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STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

Before Commissioners: Kermit Ketchum, Chair
Robert Harcharek, Vice Chair
Georgianna Zimmerle
Lynn Chrystal
Lavell Wilson

In the Matter of the Petition for)
Incorporation of the **City and Bor-**)
ough of Wrangell, a Unified Home-)
Rule Borough)
_____)

STATEMENT OF DECISION

I. SUMMARY OF PROCEEDINGS

On April 26, 2006, a group of 287 voters in the Wrangell region (Petitioner) filed with the Department of Commerce, Community, and Economic Development¹ (DCCED or Staff) a *Petition to the Local Boundary Commission for Incorporation of the City and Borough of Wrangell, a Unified Home-Rule Municipality*² (Petition).

After reviewing a current list of registered voters in the area proposed for incorporation provided by the State Division of Elections, DCCED determined the Petition was signed by 279 qualified voters within the City of Wrangell (166 were required by State law) and 25 qualified voters within the remainder of the proposed borough (8 were required).

¹Under AS 44.33.020(a)(4), DCCED serves as staff to the Local Boundary Commission (LBC or Commission).

²No cities exist in a unified home-rule borough.

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According to the Petition, the area claimed in the City and Borough of Wrangell (Wrangell borough) incorporation proposal encompasses approximately 3,465 square miles inhabited by an estimated 2,445 residents, using 2000 Census data. According to Petitioner’s figures, slightly more than 95 percent of that population resides within the corporate boundaries of the City of Wrangell. The Petitioner estimates that approximately 90 percent of the taxable real and personal property in the proposed borough lies within the existing boundaries of the City of Wrangell (\$139.2 million of \$154.6 million). All students enrolled in public schools within the proposed borough are served by the Wrangell City School District.

A portion of the area proposed for incorporation overlaps a portion of the area proposed for annexation by the Ketchikan Gateway Borough (KGB). Specifically, the proposed Wrangell borough boundaries overlap a 191-square mile area in the vicinity of Meyers Chuck and Union Bay that was claimed by the KGB in its proposal to expand the area of its corporate boundaries by 4,701 square miles.³ The Petitioner expressed a desire that the Wrangell borough proposal and the KGB annexation proposal be considered concurrently since the proposals contained overlapping areas.

The Petitioner stated the following reasons for incorporation:⁴

The area identified for incorporation is historically and currently tied to the community of Wrangell, and as such is separated from regions to the north and south which have greater ties to other communities.

³*Petition by the Ketchikan Gateway Borough for Legislative Review Annexation of Approximately 4,701 Square Miles to the Ketchikan Gateway Borough (KGB Annexation Petition)*, initiated February 10, 2006.

⁴*Wrangell Petition, pp. 3 - 4, section 6.*

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Residents of the proposed incorporated municipality use and rely upon the public and private infrastructure provided by the current City of Wrangell, and should bear some share of the public cost thereof and have a voice in this municipal government.

A unified municipality will enhance the ability of residents of this region to influence governmental and private land and resource decisions which affect the region.

Incorporation of a unified municipality, along with its ability to select municipal entitlement lands, will give residents of the Wrangell area greater ability to support and enhance economic development in the region, including development of transportation links.

The area proposed for incorporation as a unified municipality constitutes a natural region, with Wrangell as the hub of activities and development. Incorporation will improve the community of Wrangell's ties with the surrounding area and its ability to plan the future use and development of the region.

Incorporation of a unified municipality will result in modestly increased national forest receipts over those currently received by the City of Wrangell, commensurate with the contribution of municipal services already afforded to this sub-region of the Tongass National Forest by the existing city, and with those additional services expected from the proposed unified municipality.

Voluntary incorporation is preferable to the potential alternative of either having a different borough government imposed upon residents by the state or of leaving this entire region, except the existing city, in the unorganized borough. Petitioners are able to describe municipal boundaries which are both cohesive, workable, and acceptable to local residents, and which are generally accepted by residents of adjacent regions and by governmental agencies as accurately describing the "Wrangell" region. A voluntarily organized municipal government is likely to receive greater local political support and acceptance than one which might be imposed by the State.

The Commission Chair set July 14, 2006, as the deadline for receipt of responsive briefs and written comments on the Petition. The LBC received comments from the following 33 individuals and groups:

1. Robert Meyer
2. Catherine and Steve Peavey

- 1 3. Catherine and Steve Peavey (second, longer letter)
- 2 4. John Church
- 3 5. Debbie Johnson
- 4 6. Cliff Hall
- 5 7. Dave and Maggie Grantham
- 6 8. Bruce Jones, City Manager, City of Petersburg
- 7 9. Valery McCandless, serving as Mayor of Wrangell
- 8 10. Vince and Cherri Langley
- 9 11. Dan Higgins and Carol Brown
- 10 12. Robert Hunley
- 11 13. Lynn Koland, District Ranger, U.S. Forest Service
- 12 14. Laurene Rogers
- 13 15. Ernie Christian
- 14 16. Marcy Garrison
- 15 17. Terri Henson
- 16 18. Jillian Privett
- 17 19. Janell Privett
- 18 20. Roy Eckert, KGB Manager
- 19 21. Marni Privett
- 20 22. Cheryl Meyer
- 21 23. Olga Norris
- 22 24. William and Janell Privett
- 23 25. Peter Rice
- 24 26. Samuel Privett
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- 1 27. Augie Schultz
- 2 28. C.L. Snoddy
- 3 29. Wilma Stokes-Leslie
- 4 30. John Taylor
- 5 31. Shane Legg-Privett
- 6 32. Cathryn Vanderzicht
- 7
- 8 33. Rebecca Welti and Greg Rice

9 Of those thirty-three comments, twenty supported formation of a Wrangell
10 borough, and nine opposed it. Fourteen property owners or residents of Meyers Chuck
11 and Union Bay said the area should be part of a Wrangell borough. The Meyers Chuck
12 and Union Bay area is the 191-square mile area also included in the KGB annexation
13 proceeding. There were no respondents in the proceeding.

14
15 On August 25, 2006, the Petitioner filed a 19-page reply brief in response
16 to the 33 sets of comments regarding the Wrangell borough incorporation Petition.

17 In August 2007, DCCED issued its *Preliminary Report to the Local*
18 *Boundary Commission Regarding the Petition to Incorporate the Unified Home-Rule*
19 *Borough of Wrangell*. In its report, DCCED concluded that the Petition met all
20 applicable legal standards, with the exception of the 191-square-mile Meyers Chuck
21 and Union Bay area. Therefore, DCCED recommended that the Commission amend
22 the Petition to exclude the 191-square-mile area around Meyers Chuck and Union Bay
23 because the area is within the Model Borough Boundaries of the KGB and otherwise
24 has stronger ties to Ketchikan.

25
26 DCCED concluded that this 191-square-mile area, part of the Cleveland
27 Peninsula and within the KGB Model Borough Boundaries, has more in common with
28

1 the KGB than it does with the proposed City and Borough of Wrangell. Those
2 boundaries were set by the LBC in 1991 using the borough boundary standards and
3 constitutional principles established in law. That recommendation was consistent with
4 DCCED's conclusion in its preliminary report to the Commission regarding the KGB
5 Annexation Petition.

6
7 Since DCCED proposed that the LBC amend the Wrangell petition to ex-
8 clude the 191-square-mile area encompassing Meyers Chuck and Union Bay, notice of
9 that amendment was issued coterminously with the *Preliminary Report*. The notice in-
10 vited written comments on the proposed amendment and other elements of the *Pre-*
11 *liminary Report*. The Commission Chair established September 24, 2007, as the
12 deadline for LBC receipt of written comments on the proposed amendment and the
13 *Preliminary Report*.

14
15 The notice also stated that oral comments regarding the proposed
16 amendment would be solicited at the Commission's public hearing to be held under
17 3 AAC 110.550 and that once the hearing was scheduled, extensive notice of the hear-
18 ing would be given. The notice of the *Preliminary Report and* proposed amendment
19 was published in the August 30 edition of the *Wrangell Sentinel* and in the August 23
20 edition of the *Petersburg Pilot*. It was also posted on the City of Wrangell's website
21 and the Commission's website.

22
23 Ten individuals and organizations submitted letters regarding the *Prelimi-*
24 *nary Report*:

- 25 1. Richard Rinehart Sr.
- 26 2. City of Wrangell
- 27 3. Catherine Peavey

- 1 4. Lynn Koland, District Ranger, USDA Forest Service, Ketchikan-Misty
2 Fiords Ranger District
- 3 5. Debbie Johnson
- 4 6. John Murgas
- 5 7. Dave Ellis
- 6 8. Eddy Jeans, School Finance Director, Alaska Dept. of Education and
7 Early Development (DEED)
- 8 9. Meyers Chuck Community Association
- 9 10. Meyers Chuck Community Association (second, different submission)

10 DCCED is required by AS 29.05.080(a) and 3 AAC 110.520(a) to conduct
11 at least one public informational meeting in the area proposed for incorporation. The
12 purpose of such a meeting is to provide an opportunity for citizens of the area to learn
13 about the pending incorporation proposal and the process for establishing a borough
14 government. DCCED's public informational meeting was scheduled for September 13,
15 2007, in Wrangell. Public notice of the informational meeting was published in the
16 *Wrangell Sentinel* in the August 30, September 6, and September 13 editions. On Au-
17 gust 29, 2007, the Wrangell City Clerk posted notice of the informational meeting on
18 the City's website; at Wrangell City Hall; Irene Ingle Public Library; the U.S. Post Office
19 in Wrangell; and in the window of the office of the *Wrangell Sentinel*.

20
21 Twenty people attended the September 13 informational meeting in per-
22 son or by teleconference: twelve from Wrangell, two from Petersburg. Five individuals
23 from Meyers Chuck and one from Union Bay participated in the meeting by teleconfer-
24 ence. The following is a list of the individuals attending the meeting, in person or by
25 teleconference:
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- 1 1. William Privett, Wrangell
- 2 2. Janell Privett, Wrangell
- 3 3. Peggy Wilson, Wrangell
- 4 4. Don J. McConachie, Wrangell
- 5 5. Ronald A. Rice, Wrangell City Council
- 6 6. Ernie Christian, Wrangell City Council
- 7 7. Augie R. Schultz, Wrangell
- 8 8. James Stough, Wrangell City Council
- 9 9. Valery McCandless, serving as Mayor of Wrangell
- 10 10. Carol Rushmore, Wrangell's Economic Development Director
- 11 11. Robert Prunella, Wrangell City Manager
- 12 12. Lisa Phu, Wrangell, *Wrangell Sentinel*
- 13 13. Ted Smith, Mayor of the City of Petersburg
- 14 14. Kathy O'Rear, Petersburg City Clerk and Acting City Manager
- 15 15. Rebecca Welti, Meyers Chuck
- 16 16. Greg Rice, Meyers Chuck
- 17 17. Carol Brown, Meyers Chuck
- 18 18. Robert Meyer III, Meyers Chuck
- 19 19. Catherine (Cassy) Peavey, Meyers Chuck Postmistress
- 20 20. Deborah Johnson, Union Bay

