fact or a controlling principle of law;
- or
- (4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

(f) If the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.

(g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

Judicial Appeal

A decision of the Local Boundary Commission may be appealed to the Superior Court under AS 44.62.560(a) and Rules of Appellate Procedure 602(a)(2). Per 3 AAC 110.570(g), this is the final decision of the commission, unless reconsideration is timely requested or the commission orders reconsideration. A claimant has 30 days to appeal to the Superior Court.

DRAFT Borough Feasibility Study

Prepared for:

Bristol Bay Native Association

and

**Regional Government Study with Tribes
Task Force Members**

December 2016



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Project Purpose

The purpose of this report is to examine the financial feasibility of creating a borough in the Dillingham Census Area (DCA). The information helps to frame the discussion about how to effectively and efficiently meet the needs of regional residents and communities. The *Borough Feasibility Study* is one element of the larger *Regional Government Study with Tribes*.

There have been numerous prior attempts to form a borough or annex Nushagak Bay fishing waters, which have disenfranchised many of the smaller communities and Tribes. This study is purposefully inclusive of the villages, Tribes, communities, school districts, and regional organizations. Building trust and communication is central to the project.

Bristol Bay Native Association (BBNA) is providing staff support and coordination to the *Regional Government Study with Tribes* to ensure that the project execution adheres to the project goals and milestones articulated in the ANA SEDS Grant Application. BBNA is providing an in-kind match to cover travel, supplies, and reproduction. The grant's cash match requirements were provided by BBNA, City of Dillingham, and City of Aleknagik.

The project will conclude with an intergovernmental meeting and action plan. Borough formation itself is not envisioned as the only successful outcome. Rather, the project will help the communities voice their concerns and express their requirements to participate in a borough form of government. Regardless of the outcome, the *Regional Government Study with Tribes* is intended to enhance communication and regional cooperation.

Bristol Bay Regional Vision

Importantly, this study builds on the recently completed *Bristol Bay Regional Vision*.¹ That project incorporated input from nearly 1,400 participants and more than 50 community meetings. In particular, this study relates to the following aspirations articulated in the Vision:

We see a future of educated, creative people who are well-prepared for life.

We foster cooperation among local and regional entities to coordinate infrastructure planning for stronger, more affordable communities.

We recognize the need to locate new sources of capital to implement this vision with a goal of generating self-sustaining regional economies.

¹ <http://www.bristolbayvision.org>

Background Information and Methodology

Project Assumptions

To create a snapshot of a potential borough revenues and expenditures, this assessment incorporates several assumptions about the powers, functions, and boundaries of the prospective borough.

- The proposed borough would include Dillingham and communities in the existing Southwest Region School District (SWRS).
- The borough will exercise the minimal powers required of a borough including areawide education, taxation, and regulation of land use.
- There will be no change to the status of federally recognized tribes or regional entities as a result of borough formation.
- The borough would adopt a “hold-harmless” approach towards state and federal revenues that currently flow to communities and consider them as pass-through expenses.
- In terms of land and communities, boundaries would align between the DCA, the regional borough defined in the State of Alaska study *Model Borough Boundaries*, and the existing SWRS. The offshore boundary would correspond with the DCA, which includes waters not included in the school district boundaries.

Data Sources and Methodology

This study included publicly available data and online resources from State of Alaska Department of Commerce, Community and Economic Development (DCCED), Alaska Department of Fish and Game (ADF&G), Commercial Fisheries Entry Commission (CFEC), Department of Education and Early Development (DEED), Department of Labor & Workforce Development (DOL), Department of Natural Resources (DNR) and Department of Revenue (DOR). The project team also conferred numerous times with staff in several agencies.

Information about existing municipal tax rates and revenues was compiled from *Alaska Taxable 2015*, an annual publication produced by DCCED. Additional tax data sources included DOR and U.S. Department of Interior.

To estimate potential revenues from a new tax on commercial fishing, a 10-year time series of fish harvests for Togiak and Nushagak districts was compiled. Harvest values were adjusted for inflation using the Anchorage Consumer Price Index with base year 2015 and averaged to smooth out the cyclical nature of fishing harvests. Revenue scenarios were developed using 2, 3, and 4 percent tax rates.

To estimate potential revenues from a new bed tax, existing tax rates and revenues were examined. The study team also compiled available accommodation information including property name, location, number of rooms, season length, and rates. Information sources included websites, brochures, and regional publications including BBNA's *Visitor Guide*. The study team developed a conservative estimate of revenues, reflecting seasonal fluctuations in rates and occupancy, and estimated the portion of multi-day packages attributable to accommodations. Revenue scenarios were developed using 6, 8, and 10 percent tax rates.

Estimated revenues from a regional sales tax were developed by reviewing existing tax rates and revenues in the area and developing conservative estimates for commercial transactions not captured. Revenue scenarios were developed using 1, 2, and 3 percent tax rates.

Estimated operating expenses for the proposed borough and school district were developed from a review of comparable boroughs, prior studies, and relevant State statutes and information resources.