21 Four members of the LBC traveled to Wrangell for the public hearing
22 scheduled for November 3 and 4, 2007; Commissioner Harcharek participated by
23 teleconference. The hearing on November 3 started at 7 p.m. and lasted more than
24 three hours. Approximately fifty people attended the hearing, many of whom provided
25 testimony for the Petitioner. Testimony and public comment were also provided by
26 teleconference. DCCED presented a summary of its recommendations. The

1 Commission heard the Petitioner’s opening and closing statements and testimony in
2 favor of the Petition from the following 30 witnesses⁵ presented by the Petitioner:

- 3 1. Tim Buness, Wrangell Fire Chief
- 4 2. Ernie Christian, Wrangell City Council member
- 5 3. Kim Covalt, a long-time Wrangell resident, subsistence hunter and fisherman
- 6 4. Julie Decker, Executive Administrator, Wrangell Seafoods, Inc.
- 7 5. Bonnie Demerjian, author
- 8 6. Dave Galla, co-owner, Sunrise Aviation
- 9 7. Brian Gilbert, CEO, Wrangell Medical Center
- 10 8. Bill Goodale, owner and operator Stikine Inn
- 11 9. Mark Hummel, U.S. Forest Service, Wrangell District Ranger
- 12 10. Marge Byrd and Dawn Hutchinson-Stevens, Spokesperson and Tribal Elder,
13 Kiksadi Clan of the Stikine Tlingit Tribe
- 14 11. Jeff Jabusch, Wrangell Finance Director
- 15 12. Jim Leslie, Officer, Stikine River Jet Boat Association; Chair, Wrangell Ports &
16 Harbors Commission
- 17 13. Greg McCormack, long-time Wrangell resident; Port Manager
- 18 14. Greg Meissner, Wrangell Harbormaster
- 19 15. Tiffany Merritt, 14-year old former garnet miner and marketer
- 20 16. Janell Privett, Chair, Wrangell Chamber of Commerce
- 21 17. Robert Prunella, Wrangell City Manager
- 22 18. Richard Rinehart, Tribal elder and spokesperson, Teeyhitta Clan of Stikine
23 Tlingit Tribe
- 24 19. Mark Robinson, managing member, Zarembo Mining Co., LLC; geologist
- 25
- 26

27 ⁵The detailed list of the witnesses’ qualifications and subjects of their testimony is part of the re-
28 cord in this proceeding, and their testimony is part of the hearing record.

- 1 20. Pat Roppel, historian and author
- 2 21. Carol Rushmore, Wrangell Director of Economic Development
- 3 22. Ann Schnell, Wrangell Convention and Visitor's Bureau Board Member; tour
- 4 guide
- 5 23. Bruce Smith, Sergeant, Wrangell Police Department
- 6 24. Carol Snoddy, spokesperson, Naanyaa Aayi Clan of Stikine Tlingit Tribe
- 7 25. Paul Southland, Wrangell City Council member, Vice-Mayor
- 8 26. John Taylor, Chair, Wrangell Planning and Zoning Commission; jet boat
- 9 operator
- 10 27. Steve Helgeson, Program Director of Alaska Island Community Services
- 11 28. Lew Williams, Jr., a long-time Alaskan and former Alaskan newspaper editor,
- 12 publisher, and columnist
- 13 29. Woody Wilson, Superintendent, Wrangell School District
- 14 30. George Woodbury, owner of Woodbury Enterprises (forestry and timber-related
- 15 consulting); Board of Directors, Alaska Forest Association; Timber Coordinator,
- 16 SE Conference;

16 On November 4, the four Commissioners, together in the same vehicle,
17 toured Wrangell and other parts of the proposed borough, ending with a visit to the mu-
18 seum, and reconvening the hearing at 2 p.m. An audio recording was made during the
19 tour.

20 On November 7, 2007, the Commission held a public meeting and deci-
21 sional session in Ketchikan to decide on both the Wrangell borough incorporation and
22 KGB annexation proposals.⁶ Four Commissioners were present for the Wrangell bor-
23 ough incorporation portion of the public meeting and decisional session; Commissioner
24 Harcharek participated by teleconference. At its November 7 decisional session, the
25

26
27 ⁶Commissioner Zimmerle did not participate in the decision on the KGB annexation proposal,
28 since she was recused from that proceeding.

1 Commission unanimously approved the Wrangell petition as proposed by the Peti-
2 tioner, which included the 191-square mile area of Meyers Chuck and Union Bay, the
3 area also sought in the annexation petition filed by the KGB.

4 The Commission’s “Findings and Conclusions” are presented below. Fol-
5 lowing that is the “Order of the Commission.” Information about the opportunity to seek
6 reconsideration and appeal is also provided.
7

8 **II. FINDINGS AND CONCLUSIONS**

9 **Introduction and Background**

10 State law, AS 29.05.100(a), provides as follows regarding borough incor-
11 poration decisions of the Local Boundary Commission:
12

13 After providing public notice of each proposed amendment or con-
14 dition and an opportunity for public comment, the Local Boundary Com-
15 mission may amend the petition and may impose conditions on the
16 incorporation. If the commission determines that the incorporation, as
17 amended or conditioned if appropriate, meets applicable standards under
18 the state constitution and commission regulations, meets the standards for
19 incorporation under AS 29.05.011 or 29.05.031, and⁷ is in the best inter-
20 ests of the state, it may accept the petition. Otherwise it shall reject the
21 petition.

22 As reflected above, standards for incorporation of boroughs are found in
23 the Constitution of the State of Alaska, Alaska Statutes, and Alaska Administrative
24 Code. Decisions of the Commission to grant borough incorporation petitions are also
25 subject to federal law (e.g., the federal Voting Rights Act) and applicable decisions of
26 Alaska State and federal courts.

27 ⁷Note that use of the word “and” means that all four conditions must be met before the LBC may
28 accept a petition. Moreover, even if all four conditions are met, the Commission still has the discretion to
29 reject a petition.

1 The standards in the Constitution are very broad. They call for “maximum
2 local self-government” and a “minimum of local government units” (art. X, sec. 1). They
3 also provide that “The entire State shall be divided into boroughs” and that “each bor-
4 ough shall⁸ embrace an area and population with common interests to the maximum
5 degree possible” (art. X, sec. 3).

6 The constitutional standard that the entire state shall be divided into
7 boroughs reflects the fact that boroughs were intended to encompass the sparsely
8 populated as well as the most urban, developed, and densely populated parts of the
9 state. That constitutional provision, coupled with other constitutional standards,
10 particularly the “minimum of local government units” clause, call for boroughs that
11 encompass large, natural regions.

12 In the early 1980s, the LBC first adopted standards in the Alaska Admin-
13 istrative Code for incorporation of boroughs. The law now specifically requires the
14 adoption of such standards (AS 44.33.812(a)(2)):
15

16
17 The Local Boundary Commission shall adopt⁹ regulations providing stan-
18 ards and procedures for municipal incorporation, annexation, detach-
19 ment, merger, consolidation, reclassification, and dissolution; the
20 regulations providing standards and procedures are subject to AS 29.04 -
21 AS 29.10. (Emphasis added.)

22 The Commission’s regulations in 3 AAC 110.005 - 3 AAC 110.980 are
23 critically compelling interpretations of the broad constitutional and statutory standards
24 governing borough incorporation. The regulations in the Alaska Administrative Code
25 stand equal in law with the statutes and the Constitution.

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27 ⁸Use of the word “shall” means that this is a constitutional mandate.

28 ⁹Note that “shall adopt” makes this a mandatory duty of the LBC.

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The following sections of this decision address each of the standards for borough incorporation applicable to the Wrangell borough proposal.

Section A. The proposed Wrangell borough promotes maximum local self-government.

Art. X, sec. 1 of the Alaska Constitution provides:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units. (De-emphasis added.)

The Commission makes the following findings regarding the proposed Wrangell borough with respect to the constitutional provision for maximum local self-government. The Petition proposes to incorporate a unified home-rule borough. The boundaries of the proposed borough encompass an estimated 3,465 square miles (2,582 square miles of land and 883 square miles of tidelands and submerged lands).

Most of the area proposed for incorporation is presently outside any municipal jurisdiction. The only exception is the 70.9 square miles (45.3 square miles of land and 25.6 square miles of water) within the corporate boundaries of the City of Wrangell, a home-rule city. The Petition reported that, in 2006, an estimated 2,445 residents inhabited the area proposed for incorporation.¹⁰ The majority of the population of area proposed for incorporation lives in the City of Wrangell. The Alaska Supreme Court has stated that the Alaska Constitution, article X, section 1, encourages the creation of boroughs and has succinctly described their concept and purpose. “The borough concept was incorporated into our constitution in the belief that one unit of

¹⁰DCCED’s population estimate of 2,017 is based on more recent data and therefore differs from the Petitioner’s estimate of 2,445 residents.

1 local government could be successfully adapted to both urban and sparsely populated
2 areas of Alaska,”¹¹ and they are “meant to provide local government for regions as well
3 as localities and encompass lands with no present municipal use.”¹²

4 The Wrangell borough proposal promotes maximum local self-
5 government. It would create a home-rule borough – a municipality with all legislative
6 powers not prohibited by law or charter – the epitome of maximum local self-
7 government. It would also establish home-rule borough jurisdiction to an estimated
8 3,465 square miles and over 2,100 residents, 534 of whom currently reside outside a
9 local government unit.

11 Based on the findings above, the Commission concludes that the Wran-
12 gell borough proposal promotes maximum local self-government.

14 **Section B. The proposed Wrangell borough promotes a minimum number of lo-
15 cal government units as provided for in the Alaska Constitution.**

16 Art. X, sec. 1 of the Alaska Constitution provides:

17 The purpose of this article is to provide for maximum local self-
18 government with a minimum of local government units, and to prevent
19 duplication of tax-levying jurisdictions. A liberal construction shall be
20 given to the powers of local government units. (De-emphasis added.)

21 The Commission makes the following findings regarding the Wrangell
22 borough with respect to the constitutional constraint regarding the minimum number of
23 local government units. The Petition proposes to incorporate a unified home-rule bor-
24 ough. Under AS 29.05.140(d), incorporation of a unified home-rule borough results in
25 the dissolution of all other municipalities in the borough. When the City and Borough of

26 ¹¹*Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92, 98 (Alaska 1974).

27 ¹²*Id.* at 100.

1 Wrangell incorporates as a unified home-rule borough, the City of Wrangell will be dis-
2 solved. Therefore, there will be no duplication of administration and services and no
3 overlapping taxing entity.

4 The Wrangell borough incorporation proposal promotes maximum local
5 self-government with a minimum of local government units by creating one local
6 government to provide municipal services in the area. Those services include
7 education, planning, land use regulation, platting, taxation and collection of taxes,
8 volunteer search and rescue services, police, borough hospital, boat harbor, cemetery,
9 museum, public safety building, community center, library, incarceration facilities,
10 economic development planning, and parks and recreation. Most of these services
11 were previously provided by two separate government entities: the City of Wrangell,
12 and in the case of platting outside the boundaries of the City of Wrangell, the State of
13 Alaska.
14

15
16 Through its areawide dock and harbor powers, the proposed Wrangell
17 borough could also assume responsibility for the State-owned and operated seaplane
18 base and a 650-foot boat dock in Meyers Chuck. This would result in a reduction of
19 the number of local government units providing services to the region and provide a
20 more streamlined system of local government.