Borough Formation Criteria and Process

This study does not commit any party to formation of a borough nor does it initiate the process. The information provided below is intended to give readers a common understanding of the major elements of the process. In addition to the online resources and statutes referenced in this section, the Local Boundary Commission and other state officials can provide technical assistance.

There are few requirements and an infinite array of options. The Alaska Constitution is recognized as providing the widest authority to local governments of any state. This allows residents the flexibility to design an approach to government that works for their community or region.

A borough may be proposed for any geographic area. This study used the Dillingham Census Area, as it conformed with the Model Borough Boundary Study and included all the communities, tribes, and other entities intended as study participants.

Criteria

The following standards must be met to incorporate as a borough or unified municipality (AS 29.05.031):

- The population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;
- The boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;
- The economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;
- Land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Formation Process

The procedures to initiate an incorporation of a borough or unified municipality are outlined below (AS 29.05.060). A flowchart of the borough annexation process can be found on the DCCED website.²

- A petition is submitted to the State containing names, signatures, and addresses of at least 15 percent of the number of voters who voted in the last general election for areas located inside and outside of Home Rule and First Class cities of the proposed borough.
 - In addition to the required signatures, the petition includes information about class of borough, boundaries, name, apportionment of voting, powers/services, proposed first-year operating budget, and proposed taxes/revenues.

² <https://www.commerce.alaska.gov/web/Portals/4/pub/LBC/Borough%20Annexation%20Local%20Option%20Flow%20Chart.pdf>

- A petition for a Home Rule Borough also includes a Home Rule Charter. (See additional considerations for further discussion on Home Rule Boroughs.)
- If the State determines the petition is complete and in proper form, a public review begins that includes public notice, public meetings, draft report developed by the State, solicitation of comments, and a final report developed by the State.
- A hearing and decision by the Local Boundary Commission (LBC) is the next step, including formal solicitation of testimony.
- If the petition is accepted by the LBC, the State Division of Elections initiates an election on incorporation and assembly members. A majority vote results in approval of the incorporation and election of officials.
- The transition process is initiated.

Borough Types and Responsibilities

State law requires organized boroughs to provide areawide education, taxation, and land use planning and regulation (AS 29.35.160-180). The State does not mandate any other service or facility.

Alaska Statutes allow for four classes of boroughs: Unified Home Rule, Home Rule, First Class, and Second Class. The differences in the powers and duties are minimal, as all three forms have broad capacity to assume various powers. The differences are largely how the boroughs acquire and exercise their powers.³

- With a unified Home Rule Borough, or a consolidated City/Borough, all existing cities dissolve into the borough to form one unified municipality. This is a potentially difficult option for the DCA, given the number of existing organized cities.
- Home Rule Boroughs must adopt a Home Rule Charter, similar to a constitution. Home Rule Boroughs can exercise all legislative powers not prohibited by State law or charter.
 - Home Rule Boroughs have greater flexibility to define and excise powers, but writing a Charter requires greater upfront work and commitment.
 - A Charter Commission is elected by regional residents to develop the Charter.
- First Class and Second Class boroughs, known as general law municipalities, can only adopt and exercise powers delegated by State law in Title 29 of the Alaska Statutes.
 - First Class boroughs can take on additional areawide powers if a city transfers them or if approved in a borough-wide vote. Non-areawide powers can be obtained when the borough assembly passes an ordinance.
 - Second Class boroughs require a vote of residents to take on additional powers (areawide or non-areawide).

³ https://www.commerce.alaska.gov/web/Portals/4/pub/6_19_15%20Borough%20Powers%20and%20Duties%20Chart.pdf

Borough Service Areas

The Alaska Constitution (Article X, Section 5) allows for the creation of borough “service areas” as a powerful tool to respond to local needs:

“Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.”

For example:

- If one community wished to have a higher level of fire service, a fire “service area” could be created so the higher level of service and whatever revenues needed for the service could be generated within the service area.
- As discussed briefly in the following report section on schools, school “service areas” could be explored as a means to maintain the exact character of each current district either as a transitional tool, or permanently.
- Service areas can be used to maintain the services and taxes of cities following consolidation. For example, the City and Borough of Juneau consisted of two city governments (City of Juneau and City of Douglas), and a borough government. Similar to the DCA, the former City of Juneau was by far the largest city, while Douglas and the borough had much smaller populations. To ensure that services and taxes remained stable and responsive to residents, both of the former cities and the borough became “service areas” with locally elected advisory councils to propose tax rates and budgets and service levels for their area.
- Service areas could also be explored to implement borough taxes without interfering with city taxes such as sales or bed taxes.

Additional Considerations

Borough Formation Expenses and Grants

The State administers organization grants to encourage borough formation to help cover the cost of transition and provide for interim governmental operations. A borough can expect to receive \$300,000 in the first year, \$200,000 in the second year, and \$100,000 in the third year.

Most transition costs would be in the first two years and would likely include legal fees, planning, and administrative expenses. For the purposes of this planning report, startup costs and the organizational grant were not included in estimations of the annual budget because neither are long-term budget considerations.