21
22 Based on the findings above, the Commission concludes that the Wran-
23 gell borough proposal promotes a minimum number of local government units under
24 the Alaska Constitution.
25

1 **Section C. The proposed Wrangell borough embraces an area and population**
2 **with common interests to the maximum degree possible and, on a scale suitable**
3 **for borough government, has a population that is interrelated and integrated with**
4 **respect to social, cultural, and economic characteristics and activities.**

5 Several provisions of law relate to this particular standard. Those consist
6 of art. X, sec. 3 of the Alaska Constitution, AS 29.05.031(a)(1), 3 AAC 110.045(a),
7 3 AAC 110.045(b), 3 AAC 110.920, and 3 AAC 110.990(5). Those laws state:

8 The entire State shall be divided into boroughs, organized or unor-
9 ganized. They shall be established in a manner and according to stan-
10 dards provided by law. The standards shall include population, geography,
11 economy, transportation, and other factors. Each borough shall embrace
12 an area and population with common interests to the maximum degree
13 possible. The legislature shall classify boroughs and prescribe their pow-
14 ers and functions. Methods by which boroughs may be organized, incor-
15 porated, merged, consolidated, reclassified, or dissolved shall be
16 prescribed by law. (Art. X, sec. 3 of the Alaska Constitution) (Emphasis
17 and de-emphasis added.)

18 -----
19 An area that meets the following standards may incorporate as a
20 home rule, first class, or second class borough, or as a unified municipal-
21 ity: (1) the [must have a] population of the area [that] is interrelated and in-
22 tegrated as to its social, cultural, and economic activities.
23 (AS 29.05.031(a)(1).) (Emphasis, de-emphasis, and clarification added.)

24 -----
25 The social, cultural, and economic characteristics and activities of
26 the people in a proposed borough must be interrelated and integrated. In
27 this regard, the commission may consider relevant factors, including the

- 28 (1) compatibility of urban and rural areas within the proposed bor-
29 ough;
- 30 (2) compatibility of economic lifestyles, and industrial or commercial
31 activities;
- (3) existence throughout the proposed borough of customary and
simple transportation and communication patterns; and

1 (4) extent and accommodation of spoken language differences
2 throughout the proposed borough. (3 AAC 110.045(a).)

3 -----
4 Absent a specific and persuasive showing to the contrary, the
5 commission will presume that a sufficient level of interrelationship cannot
6 exist unless there are at least two communities in the proposed borough.
7 (3 AAC 110.045(b).)

8 -----
9 [A] 'community' means a social unit comprised of 25 or more per-
10 manent residents as determined under 3 AAC 110.920. (3 AAC
11 110.990(5).)

12 -----
13 Determination of community. (a) In determining whether a settle-
14 ment comprises a community, the commission may consider relevant fac-
15 tors, including whether the

16 (1) settlement is inhabited by at least 25 individuals;

17 (2) inhabitants reside permanently in a close geographical proximity
18 that allows frequent personal contacts and comprise a population density
19 that is characteristic of neighborhood living; and

20 (3) inhabitants residing permanently at a location are a discrete and
21 identifiable social unit, as indicated by such factors as school enrollment,
22 number of sources of employment, voter registration, precinct boundaries,
23 permanency of dwelling units, and the number of commercial establish-
24 ments and other service centers.

25 (b) Absent a specific and persuasive showing to the contrary, the
26 commission will presume that a population does not constitute a commu-
27 nity if

28 (1) public access to or the right to reside at the location of the popu-
29 lation is restricted;

30 (2) the population is adjacent to a community and is dependent
31 upon that community for its existence; or

1 (3) the location of the population is provided by an employer and is
2 occupied as a condition of employment primarily by persons who do not
3 consider the place to be their permanent residence. (3 AAC 110.920.)

4 -----

5 The Commission makes the following findings regarding whether the pro-
6 posed Wrangell borough embraces an area and population with common interests to
7 the maximum degree possible and, on a scale suitable for borough government, has a
8 population that is interrelated and integrated with respect to social, cultural, and eco-
9 nomic characteristics and activities.

10 Most of the services and facilities provided by the City of Wrangell are
11 already areawide in nature, both in terms of the contributions of human and financial
12 resources necessary to provide those services and facilities as well as in terms of the
13 use of or benefit from those services and facilities by residents of the entire region.
14 Residents of the communities of Meyers Chuck and Union Bay, which is somewhat
15 more geographically isolated from other inhabited portions of the proposed borough,
16 declare they use Wrangell as a consumer hub more than they use Ketchikan and that
17 they have more in common with Wrangell than with Ketchikan.

18 The Commission can overcome the presumption in 3 AAC 110.045(b)
19 that a sufficient level of interrelationship cannot exist unless there are at least two
20 communities in the proposed borough through a higher level of proof (“a specific and
21 persuasive showing”) that the proposed Wrangell borough meets the community-of-
22 interests standard.

23 In that regard, the common interests of the area’s residents are demon-
24 strated beginning with the ancestors of the local Tlingit Indians and continuing to the
25 present day, there has been long-term and consistent common use of the entire area
26
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1 for fishing, hunting, gathering, mining, and living by the residents in the borough’s pro-
2 posed boundaries, which includes the area in the vicinity of Meyers Chuck and Union
3 Bay. The Wrangell borough’s proposed boundaries extend to the area abutting the fu-
4 ture potential boroughs of Petersburg and the Prince of Wales Island and the proposed
5 expanded boundaries of the KGB.

6
7 With regard to the community-of-interests standard, the Commission
8 finds the residents of the proposed Wrangell borough have strong ties with respect to
9 social, cultural, and economic characteristics and activities enough to overcome the
10 presumption in 3 AAC 110.045(b). There exists among residents of the proposed
11 Wrangell borough a compatibility of urban and rural areas, including compatibility of
12 economic lifestyles, and industrial or commercial activities. Transportation and com-
13 munication patterns exist throughout the proposed borough that reflect, on a scale
14 suitable for borough government, a population that is interrelated and integrated with
15 respect to social, cultural, and economic characteristics and activities.

16
17 The population of the proposed Wrangell borough is interconnected and
18 organized. The area of the proposed Wrangell borough shares a rich Native heritage,
19 and historical trading areas associated with gold rush activities and furs. Timber proc-
20 essing and commercial fishing made Wrangell an industrial headquarters.

21
22 The residents in the various communities of “Wrangell West,” Thoms
23 Place, Olive Cove, Meyers Chuck and Union Bay, Farm Island, and Tyee Lake Hydroe-
24 lectric Project interact and conduct commerce and communication with the residents in
25 the City of Wrangell. Wrangell continues to evolve as a supply center for this region.
26 The population of the City of Wrangell and the various communities located in the pro-
27 posed Wrangell borough are made up of people that work and socialize well together.

1 Residents of the area enjoy harvesting one or more wild food resources
2 by fishing, hunting, and gathering throughout the territory. The history, culture, and
3 economic characteristics of the entire area are consistent. The Native history recited
4 by Chief Shakes concerning the many clans that occupied the area under his leader-
5 ship is a classic study of early Tlingit culture at its most cohesive and rich existence in
6 the Alaskan wilderness. Each of the various communities in the proposed borough is
7 inclusive and open to everyone, regardless of race, ethnicity, religion, gender, or social
8 class.
9

10 There is great compatibility between the urban and rural areas within the
11 proposed borough as documented by the various public comments received in the re-
12 cord. There is also compatibility of economic lifestyles and industrial or commercial
13 activities. Wrangell was once a major hub for logging activities, and the residents
14 shared the cohesion of working in the industry together. They also united to fight to-
15 gether in a valiant attempt to save the timber industry as it suffered repeated attacks
16 from the extreme environmentalist machine. After years of strife, the community was
17 forced to evolve with the changing times and cope with the loss of family-supporting
18 logging jobs.
19

20 The residents who remained in the community shared a common goal to
21 survive in a new changed economy. The City of Wrangell has submitted an extensive
22 list of many new projects that have been, or are being, planned and constructed in
23 Wrangell, with the goals of providing new economic opportunities to residents and
24 drawing new or expanded industries to the region, which will naturally increase the
25 area's population.
26
27
28

1 There exist throughout the proposed borough customary and simple
2 transportation and communication patterns. Transportation on the area’s waterways
3 by boat is common to all residents. Air transportation is facilitated by a common airport
4 with jet service as well as floatplane service. Substantial logging activities, supported
5 and supplied from Wrangell, have occurred on Wrangell, Zarembo, Etolin and Shrubby
6 Islands, resulting in extensive road systems in these areas. Wrangell enjoys regular
7 ferry service with the Alaska Marine Highway. Wrangell is the central link in the Inter-
8 island Ferry Authority with operations linking Prince of Wales Island and Ketchikan.
9 Wrangell has a municipally owned industrial wharf capable of berthing large ships, a
10 barge loading facility, a cruise ship and transient vessel dock, and public boat harbors.
11 Wrangell enjoys communication systems utilized by most of the rest of the world, with
12 telephone services both hard line and cell service, VHF radio communication, internet
13 connections, radio, television, and mail service.
14
15

16 English is the predominant language spoken throughout the area of the
17 proposed Wrangell borough. Although there may be Alaska Natives who speak their
18 indigenous languages, it is usually the second language with English being first.

19 Lastly, the geographic area of the proposed Wrangell borough, which
20 comprises an estimated 3,465 square miles, is of a scale suitable for borough govern-
21 ment.

22 Based on the findings above, the Commission concludes that the pro-
23 posed Wrangell borough embraces an area and population with common interests to
24 the maximum degree possible and, on a scale suitable for borough government, has a
25 population that is interrelated and integrated with respect to social, cultural, and eco-
26 nomic characteristics and activities.
27
28

1 **Section D. The proposed Wrangell borough – on a scale suitable for borough**
2 **government – has a population that is large enough to support borough govern-**
3 **ment.**

4 Several provisions of law relate to this particular standard. Those consist
5 of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

6 An area that meets the following standards may incorporate as a
7 home rule, first class, or second class borough, or as a unified municipal-
8 ity: (1) the [must have a] population of the area [that] is interrelated and in-
9 tegrated as to its social, cultural, and economic activities, and is large and
10 stable enough to support borough government. (AS 29.05.031(a)(1).)
11 (Emphasis, de-emphasis, and clarification added.)

12 -----
13 The population of a proposed borough must be sufficiently large
14 and stable to support the proposed borough government. In this regard,
15 the commission may consider relevant factors, including

- 16 (1) total census enumerations;
- 17 (2) durations of residency;
- 18 (3) historical population patterns;
- 19 (4) seasonal population changes; and
- 20 (5) age distributions. (3 AAC 110.050(a).) (De-emphasis added.)

21 -----
22 Absent a specific and persuasive showing to the contrary, the com-
23 mission will presume that the population is not large enough and stable
24 enough to support the proposed borough government unless at least
25 1,000 permanent residents live in the proposed borough. (3 AAC
26 110.050(b).) (De-emphasis added.)

27 -----
28 The Commission makes the following findings regarding whether the pro-
29 posed Wrangell borough – on a scale suitable for borough government – has a popula-
30 tion that is large enough to support borough government. The boundaries of the
31

1 proposed Wrangell borough encompass an estimated 3,465 square miles. DCCED es-
2 timated that there were 2,017 residents in the proposed Wrangell borough in 2006.
3 This is twice the 1,000 person threshold presumed by 3 AAC 110.050(b) to be a popu-
4 lation of sufficient size to support borough government.