Choosing a Type of Borough

As noted above, there are four types of organized borough governments in Alaska: Unified Home Rule, Home Rule, First Class, and Second Class. Typically, other state constitutions enumerate the powers that may be exercised by municipalities and courts have tended to interpret the powers narrowly. Through Home Rule governments, the Alaska Constitution implements the policy of maximum local self-government.

A petition for a Home Rule Borough must include a Home Rule Charter. Although developing a Charter requires more advance work and planning, a Charter can also articulate priorities and processes that may be important to establishing regional trust and cooperation. Essentially a constitution, a Charter can reflect the cultural, environmental, social, and political priorities of the region. For example:

- A Charter can enhance opportunities for, and commitment to, municipal-tribal partnership.
- Decisions regarding borough assembly size, composition, election districts, and at-large versus district voting can be defined in the Charter. As with the Lake and Peninsula Borough, provisions for including communities not represented by an elected person in borough assembly meetings can be articulated in the Charter.
- The Charter can articulate commitments concerning distribution of State and federal taxes. For example, the Charter could specify that federal PILT funds will be passed through the borough to eligible communities as it is currently done. There is latitude to negotiate locally about what is appropriate for the region.
- A Home Rule Borough can reflect environmental values and standards in its Charter, Comprehensive Plan, and ordinances.

State statutes require that DCCED will prepare at least one model Home Rule Charter for a city, borough, and unified municipality (AS 29.10.020). Links to the Home Rule Charter for the Lake and Peninsula Borough and the Northwest Arctic Borough are provided below.⁴

Borough Elections

Nominations for initial municipal officials are made by petition. The election is conducted by the State Division of Elections. Requirements such as petition format, resident signatures, and staggered terms of office are outlined in statute (AS 29.05.120).

APPORTIONMENT

Creating election districts that best represent all residents can be a difficult issue. With slightly less than half the population, the influence of the City of Dillingham is on par with the rest of the DCA.

Elections for assembly seats can be conducted “at large” or designated for certain areas, guaranteeing a balanced representation by population. State statutes provides some general guidance, but allow local

⁴ http://www.lakeandpen.com/UserFiles/Servers/Server_745787/Image/Departments/Clerk/BoroughCharter.pdf
<http://www.codepublishing.com/AK/NWArcticBorough>

discretion in size, composition, districts, and at-large versus district voting (AS 29.20.050-070). The examples provided below illustrate the flexibility that municipalities have in addressing this important issue.

Lake and Peninsula Home Rule Charter outlines the composition of the assembly in sections 2.02 and 15.12.

- The assembly, elected by the qualified voters of the borough, shall consist of seven assembly members, one of whom shall be the mayor elected at large.
- District 1, Three (3) Seats - A, B, and C Iliamna; Kokhanok; Levelock; Newhalen; Nondalton; Pedro Bay; Pope Vannoy; Port Alsworth.
- District 2, Three (3) Seats - D, E, and F: Chignik Bay; Chignik Lagoon; Chignik Lake; Egegik; Igiugig; Ivanof Bay; Perryville; Pilot Point; Port Heiden; Ugashik.
- At Large, One (1) Seat - G, Mayor.
- The assembly will make provision for non-voting representatives from communities not represented by an elected person on the Assembly to attend regular meetings of the assembly.

Northwest Arctic Borough Home Rule Charter outlines the composition of assembly seats in section 2.04.010.

- The assembly shall consist of 11 members. Each assembly member shall be elected at large, but shall be a resident of the district to which the member's seat is assigned at the time of the member's election or appointment. The boundaries of the election districts are described in the map accompanying NABC 1.04.020, which is incorporated in this section by reference. Except as may otherwise be provided by statute or charter, the term of an assembly member is three years.

Links to the Home Rule Charter for these two boroughs are provided on the previous page.

Municipal Land Entitlement

Provisions for granting State land to a newly incorporated municipality are outlined in statute (AS 29.65.030-140). A newly formed borough would receive 10 percent of the maximum total acreage of vacant, unappropriated, unreserved (VUU) land within the borough boundaries.

Staff in the Department of Natural Resources (DNR), Division of Mining, Land, and Water manage the Municipal Land Entitlement program. The State has two years and six months after the date of incorporation to complete the process. Once a municipality is incorporated, Municipal Entitlement staff determine the amount and location of VUU land within the corporate boundaries of the municipality. The timeframe reflects the initial research conducted by DNR, selection of land by the municipality, review by DCCED, determination by DNR, and potential for appeal if the municipality's selection is disapproved. The statute also provides for an expedited determination and certification process, but the process still could not commence until after incorporation (AS 29.65.030(b)).

MUNICIPAL LAND TRUSTEE PROGRAM

Municipal entitlement to State land is separate from the Municipal Land Trustee (MLT) program. The MLT program was created to carry out the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act. Every village corporation must convey title to "the remaining improved land on which the Native village is located, and as much additional land as is necessary for community expansion, and appropriate rights-of-way