5 Based on the findings above, the Commission concludes that the pro-
6 posed Wrangell borough has a population that is large enough to support borough
7 government.
8

9 **Section E. The proposed Wrangell borough – on a scale suitable for borough**
10 **government – has a population that is stable enough to support borough gov-**
11 **ernment.**

12 Several provisions of law relate to this particular standard. Those consist
13 of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

14 An area that meets the following standards may incorporate as a
15 home rule, first class, or second class borough, or as a unified municipal-
16 ity: (1) the [must have a] population of the area [that] is interrelated and in-
17 tegrated as to its social, cultural, and economic activities, and is large and
stable enough to support borough government. (AS 29.05.031(a)(1).)
(Emphasis, de-emphasis, and clarification added.)

18 -----

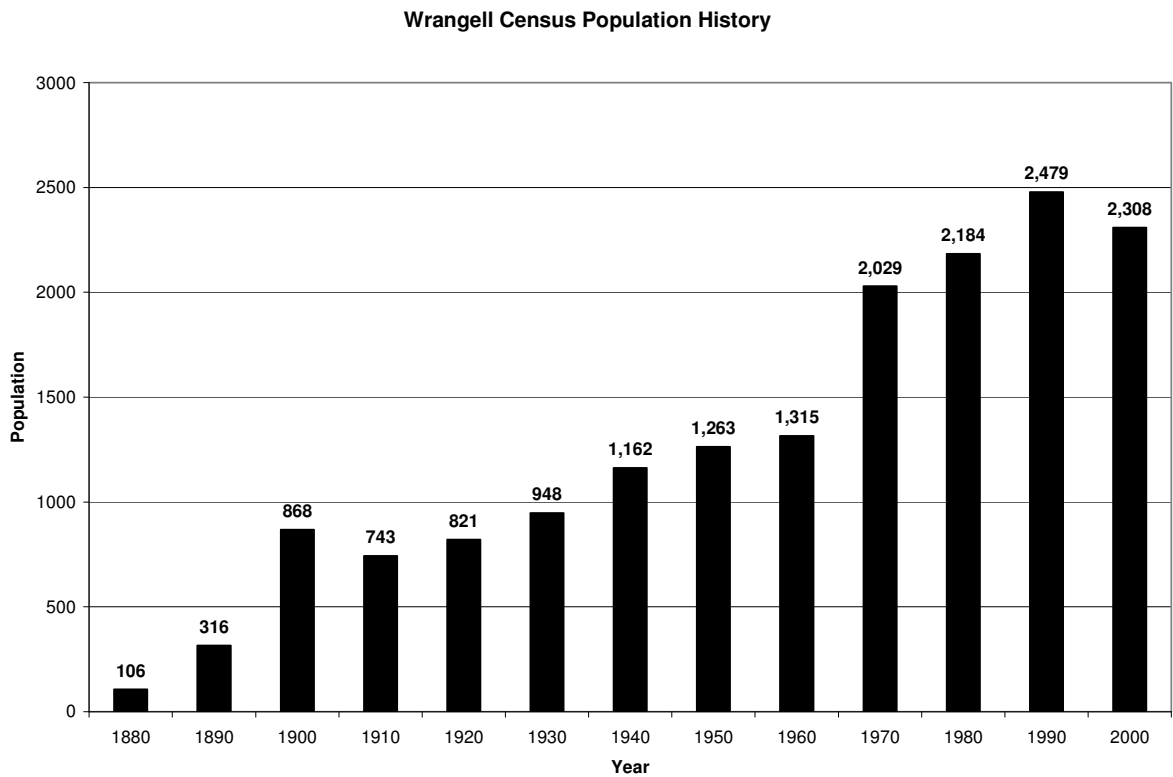
19 The population of a proposed borough must be sufficiently large
20 and stable to support the proposed borough government. In this regard,
the commission may consider relevant factors, including

- 21 (1) total census enumerations;
- 22 (2) durations of residency;
- 23 (3) historical population patterns;
- 24 (4) seasonal population changes; and
- 25 (5) age distributions. (3 AAC 110.050(a).) (De-emphasis added.)

26 -----

1 Absent a specific and persuasive showing to the contrary, the
2 commission will presume that the population is not large enough and stable
3 enough to support the proposed borough government unless at least
4 1,000 permanent residents live in the proposed borough. (3 AAC
5 110.050(b).) (De-emphasis added.)

6 -----
7 The Commission makes the following findings regarding whether the pro-
8 posed Wrangell borough – on a scale suitable for borough government – has a popula-
9 tion that is stable enough to support borough government. As the following graph of
10 the City of Wrangell’s Census population history between 1880 and 2000 shows, the
11 population steadily climbed.



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25 Since Wrangell’s economy was largely based on timber, the closing of the
26 Alaska Pulp Corporation Sawmill in late 1994 resulted in a slight drop in population with
27 the 2000 Census. since Wrangell’s economy is largely based on timber and

1 commercial fishing. However, Silver Bay Logging bought the Alaska Pulp Corporation
2 Sawmill and reopened in April 1998, with 33 employees.

3 The most current population estimates for 2006 indicate that the popula-
4 tion of the proposed borough has declined significantly since the 2000 Census.
5 DCCED's total estimated population of the proposed Wrangell borough for 2006 of
6 2,017 residents is 422 less people, or 17.3 percent less than the 2000 Census figure.
7 This decline is mirrored in the population losses seen in the Prince of Wales-Outer
8 Ketchikan and Wrangell-Petersburg Census Areas. Both of these areas were major
9 timber harvesting areas.
10

11 Despite the population loss and the loss of jobs in the area, the economic
12 forecast for the future of the proposed Wrangell borough is guardedly optimistic. In an
13 August 2007 study of the distressed community status of Alaska communities for the
14 Denali Commission conducted by the Alaska Department of Labor and Workforce De-
15 velopment, Research and Analysis Section, employment and earnings information was
16 used to determine the distressed community status for 2007. Wrangell was not deter-
17 mined to be a distressed community.
18

19 According to a population projection, by age and sex, for the years 2007
20 through 2030, for the Wrangell-Petersburg Census Area (which includes most of the
21 proposed City and Borough of Wrangell), the State Demographer projected the rate of
22 decline of the population in that census area. The rate of decline was relatively sta-
23 ble.¹³
24

25
26 ¹³ The DOLWD report is at
27 <<http://www.labor.state.ak.us/research/pop/projections/AlaskaPopProj.pdf>>. The average annual percent
28 change was -0.27% for 2006-2010; -0.60% for 2010-2015; -0.72% for 2015-2020; -0.88% for 2020-2025;
29 and -1.01% for 2025-2030.

1 Based on the findings above, the Commission concludes that the pro-
2 posed Wrangell borough has a population that is stable enough to support borough
3 government.

4
5 **Section F. The proposed Wrangell borough – on a scale suitable for borough
6 government – proposes boundaries that conform generally to natural geography.**

7 Two provisions of law relate to this particular standard. Those consist of
8 AS 29.05.031(a)(2) and 3 AAC 110.060(a). Those laws state:

9 An area that meets the following standards may incorporate as a
10 home rule, first class, or second class borough, or as a unified municipal-
11 ity: . . . 2) the [must have] boundaries [that] of the proposed borough or
12 unified municipality conform generally to natural geography and include all
13 areas necessary for full development of municipal services.
(AS 29.05.031(a)(2).) (Emphasis, de-emphasis, and clarification added.)

14 -----
15 The boundaries of a proposed borough must conform generally to
16 natural geography, and must include all land and water necessary to pro-
17 vide the full development of essential borough services on an efficient,
18 cost-effective level. In this regard, the commission may consider relevant
19 factors, including

- 20 (1) land use and ownership patterns;
- 21 (2) ethnicity and cultures;
- 22 (3) population density patterns;
- 23 (4) existing and reasonably anticipated transportation patterns and
24 facilities;
- 25 (5) natural geographical features and environmental factors; and
- 26 (6) extraterritorial powers of boroughs. (3 AAC 110.060(a).) (De-
27 emphasis added.)

28 -----
29 The Commission makes the following findings regarding whether the
30 proposed Wrangell borough – on a scale suitable for borough government – has

1 boundaries that conform generally to natural geography. The petition for the
2 incorporation of the City and Borough of Wrangell proposes boundaries that conform
3 generally to natural geography. The Petition states that the territory proposed for
4 incorporation includes all of Wrangell Island, Etoilin Island, Zarembo Island, Woronkofski
5 Island, Dry Island, Farm Island; numerous small islands and the mainland lying to the
6 north and east of Wrangell Island and extending to the Canadian border, including all
7 drainage areas of the Stikine River and Bradford Canal; and a portion of the Cleveland
8 Peninsula to the south, including the watersheds, draining to the north and west.
9

10 The Petitioner proposes to use the watershed or ridgeline as the pro-
11 posed borough's southern boundary. On the Cleveland Peninsula, the watershed is
12 the ridgeline, which divides the western side (facing Clarence Strait and Ernest Sound)
13 from the eastern side (facing Behm Canal). It is appropriate to use drainage basins,
14 watershed and ridgelines, and other identifiable geographic features in describing the
15 boundaries of regions. In addition, the proposed boundaries do not exclude any set-
16 tlement within the region and, therefore, include all areas necessary for the full devel-
17 opment of municipal services. The geographic area of the proposed Wrangell borough,
18 which comprises an estimated 3,465 square miles, is of a scale suitable for borough
19 government.
20

21 Based on the findings above, the Commission concludes that the pro-
22 posed Wrangell borough – on a scale suitable for borough government – proposes
23 boundaries that conform generally to natural geography.
24
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1 **Section G. The proposed Wrangell borough – on a scale suitable for borough**
2 **government – proposes boundaries that include all areas necessary for full de-**
3 **velopment of essential borough services on an efficient, cost-effective level.**

4 A number of provisions of law relate to this particular standard. Those
5 consist of AS 29.05.031(a)(2), 3 AAC 110.060(a), 3 AAC 110.060(d), and 3 AAC
6 110.970(a) and (b). Those laws state:

7 An area that meets the following standards may incorporate as a
8 home rule, first class, or second class borough, or as a unified municipal-
9 ity: . . . 2) the [must have] boundaries [that] of the proposed borough or
10 unified municipality conform generally to natural geography and include all
11 areas necessary for full development of municipal services.
(AS 29.05.031(a)(2).) (Emphasis, de-emphasis, and clarification added.)

12 -----
13 The boundaries of a proposed borough must conform generally to
14 natural geography, and must include all land and water necessary to pro-
15 vide the full development of essential borough services on an efficient,
16 cost-effective level. In this regard, the commission may consider relevant
17 factors, including

- 18 (1) land use and ownership patterns;
- 19 (2) ethnicity and cultures;
- 20 (3) population density patterns;
- 21 (4) existing and reasonably anticipated transportation patterns and
22 facilities;
- 23 (5) natural geographical features and environmental factors; and
- 24 (6) extraterritorial powers of boroughs. (3 AAC 110.060(a).) (De-
25 emphasis added.)

26 -----
27
28

1 Absent a specific and persuasive showing to the contrary, the
2 commission will presume that territory proposed for incorporation that is
3 non-contiguous or that contains enclaves does not include all land and
4 water necessary to allow for the full development of essential borough
5 services on an efficient, cost-effective level. (3 AAC 110.060(d).)

6 -----
7 Determination of essential . . . borough services. (a) If a provision
8 of this chapter provides for the identification of essential borough services,
9 the commission will determine those services to consist of those manda-
10 tory and discretionary powers and facilities that, as determined by the
11 commission,

12 (1) are reasonably necessary to the territory; and

13 (2) cannot be provided more efficiently and more effectively

14 (A) through some other agency, political subdivision of the
15 state, regional educational attendance area [(REAA)], or coastal resource
16 service area; or

17 (B) by the creation or modification of some other political
18 subdivision of the state, regional educational attendance area, or coastal
19 resource service area.

20 (b) The commission may determine essential borough services to in-
21 clude

22 (1) assessing and collecting taxes;

23 (2) providing primary and secondary education;¹⁴

24 (3) planning, platting, and land use regulation; and

25 (4) other services that the commission considers reasonably nec-
26 essary to meet the borough governmental needs of the territory. (3 AAC
27 110.970(a) and (b).)

28 -----
29 ¹⁴Under AS 14.12.010(2) and AS 29.35.160(a) education is a mandatory areawide borough power
30 and may be determined by the LBC to be an “essential” borough service under 3 AAC 110.970.
31 AS 14.12.025 prohibits the creation of a new school district with fewer than 250 students absent a de-
termination from the Commissioner of DEED that a smaller district is in the best interests of the State
and the proposed district. Creation of a borough with fewer than 250 students might relate to the stan-
dard in 3 AAC 110.060(a).

1 The Commission makes the following findings regarding whether the pro-
2 posed Wrangell borough – on a scale suitable for borough government – proposes
3 boundaries that include all areas necessary for full development of essential borough
4 services on an efficient, cost-effective level. State law, AS 29.35.150 – 29.35.180, sets
5 out the mandatory powers of organized boroughs:
6

7 Sec. 29.35.150. Scope of areawide powers. A borough shall exer-
8 cise the powers as specified and in the manner specified in AS 29.35.150
- 29.35.180 on an areawide basis.

9 Sec. 29.35.160. Education. (a) Each borough constitutes a bor-
10 ough school district and establishes, maintains, and operates a system of
11 public schools on an areawide basis as provided in AS 14.14.060. A mili-
12 tary reservation in a borough is not part of the borough school district until
13 the military mission is terminated or until inclusion in the borough school
14 district is approved by the Department of Education and Early Develop-
15 ment. However, operation of the military reservation schools by the bor-
16 ough school district may be required by the Department of Education and
17 Early Development under AS 14.14.110. If the military mission of a mili-
tary reservation terminates or continued management and control by a re-
gional educational attendance area is disapproved by the Department of
Education and Early Development, operation, management, and control of
schools on the military reservation transfers to the borough school district
in which the military reservation is located.

18 (b) This section applies to home rule and general law municipali-
ties.

19 Sec. 29.35.170. Assessment and collection of taxes. (a) A borough
20 shall assess and collect property, sales, and use taxes that are levied in
its boundaries, subject to AS 29.45.

21 (b) Taxes levied by a city shall be collected by a borough and re-
22 turned in full to the levying city. This subsection applies to home rule and
23 general law municipalities.

24 Sec. 29.35.180. Land use regulation. (a) A first or second class
25 borough shall provide for planning, platting, and land use regulation in ac-
cordance with AS 29.40.

26 (b) A home rule borough shall provide for planning, platting, and
27 land use regulation.

1 The record in this proceeding demonstrates that the proposed boundaries
2 of the Wrangell borough will allow the development of essential borough services. No
3 portion of the proposed borough is noncontiguous or contains enclaves.

4 Based on the findings above, the Commission concludes that the pro-
5 posed Wrangell borough – on a scale suitable for borough government – proposes
6 boundaries that include all areas necessary for full development of essential borough
7 services on an efficient, cost-effective level.
8

9 **Section H. While the proposed Wrangell borough boundaries extend beyond its**
10 **model borough boundaries and overlaps the model borough boundaries of the**
11 **KGB by approximately 191 square miles in the vicinity of Meyers Chuck and Un-**
12 **ion Bay , the Petitioner has made a specific and persuasive showing to justify**
this extension.

13 The provisions of 3 AAC 110.060(b) state:

14 Absent a specific and persuasive showing to the contrary, the
15 commission will not approve a proposed borough with boundaries ex-
16 tending beyond any model borough boundaries.

17 The Commission makes the following findings in this regard. The pro-
18 posed Wrangell borough boundaries extend beyond its Model Borough Boundaries and
19 overlap the Model Borough Boundaries of the KGB by approximately 191 square miles
20 in the vicinity of Meyers Chuck and Union Bay. However, the Petitioner and Meyers
21 Chuck and Union Bay residents have made a specific and persuasive showing to justify
22 the inclusion of this 191 square mile area in the proposed Wrangell borough. This
23 showing includes:

- 24 ▪ Written comments submitted by the residents of Meyers Chuck indi-
25 cated that they prefer inclusion in a Wrangell borough. These resi-
26 dents stated that they believe they have more in common with
27 Wrangell and that it makes more sense to be included in the Wrangell
28

1 borough on a social, economic, geographic and cultural basis. Fifteen
2 residents giving addresses as Meyers Chuck or Union Bay signed the
3 petition requesting incorporation of a Wrangell borough. They felt their
4 needs are more readily met by Wrangell.

- 5 ▪ The residents of Meyers Chuck and Union Bay share common rural
6 lifestyles and sensibilities with other residents of the proposed bor-
7 rough.
- 8 ▪ The residents of Meyers Check and Union Bay have historically shared
9 the same geographic areas for hunting and fishing as the Wrangell
10 community.
- 11 ▪ There are strong economic and social ties between Meyers Chuck and
12 Union Bay area and Wrangell. Meyers Chuck and Union Bay residents
13 have testified that they shop at the grocery and hardware stores in
14 Wrangell regularly, and complete boat repair and maintenance in
15 Wrangell.
- 16 ▪ Residents of Meyers Chuck do receive a radio signal from KSTK in
17 Wrangell, although given the new satellite radio technology, communi-
18 cation by radio signal is losing its relevance to commonality among
19 communities. A locally published newspaper, the *Wrangell Sentinel* is
20 available to Meyers Chuck residents and to other residents in the pro-
21 posed Wrangell borough, should they choose to subscribe.
- 22 ▪ Testimony supports the fact that Clarence Strait is a major transporta-
23 tion impediment for residents of Meyers Chuck and Union Bay. The
24 exposed route along Clarence Strait from Meyers Chuck to Ketchikan
25 26 27 28

1 features rough water with strong tidal currents that are frequently at
2 odds with the prevailing southeast winds. There are no safe harbors
3 between Lemesurier Point and Tongass Narrows. Caamano Point ex-
4periences rough weather that compares closely to Southeast Alaska's
5 major capes. The out flowing tides of Clarence Strait and Behm Canal
6 water meet at this point and the waves can stack up dangerously.
7 Small boats and skiffs have ready access to Wrangell for fuel and sup-
8 plies via the protected Ernest Sound and Zimovia Strait route.

- 9
- 10 ■ Maritime connections are more important than overland connections
- 11 for Meyers Chuck and Union Bay residents.
- 12
- 13 ■ Meyers Chuck and Union Bay residents are engaged in self-reliant life-
- 14 styles, typical of remote settlements, with a reliance on subsistence
- 15 that is more similar to the lifestyles of Wrangell residents than with the
- 16 residents of the more urban KGB.
- 17
- 18 ■ Wrangell community leaders are committed to incurring the expense
- 19 necessary to establish communication facilities to allow residents of
- 20 outlying areas such as Thoms Bay, Meyers Chuck and Union Bay to
- 21 participate in public hearings and other important public proceedings of
- 22 the proposed new borough. Community leaders are also committed to
- 23 working with residents of Meyers Chuck and Union Bay to explore op-
- 24 portunities for cooperation and assistance for residents compatible with
- 25 their desired lifestyle.
- 26
- 27
- 28

- 1 ▪ The KGB does not formally object to Wrangell’s proposal to include a
2 portion of Ketchikan’s model territory – specifically the Meyers Chuck
3 area – in the Wrangell borough.

4 Based on the findings above, the Commission concludes that while the
5 proposed Wrangell borough boundaries extend beyond the model borough boundaries,
6 the Petitioner and Meyers Chuck and Union Bay residents have made a specific and
7 persuasive showing to justify this extension. They have proved to the Commission’s
8 satisfaction that the petition for incorporation of the City and Borough of Wrangell,
9 which includes the community of Meyers Chuck and Union Bay, proposes boundaries
10 that embrace an area and population with common interests to the maximum degree
11 possible.

14 **Section I. The proposed Wrangell borough boundaries do not conform to REAA**
15 **boundaries but, in this instance, the REAA boundaries are not suitable to serve**
16 **as boundaries for a single borough.**

17 The provisions of 3 AAC 110.060(c) state:

18 The proposed borough boundaries must conform to existing re-
19 gional educational attendance area boundaries¹⁵ unless the commission
20 determines, after consultation with the commissioner of education and
21 early development, that a territory of different size is better suited to the
22 public interest in a full balance of the standards for incorporation of a bor-
23 ough.

24 The Commission makes the following finding regarding whether the pro-
25 posed Wrangell borough boundaries conform to REAA boundaries. The proposed
26 Wrangell borough boundaries do not conform to REAA boundaries. However, the

27 ¹⁵Under AS 14.08.031, the entire unorganized borough, including first-class cities and home-rule
28 cities, is divided into REAAs. AS 14.12.010 and AS 29.35.260(b) relate only to the delegated authority
29 for local school administration in first-class cities and home-rule cities in the unorganized borough. Nei-
30 ther of those statutes changes the boundaries of REAAs. REAA boundaries are established by DCCED,
31 which also serves as Staff to the Commission under AS 44.33.020(a)(4).

1 REAA boundaries are not suitable in this case to serve as boundaries for a solitary bor-
2 ough. The area proposed for incorporation, including the territory inside the boundaries
3 of the City of Wrangell, lies within the Southeast Island Regional Educational Atten-
4 dance Area (REAA).¹⁶ The Southeast Island REAA encompasses that portion of the
5 unorganized borough in the southern portion of Southeast Alaska, with the exception of
6 the Annette Island REAA. The Southeast Island REAA boundaries are described as
7 follows:

9 All the territory in the unorganized borough of the State of Alaska
10 east of longitude 141 degrees West and South of the mid-point on Freder-
11 ick Sound, said point defined as Latitude 57 degrees North. This area ex-
12 cludes all the territory on Admiralty Island and includes the City of Port
Alexander, and Kupreanof Island. This area excludes the Annette Federal
Reserve.

13 It is noteworthy that the KGB Assembly concurs that the Southeast Island
14 REAA boundaries are not suitable for a solitary borough. In fact, the KGB Assembly
15 concurs with the determination by the Commission in 1991 regarding model borough
16 boundaries for the KGB.

17 Beyond the circumstances addressed above, 3 AAC 110.060(c) allows
18 the LBC and DEED to evaluate the impact that a particular borough incorporation might
19 have in terms of efficiencies and economies of scale in the delivery of educational ser-
20 vices. For example, if the boundaries of a proposed borough include only a portion of
21

23 ¹⁶Under AS 14.08.031, the entire unorganized borough, including first-class cities and home-rule
24 cities, is divided into REAAs. AS 14.12.010 and AS 29.35.260(b) relate only to the delegated authority
25 for local school administration in first-class cities and home-rule cities in the unorganized borough. Nei-
26 ther of those statutes changes the boundaries of REAAs. REAA boundaries are established by DCCED,
27 which also serves as Staff to the Commission under AS 44.33.020(4). Further, 3 AAC 110.990(13),
28 adopted by the Commission on December 4, 2007, defines "REAA" as "an educational service area es-
tablished in the unorganized borough under AS 14.08.031 by the department; "regional educational at-
tendance area" includes the territory within the boundaries of a (A) home rule city in that area; (B) first
class city in that area; or (C) federal transfer regional educational attendance area formed under ch. 66,
SLA 1985 in that area."

1 the schools in a particular school district, there may be cause for concern that the pro-
2 posal would adversely affect the capacity of the school district serving the remaining
3 schools to be inefficient and ineffective. That is not the case here. All the publicly
4 educated students living in the proposed Wrangell borough are presently served by the
5 City of Wrangell School District or another district operating correspondence study.
6 The number of schools served by the Southeast Island REAA will not change if the pro-
7 posed Wrangell borough is created.
8

9 The Commission recognizes that 3 AAC 110.060(c) requires it to consult
10 with the Commissioner of the DEED in terms of in terms of satisfaction of this standard.
11 Eddy Jeans, the School Finance Director for DEED, has been consulted and has sub-
12 mitted a letter dated September 24, 2007, saying DEED is not opposed to the pro-
13 posed incorporation of the Wrangell borough.
14

15 Based on the finding above, the Commission finds that the proposed
16 Wrangell borough boundaries do not conform to the REAA boundaries. However, bal-
17 ancing the standards for incorporation of a borough and considering the facts above,
18 the Commission finds sufficient evidence to support a conclusion that the Southeast
19 Island REAA boundaries do not represent an area that is best suited to the public inter-
20 est and, therefore, in this instance, smaller boundaries are appropriate.
21

22 **Section J. The boundaries of the Wrangell borough do not overlap any part of an**
23 **existing organized borough.**

24 The provisions of 3 AAC 110.060(e) state:

25 If a petition for incorporation of a proposed borough describes
26 boundaries overlapping the boundaries of an existing organized borough,
27 the petition for incorporation must also address and comply with all stan-
28 dards and procedures for detachment of the overlapping region from the

1 existing organized borough. The commission will consider and treat that
2 petition for incorporation as also being a detachment petition.

3 The Commission makes the following finding regarding whether the pro-
4 posed Wrangell borough boundaries overlap any part of an existing organized borough.
5 The area within proposed Wrangell borough is wholly within the unorganized borough.

6 Based on the finding above, the Commission concludes that the pro-
7 posed Wrangell borough boundaries do not overlap any part of an existing organized
8 borough.

9
10 **Section K. The proposed Wrangell borough – on a scale suitable for borough**
11 **government – has an economy with the human resources necessary to provide**
12 **essential borough services on an efficient, cost-effective level.**

13 A number of provisions of law relate to this particular standard. Those
14 consist of AS 29.05.031(a)(3), 3 AAC 110.055, and 3 AAC 110.970(a) and (b).
15 AS 29.05.031(a)(3) and 3 AAC 110.055 are set out below; however 3 AAC 110.970(a)
16 and (b) are quoted in part II-G of this decisional statement and are, therefore, not re-
17 peated here.

18 An area that meets the following standards may incorporate as a
19 home rule, first class, or second class borough, or as a unified municipal-
20 ity: . . . 3) the [must have an] economy of the area [that] includes the hu-
21 man and financial resources capable of providing municipal services;
22 evaluation of an area's economy includes land use, property values, total
23 economic base, total personal income, resource and commercial devel-
24 opment, anticipated functions, expenses, and income of the proposed
25 borough or unified municipality. (AS 29.05.031(a)(3).) (Emphasis, de-
26 emphasis, and clarification added.)

27 -----

28 The economy of a proposed borough must include the human and
29 financial resources necessary to provide essential borough services on an
30 efficient, cost-effective level. In this regard, the commission

31 (1) will consider

1 (A) the reasonably anticipated functions of the proposed
borough;

2 (B) the reasonably anticipated expenses of the proposed
3 borough;

4 (C) the ability of the proposed borough to generate and col-
5 lect local revenue, and the reasonably anticipated income of the proposed
borough;

6 (D) the feasibility and plausibility of the anticipated operating
7 and capital budgets through the third full fiscal year of operation;

8 (E) the economic base of the proposed borough;

9 (F) property valuations for the proposed borough;

10 (G) land use for the proposed borough;

11 (H) existing and reasonably anticipated industrial, commer-
12 cial, and resource development for the proposed borough; and

13 (I) personal income of residents of the proposed borough;
14 and

15 (2) may consider other relevant factors, including

16 (A) the need for and availability of employable skilled and
17 unskilled persons to serve the proposed borough; and

18 (B) a reasonably predictable level of commitment and inter-
19 est of the population in sustaining a borough government. (3 AAC
20 110.055) (Emphasis and de-emphasis added.)

21 -----

22 The Commission makes the following findings regarding whether the pro-
23 posed Wrangell borough – on a scale suitable for borough government – has an econ-
24 omy with the human resources necessary to provide essential borough services on an
25 efficient, cost-effective level. The City of Wrangell has provided services to the region
26 on an areawide basis for many years.

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According to the Petition, the City of Wrangell currently provides the following to residents – education, planning and zoning; cemetery, swimming pool, parks and recreation, and community buildings including a library, museum and community center, and volunteer fire, search and rescue services. Upon incorporation of the City and Borough of Wrangell and the concurrent dissolution of the home-rule City of Wrangell, all services formerly provided by the City to its residents will continue to be provided to areas currently served.

The City of Wrangell has effectively delivered municipal services since its incorporation in 1903. The City of Wrangell provided educational services, planning and zoning, and collected taxes. The City has successfully operated and managed the cemetery, library, community center, museum, and other community buildings used by all residents of the area. The City of Wrangell has already been extending certain municipal services outside city boundaries. The City of Wrangell currently supports a city government staff of 54 year-round employees and 20 seasonal employees. The 2000 Census indicated that 34 percent of those employed in the City of Wrangell, and in the Thoms Place and Meyers Chuck Census Designated Places, were government workers. Therefore, there is a large pool of experienced government workers available for employment by the proposed new borough. Thus, the City of Wrangell has long demonstrated that it has the human resources necessary to serve the residents of the region. The Commission is persuaded that the City and Borough of Wrangell will continue to provide all the essential services that the City of Wrangell has effectively delivered in the past.

The fact that the City of Wrangell has successfully operated for many years proves that the residents of the region have the expertise and the level of

1 commitment and interest necessary to sustain a borough government. The new
2 borough will collect the proposed taxes and other revenue, and will continue to provide
3 essential and non-essential municipal services to residents.

4 Analysis of the civilian workforce and the employable skilled and unskilled
5 persons available to serve the proposed borough in Part 7 of the *Preliminary Report*
6 indicates that the human resources are adequate to operate the borough.
7

8 By 1916, fishing and forest products had become the primary industries
9 in the City of Wrangell; four canneries and a cold storage plant were constructed by the
10 late 1920's. In the 1930s, cold packing of crab and shrimp was occurring. Abundant
11 spruce and hemlock resources have helped to expand the lumber and wood products
12 industry. The Alaska Pulp Corporation sawmill, the City's largest employer, closed in
13 1994; the sawmill was sold to Silver Bay Logging and reopened in April 1998 with
14 33 employees.
15

16 The City of Wrangell's economy is based on commercial fishing and tim-
17 ber from the Tongass National Forest. Fishing and fish processing are an important
18 segment of the economy. Two hundred fifty residents hold commercial fishing per-
19 mits. Dive fisheries are also under development – 60 divers harvest sea urchins, sea
20 cucumbers and geoducks. Although the City of Wrangell offers a deep-water port, it
21 caters to the smaller cruise ships. According to the Petition, Wrangell has a deep-
22 water port facility, a barge loading facility, and an airport; it also has a part-time
23 U.S. Customs agent to handle international trade. Marine facilities include a breakwa-
24 ter, deep-draft dock, State Ferry terminal, two small boat harbors with 498 slips, and a
25 boat launch. Freight arrives by barge, ship, ferry, and cargo plane. The State-owned
26 paved, lighted runway (6,000 feet long by 150 feet wide) enables jet service.
27
28

1 The tourism industry is growing in the region for sport fishing, hunting and
2 sightseeing. Sport fishing on the Stikine River attracts visitors. Currently, four ho-
3 tels/motels and 10 bed-and-breakfasts operate in the City of Wrangell.

4 Based on the findings above, the Commission concludes that the pro-
5 posed Wrangell borough, on a scale suitable for borough government, has an economy
6 with the human resources necessary to provide essential borough services on an effi-
7 cient, cost-effective level.
8

9 **Section L. The proposed Wrangell borough – on a scale suitable for borough**
10 **government – has an economy with the financial resources necessary to provide**
11 **essential borough services on an efficient, cost-effective level.**

12 A number of provisions of law relate to this particular standard. Those
13 consist of AS 29.05.031(a)(3), 3 AAC 110.055, and 3 AAC 110.970(a) and (b).
14 AS 29.05.031(a)(3) and 3 AAC 110.055 are set out below; however 3 AAC 110.970(a)
15 and (b) are quoted in part II-G of this decisional statement and are, therefore, not re-
16 peated here.
17

18 An area that meets the following standards may incorporate as a
19 home rule, first class, or second class borough, or as a unified
20 municipality: . . . 3) the [must have an] economy of the area [that] includes
21 the human and financial resources capable of providing municipal
22 services; evaluation of an area's economy includes land use, property
23 values, total economic base, total personal income, resource and
24 commercial development, anticipated functions, expenses, and income of
25 the proposed borough or unified municipality. (AS 29.05.031(a)(3).)
26 (Emphasis, de-emphasis, and clarification added.)

27 The economy of a proposed borough must include the human and
28 financial resources necessary to provide essential borough services on an
29 efficient, cost-effective level. In this regard, the commission

(1) will consider

- 1 (A) the reasonably anticipated functions of the proposed
- 2 borough;
- 3 (B) the reasonably anticipated expenses of the proposed
- 4 borough;
- 5 (C) the ability of the proposed borough to generate and col-
- 6 lect local revenue, and the reasonably anticipated income of the proposed
- 7 borough;
- 8 (D) the feasibility and plausibility of the anticipated operating
- 9 and capital budgets through the third full fiscal year of operation;
- 10 (E) the economic base of the proposed borough;
- 11 (F) property valuations for the proposed borough;
- 12 (G) land use for the proposed borough;
- 13 (H) existing and reasonably anticipated industrial, commer-
- 14 cial, and resource development for the proposed borough; and
- 15 (I) personal income of residents of the proposed borough;
- 16 and

(2) may consider other relevant factors, including

- 17 (A) the need for and availability of employable skilled and
- 18 unskilled persons to serve the proposed borough; and
- 19 (B) a reasonably predictable level of commitment and inter-
- 20 est of the population in sustaining a borough government. (3 AAC
- 21 110.055.)

22 The Commission makes the following findings regarding whether the pro-

23 posed Wrangell borough – on a scale suitable for borough government – has an econ-

24 omy with the financial resources necessary to provide essential borough services on an

25 efficient, cost-effective level. The human resources finding in Section II-K of this deci-

26 sional statement that the City of Wrangell has served the region on an areawide basis

27 for many years is also relevant here.

1 Since its incorporation in 1903, and its adoption of a home-rule charter in
2 1960, the City of Wrangell has assessed and collected revenues and fees needed to
3 operate and manage city property and provide services. It has also maintained the air-
4 port, roads, and harbors used by all residents of the Wrangell area. Thus, the City of
5 Wrangell has long demonstrated its capacity to generate and collect local revenue and
6 to serve the residents of the 3,465-square-mile Wrangell region. The new borough will
7 collect the proposed sales and property taxes and other revenue. The Commission
8 has confidence that the City and Borough of Wrangell will provide all the essential ser-
9 vices that the City of Wrangell has successfully provided in the past.

11 The Petitioner supplied a three-year operating and capital budget that is
12 feasible and plausible. The extent to which projected revenues exceed projected ex-
13 penditures results in a surplus of funds available for operation of the borough.

15 The foregoing analysis of the reasonably anticipated functions, expenses,
16 and income of the proposed borough; the ability of the proposed borough to generate
17 and collect local revenue; and the feasibility and plausibility of the anticipated operating
18 and capital budgets through the third full fiscal year of operation reflect a fiscally viable
19 proposal. The economic base, property valuations, land use, existing and reasonably
20 anticipated development, and personal income are evidence of an economy that is fully
21 capable of supporting borough government.

23 Based on the findings above, the Commission concludes that the pro-
24 posed Wrangell borough, on a scale suitable for borough government, has an economy
25 with the financial resources necessary to provide essential borough services on an effi-
26 cient, cost-effective level.

1 **Section M. The area of the proposed Wrangell borough – on a scale suitable for**
2 **borough government – has the communications media and the land, water, and**
3 **air transportation facilities to allow the communication and exchange necessary**
4 **for the development of integrated borough government.**

5 A number of provisions of law relate to this particular standard. Those
6 consist of AS 29.05.031(a)(4), 3 AAC 110.045(c), and 3 AAC 110.045(d). Those laws
7 state:

8 An area that meets the following standards may incorporate as a
9 home rule, first class, or second class borough, or as a unified municipal-
10 ity: . . . (4) [must have the] land, water, and air transportation facilities [nec-
11 essary to] allow the communication and exchange necessary for the
12 development of integrated borough government. (AS 29.05.031(a)(4).)
13 (Emphasis, de-emphasis, and clarification added.)

14 -----
15 The communications media and the land, water, and air transporta-
16 tion facilities throughout the proposed borough must allow for the level of
17 communications and exchange necessary to develop an integrated bor-
18 ough government. In this regard, the commission may consider relevant
19 factors, including

- 20 (1) transportation schedules and costs;
- 21 (2) geographical and climatic impediments;
- 22 (3) telephonic and teleconferencing facilities; and
- 23 (4) electronic media for use by the public. (3 AAC 110.045(c).)

24 -----
25 Absent a specific and persuasive showing to the contrary, the
26 commission will presume that communications and exchange patterns are
27 insufficient unless all communities within a proposed borough are con-
28 nected to the seat of the proposed borough by a public roadway, regular
29 scheduled airline flights on at least a weekly basis, regular ferry service on
30 at least a weekly basis, a charter flight service based in the proposed bor-
31 ough, or sufficient electronic media communications. (3 AAC 110.045(d).)

32 -----
33 Wrangell has well-developed communications and transportation
34 facilities. Wrangell is served by two radio stations, satellite radio, local and satellite

1 television, and a locally published newspaper, the *Wrangell Sentinel*. In addition to an
2 airport with jet service and a seaplane base with scheduled air taxi services, Wrangell
3 enjoys regular ferry service with the Alaska Marine Highway. Wrangell is the central
4 link in the Inter-island Ferry Authority with operations linking Prince of Wales Island and
5 Ketchikan. The marine facilities include a breakwater, deep draft dock, State Ferry
6 terminal, two small boat harbors with 498 slips, and boat launch. Freight arrives by
7 barge, ship, ferry, and cargo plane. The City of Wrangell's wharf is capable of berthing
8 large ships. Wrangell has a barge loading facility, a cruise ship and transient vessel
9 dock, and public boat harbors is accessible by air and water.

11 Wrangell has the same communications systems utilized by the rest of
12 the world: telephone services with landlines and cell service, VHF radio communica-
13 tion, the Internet, radio, television, and mail service. Any of these media can be used
14 to communicate with the remaining 5 percent of the proposed Wrangell borough popu-
15 lation.

17 Meyers Chuck and Union Bay are accessible only by floatplane or boat.
18 A State-owned seaplane base is available. With the exception of the mail plane, there
19 are no scheduled flights. Ketchikan-based charter services and barge transport are
20 available. A boat dock provides 650 feet of moorage, and the site is a natural shel-
21 tered harbor. Residents use skiffs for local travel; a few boardwalks and trails connect
22 homes.

24 Based on the findings above, the Commission concludes that the pro-
25 posed Wrangell borough, on a scale suitable for borough government, has the commu-
26 nications media and the land, water, and air transportation facilities to allow the
27 communication and exchange necessary for the development of integrated borough
28

1 government. The communications media; and land, air, and water transportation facili-
2 ties in the proposed borough are well developed and integrated.

3

4 **Section N. Formation of the proposed Wrangell borough is in the best interests**
5 **of the State.**

6

7 Two provisions of law relate to this particular standard. Those consist of
8 AS 29.05.100(a) and 3 AAC 110.065. Those laws state:

9 After providing public notice of each proposed amendment or condi-
10 tion and an opportunity for public comment, the Local Boundary Com-
11 mission may amend the petition and may impose conditions on the
12 incorporation. If the commission determines that the incorporation, as
13 amended or conditioned if appropriate, meets applicable standards under
14 the state constitution and commission regulations, meets the standards for
15 incorporation under AS 29.05.011 or 29.05.031, and is in the best inter-
16 ests of the state, it may accept the petition. Otherwise it shall reject the pe-
17 tition. (AS 29.05.100(a).) (De-emphasis added.)

18

19

20 In determining whether incorporation of a borough is in the best in-
21 terests of the state under AS 29.05.100(a), the commission may consider
22 relevant factors, including whether incorporation

23

(1) promotes maximum local self-government;

24

(2) promotes a minimum number of local government units;

25

(3) will relieve the state government of the responsibility of provid-
26 ing local services; and

27

(4) is reasonably likely to expose the state government to unusual
28 and substantial risks as the prospective successor to the borough in the
29 event of the borough's dissolution. (3 AAC 110.065.)

30

31

The Commission makes the following findings regarding whether forma-
tion of the proposed Wrangell borough is in the best interests of the State. As reflected
in the findings and conclusion set out in Section II-A of this decisional statement, for-
mation of the proposed Wrangell borough would promote maximum local self-

31

1 government. Formation of the Wrangell borough would create a structure to permit
2 governance and decision making at the local level.

3 As stated in the findings and conclusion set out in Section II-B of this de-
4 cisional statement, formation of the proposed Wrangell borough would also promote
5 the minimum number of local government unit's constraint in Alaska's Constitution. In-
6 corporation of the Wrangell borough will relieve the State of Alaska of the responsibility
7 of providing platting outside the current boundaries of the City of Wrangell. In addition,
8 all the area within the proposed borough that lies outside the boundaries of the City of
9 Wrangell will become subject to the mandatory 4-mill required local contribution provi-
10 sions for schools found in AS 14.17.410(b)(2). There is no evidence that creation of
11 the City and Borough of Wrangell is reasonably likely to expose the State of Alaska to
12 unusual and substantial risks as the prospective successor to the borough, in the event
13 of the borough's dissolution.
14
15

16 Based on the findings above, the Commission concludes that formation of
17 the proposed Wrangell borough is in the best interests of the State.
18

19 **Section O. A proper plan for the orderly transition to borough government has
20 been provided.**

21 The provisions of 3 AAC 119.900 state:

22 Transition. (a) A petition for incorporation, . . . must include a prac-
23 tical plan that demonstrates the capacity of the municipal government to
24 extend essential city or essential borough services into the territory pro-
25 posed for change in the shortest practicable time after the effective date of
26 the proposed change. . . .

27 (b) Each petition must include a practical plan for the assumption of
28 all relevant and appropriate powers, duties, rights, and functions presently
exercised by an existing borough, city, unorganized borough service area,
and other appropriate entity located in the territory proposed for change.
The plan must be prepared in consultation with the officials of each exist-
ing borough, city and unorganized borough service area, and must be de-

1 signed to effect an orderly, efficient, and economical transfer within the
2 shortest practicable time, not to exceed two years after the effective date
of the proposed change.

3 (c) Each petition must include a practical plan for the transfer and
4 integration of all relevant and appropriate assets and liabilities of an exist-
5 ing borough, city, unorganized borough service area, and other entity lo-
6 cated in the territory proposed for change. The plan must be prepared in
7 consultation with the officials of each existing borough, city, and unorgan-
8 ized borough service area wholly or partially included in the area proposed
9 for the change, and must be designed to effect an orderly, efficient, and
10 economical transfer within the shortest practicable time, not to exceed two
11 years after the date of the proposed change. The plan must specifically
12 address procedures that ensure that the transfer and integration occur
13 without loss of value in assets, loss of credit reputation, or a reduced bond
14 rating for liabilities.

15 (d) Before approving a proposed change, the commission may re-
16 quire that all boroughs, cities, unorganized borough service areas, or other
17 entities wholly or partially included in the area of the proposed change
18 execute an agreement prescribed or approved by the commission for the
19 assumption of powers, duties, rights, and functions, and for the transfer
20 and integration of assets and liabilities.

21 The petition presented an adequate three-page transition plan (Exhibit E
22 of the Petition) whose provisions also formed the basis of the home-rule charter (Ex-
23 hibit I of the Petition). The transition plan demonstrates to the Commission's satisfac-
24 tion that the proposed borough would have the capacity to extend essential borough
25 services in the shortest practicable time after the effective date of incorporation. Thus,
26 the requirement set out in 3 AAC 110.900(a) is satisfied.

27 Further, the transition plan includes a practical plan for the assumption of
28 all relevant and appropriate powers, duties, rights, and functions presently exercised by
29 the City of Wrangell. Thus, the provisions of 3 AAC 110.900(b) are satisfied.

30 Lastly, the transition plan includes a practical plan for the transfer and in-
31 tegration of all relevant and appropriate assets and liabilities of the City of Wrangell.
Therefore, the requirements of 3 AAC 110.900(c) are met.

1 The provisions of 3 AAC 110.900(d) allow the Commission, at its discre-
2 tion, to require the City to execute an agreement for the assumption of powers, duties,
3 rights, and functions and for the transfer and integration of assets and liabilities. The
4 Commission considers such agreement unnecessary in this case, particularly given
5 provisions in the Alaska Statutes regarding incorporation and the provisions in the
6 Charter of the proposed City and Borough of Wrangell.
7

8 The Petition's three-page transition plan demonstrates the capacity of the
9 proposed Wrangell borough to extend borough services into the area proposed for in-
10 corporation in the shortest practicable time after incorporation. The transition plan in-
11 cludes a practical plan for the assumption of all relevant and appropriate powers,
12 duties, rights, and functions presently exercised by the City of Wrangell, and the State
13 of Alaska. The transition plan was developed in consultation with officials of the City of
14 Wrangell and the Southeast Alaska REAA. The transition plan provides a practical
15 plan for the transfer and integration of all relevant and appropriate assets and liabilities
16 of the City of Wrangell in an orderly, efficient, and economical fashion within the short-
17 est practicable time, not to exceed two years after incorporation.
18

19 Based on the findings above, the Commission concludes that a proper
20 plan for the orderly transition to borough government was provided.
21

22 **Section P. Formation of the proposed Wrangell borough will not have the effect**
23 **of denying any person the enjoyment of any civil or political right, including vot-**
24 **ing rights, because of race, color, creed, sex, or national origin.**

25 Two provisions of law relate to this particular standard. Those consist of
26 3 AAC 110.910, and 3 AAC 110.630(a). Those laws state:

27 A petition will not be approved by the commission if the effect of the
28 proposed change denies any person the enjoyment of any civil or political

1 right, including voting rights, because of race, color, creed, sex, or national
2 origin. (3 AAC 110.910.)

3 -----
4 (a) Except as provided in (b) or (c) of this section, a final decision
5 of the commission is effective when

6 (1) notification of compliance with 42 U.S.C. 1973c (Voting Rights
7 Act of 1965) is received from the United States Department of Justice;

8 (2) certification of the legally required voter approval of the com-
9 mission's final decision is received from the director of elections or the ap-
10 propriate municipal official; and

11 (3) 45 days have passed since presentation of the commission's fi-
12 nal decision on a legislative review petition was made to the legislature
13 and the legislature has not disapproved the decision. (3 AAC 110.630(a).)

14 -----
15 The Commission makes the following findings regarding whether forma-
16 tion of the proposed Wrangell borough will have the effect of denying any person the
17 enjoyment of any civil or political right, including voting rights, because of race, color,
18 creed, sex, or national origin. No evidence has been presented in this proceeding to
19 indicate that proposed incorporation of the Wrangell borough will have the purpose or
20 effect of discriminating based on race, color, creed, sex, or national origin. The pro-
21 posed incorporation of the Wrangell borough does not have a retrogressive purpose or
22 effect with regard to any civil or political right, including voting rights, because of race,
23 color, creed, sex, or national origin.

24 Moreover, no evidence has been presented in this proceeding to suggest
25 that proposed incorporation of the Wrangell borough will have the purpose or effect of
26 discriminating against a language minority group. The vast majority of the proposed
27 Wrangell borough lies within the Wrangell-Petersburg Census Subarea Tract 3. (Union
28 Bay is in Tract 3, but Meyers Chuck is in the Outer Ketchikan Census Subarea.) No

1 minority language groups covered by the federal Voting Rights Act exist in those re-
2 gions.

3 Based on the findings above, the Commission concludes that formation of
4 the proposed Wrangell borough will not have the effect of denying any person the en-
5 joyment of any civil or political right, including voting rights, because of race, color,
6 creed, sex, or national origin.
7

8 **III. ORDER OF THE COMMISSION**

9 On the basis set out in the above “Findings and Conclusions” portion of
10 this Statement of Decision, the Commission determines that the Petition meets all ap-
11 plicable standards under the State Constitution and Commission regulations, meets the
12 standards for incorporation under AS 29.05.031, and is in the best interests of the
13 State. Accordingly, the Commission approves, without amendment or conditions, the
14 *Petition to the Local Boundary Commission for Incorporation of the City and Borough of*
15 *Wrangell, a Unified Home-Rule Borough*. Unless a timely request for reconsideration is
16 granted under 3 AAC 110.580, or reconsideration is ordered on the motion of the
17 Commission under 3 AAC 110.580, the Commission Chair shall immediately notify the
18 Director of Elections for the State of Alaska of the Commission’s acceptance of the Pe-
19 tition.
20

21 Under AS 29.05.110, within 30 days after such notification, the Director of
22 Elections shall order an election in the area of the proposed borough to determine
23 whether the voters desire borough incorporation and, if so, to elect the initial borough
24 officials. The election shall be held not less than 30 or more than 90 days after the
25 date of the election order. The election order must specify the dates during which
26 nomination petitions for election of initial officials may be filed.
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The initial elected officials of the borough assembly shall consist of one borough mayor and six borough assembly members. The mayor serves as an *ex officio* assembly member¹⁷ and serves for a three-year term, as provided in Section 3.04(B) in the *Home Rule Charter of the City and Borough of Wrangell* (Charter). As provided in Sections 3.04 of the *Charter*, each assembly member shall be elected at large. As provided in Section 3.03 of the *Charter*, a candidate for the assembly shall be a qualified voter of the proposed Wrangell borough and a resident of the area within the proposed Wrangell borough for at least one year preceding the election. As provided in Section 3.04(B) of the *Charter*, except for the first assembly elected, the term of office of an assembly member is three years and until a successor qualifies. As provided in AS 29.05.120, the initial members of the borough assembly, other than the mayor who is elected to a three-year term, shall draw lots as follows: two one-year terms, two two-year terms, and two three-year terms.

As provided in Sections 5.09 in the *Charter*, there shall be a Wrangell port commission, which shall be composed of five members, elected at large at regular borough elections. The term of office of port commission members is three years. As provided in Section 18.05 in the *Charter*, the initial members of the port commission shall be elected as set forth in AS 29.05.110 and .120. Those elected at that initial election shall draw lots as follows: one one-year term, two two-year terms, and two three-year terms.

Chapter 3.32 of the Wrangell Municipal Code addresses the elected hospital board that will need to be included in the borough formation election. This board is known as the “Wrangell Medical Center and Long-Term Care Facility Board”

¹⁷Hereafter, the term “assembly member” includes the mayor.

1 (Medical Board). This board was expanded to seven members at the October 2007
2 regular election. Members shall be elected by the voters to serve four-year terms and
3 until a successor qualifies. As provided in AS 29.05.120, the initial members of the
4 Medical Board shall draw lots as follows: one one-year term, two two-year terms, two
5 three-year terms, and two four-year terms.

6
7 As set forth in Section 13.02(C) in the *Charter*, the term of office of a
8 school board member shall be three years and until a successor qualifies. As provided
9 in Section 18.04 in the *Charter*, the initial borough school board shall be elected as set
10 forth in AS 29.05.110 and .120. As provided in AS 14.12.050(a), those elected at that
11 initial election shall draw lots as follows: one one-year term, two two-year terms, and
12 two three-year terms.

13
14 Under AS 29.05.120, nominations for initial municipal officials are made
15 by petition. The petition must be in the form prescribed by the Director of Elections and
16 must include the name and address of the nominee and a statement of the nominee
17 that the nominee is qualified under the provisions of the Alaska Statutes for the office
18 that is sought. A person may file for and occupy more than one office but may not
19 serve simultaneously as borough mayor and as a member of the assembly. If the vot-
20 ers approve the proposition to incorporate, the initial elected officials take office on the
21 first Monday following certification of their election. A qualified voter who is registered
22 to vote within the proposed City and Borough of Wrangell at least 30 days before the
23 date of the election order may vote.

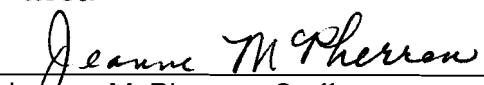
24
25 Under AS 29.05.110, areawide borough powers included in the Petition
26 are considered to be part of the incorporation question. The home-rule charter in-
27 cluded in the Petition is considered to be part of the incorporation question. The home-
28

1 rule charter is adopted if the voters approve incorporation of the Wrangell borough.
2 Under AS 29.05.140, upon incorporation, the home-rule charter of the Wrangell bor-
3 ough, a unified home-rule borough, operates to dissolve all municipalities in the bor-
4 ough.

5 As prescribed by AS 29.05.110, the Director of Elections shall supervise
6 the election in the general manner prescribed by AS 15 (Election Code). The State of
7 Alaska shall pay all election costs.

8
9 Approved in writing this 17th day of December, 2007, by Commissioners
10 Ketchum, Harcharek, Zimmerle, Chrystal, and Wilson.

11 
12 By: Kermit Ketchum, Chair

13
14 **Attest:**
15 
16 Jeanne McPherron, Staff

17
18 **RECONSIDERATION BY THE COMMISSION**

19 Within eighteen days after this decision becomes final under 3 AAC
20 110.570(g), any person may file a request for reconsideration of the decision. The laws
21 governing reconsideration provide as follows:

22 3 AAC 110.580. Reconsideration (a) Within 18 days after a
23 written statement of decision is mailed under 3 AAC 110.570(f), a per-
24 son or entity may file an original and five copies of a request for re-
25 consideration of all or part of that decision, describing in detail the
26 facts and analyses that support the request for reconsideration.

27 (b) Within 20 days after a written statement of decision is
28 mailed under 3 AAC 110.570(f) , the commission may, on its own mo-
29 tion, order reconsideration of all or part of that decision.

1 (c) A person or entity filing a request for reconsideration shall
2 provide the department with a copy of the request for reconsideration
3 and supporting materials in an electronic format, unless the depart-
4 ment waives this requirement because the person or entity requesting
5 reconsideration lacks a readily accessible means or the capability to
6 provide items in an electronic format. A request for reconsideration
7 must be filed with an affidavit of service of the request for reconsidera-
8 tion on the petitioner and each respondent by regular mail, postage
9 prepaid, or by hand-delivery. A request for reconsideration must also
10 be filed with an affidavit that, to the best of the affiant's knowledge, in-
11 formation, and belief, formed after reasonable inquiry, the request for
12 reconsideration is founded in fact, and is not submitted to harass or to
13 cause unnecessary delay or needless expense in the cost of process-
14 ing the petition.

15 (d) If the person or entity filing the request for reconsideration is
16 a group, the request must identify a representative of the group.

17 (e) The commission will grant a request for reconsideration or,
18 on its own motion, order reconsideration of a decision if the commis-
19 sion determines that

20 (1) a substantial procedural error occurred in the original
21 proceeding;

22 (2) the original vote was based on fraud or misrepresen-
23 tation;

24 (3) the commission failed to address a material issue of
25 fact or a controlling principle of law; or

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

28 (f) If the commission does not act on a request for reconsidera-
29 tion within 20 days after the decision was mailed under 3 AAC
30 110.570(f) , the request is automatically denied. If it orders reconsid-
31 eration or grants a request for reconsideration within 20 days after the
decision was mailed under 3 AAC 110.570(f) , the commission will al-
low a petitioner or respondent 10 days after the date reconsideration
is ordered or the request for reconsideration is granted to file an origi-
nal 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 elec-
tronic format.

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(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.

In summary, reconsideration may be granted or ordered only if (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.

JUDICIAL APPEAL

A judicial appeal of this decision may be made under the Alaska Rules of Appellate Procedure, Rule 601, *et seq.* An appeal to the Superior Court must be made within thirty days after the last day on which reconsideration can be ordered.