
Part 2. Whether Borough Incorporation Promotes “A Minimum Number of Local Government Units”

In addition to promoting maximum local self-government, article X, section 1 of Alaska’s Constitution encourages a minimum number of local government units.

Only one local government – the home-rule City of Wrangell - currently serves any residents of the proposed City and Borough of Wrangell. The 1,911 residents of the City of Wrangell make up 94.7 percent of DCCED’s estimate of the population of the proposed borough (2,017).³⁴ The geographic size of the City of Wrangell (71 square miles) represents only two percent of the area within the proposed City and Borough of Wrangell which totals 3,465 square miles.³⁵

The proposed City and Borough of Wrangell promotes a minimum of local government units by creating one local government to provide basic municipal services in the area, including education, planning, platting, land use regulation, taxation and collection of taxes, volunteer search and rescue services, police, borough hospital, boat harbor, library, incarceration facilities, economic development planning, and parks and recreation. Most of those services were previously provided by two separate government entities: the City of Wrangell, and in the case of platting outside the boundaries of the City of Wrangell, the State of Alaska.

The City and Borough of Wrangell will assume the assets, liabilities, facilities and bonded indebtedness of such facilities of the City of Wrangell. According to the Petition, on page 3 of Exhibit E: “In order to provide for orderly transition from the City of Wrangell to the City and Borough of Wrangell, the city and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the city under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.”

Given these circumstances, DCCED concludes that the pending proposal serves to minimize the number of local governments serving the residents of the greater area of the proposed City and Borough of Wrangell.

Background on the Minimum Number of Local Government Units Clause

In 1971, the Alaska Supreme Court concluded that unification of local governments serves the minimum of local governments clause in article X, section 1. The ruling stemmed from a challenge by the former home-rule City of Douglas regarding the unification of local governments in the greater Juneau area. The Court’s holding in that case that “[u]nification is

³⁴ DCCED’s population figures are based on more recent data and are therefore different from the population figures cited by the Petitioner for the proposed borough (2,445) and for the City of Wrangell (2,308) found at p. 9, Exhibit H of the Petition, which were largely based on the 2000 U.S. Census.

³⁵ According to p. 4 of the Petition, the area proposed for incorporation is estimated to encompass 2,582 square miles of land and 883 square miles of tidelands and submerged lands, a total area of 3,465 square miles.

consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units” is relevant and applicable to the pending proposal to incorporate the City and Borough of Wrangell as a unified home-rule borough and to dissolve the home-rule City of Wrangell. The Court stated in 1971:

Appellants further contend that unification is barred by an implied constitutional requirement that cities not be dissolved in favor of boroughs.^[36] On this theory appellants challenge the constitutionality of AS 29.85.170, which provides that upon ratification of the unification charter, local government units within the unified area are dissolved. We think appellants’ challenge is for the most part disposed of by our discussion pertaining to the constitutionality of AS 29.85.160(c). Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units. Article X, section 2 merely authorizes but does not require the coexistence of cities and boroughs. In view of the express constitutional policy of minimizing the number of local government units, the grant to the legislature of the power to decide on the manner of dissolution of cities, found in article X, section 7, and the absence of either an explicit ban against unification, or a persuasive basis for inferring such a prohibition, we hold AS 29.85.170 constitutional.

(City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, 1044 (Alaska 1971).)

In 1991, at the request of the Alaska Municipal League, the Alaska Legislature established the Task Force on Governmental Roles to define optimum federal, State, and local responsibilities in providing public services in Alaska. The Task Force was charged with three principal tasks, one of which was to review “the most efficient means of funding public services.” (See Governor’s Office of Management and Budget and the Alaska Municipal League, Task Force of Governmental Roles – Final Report, p. 5, July 10, 1992). The Task Force concluded with regard to local governmental efficiencies that:

Another main organizational thrust embodied in the state constitution is to develop a streamlined system of local government. There are four available means of unification. The first is conventional unification. Juneau, Sitka and Anchorage chose to unify and Fairbanks and Ketchikan have both considered and rejected this approach. The second is a merger in which one or more municipalities merge into an existing municipality with the latter becoming the surviving municipality. The third is consolidation, where one or more

³⁶ [Footnote 22 in original] The Constitutional provisions from which appellants infer a bar against unification are art. X, §§ 1, 2, 4, 7, 9, and 13. These six sections provide, respectively, that (1) the purpose of the local government article is to “provide for maximum local self-government with a minimum of local government units”; (2) “[a]ll local government powers shall be vested in boroughs and cities”; (4) cities are to be represented on borough assemblies; (7) cities are to be incorporated, merged, consolidated, and dissolved as provided by law and shall be part of the boroughs in which they are located; (9) home rule charters may be repealed by the voters of the city or borough having the charter; (13) cities may transfer powers or functions to boroughs unless prohibited by law or charter and may revoke the transfers. Appellants’ argument is that these sections show that their draftsmen contemplated the continuation of cities within boroughs rather than the swallowing up of the former by the latter.

municipalities consolidate into a new unit of government with all of the former units disappearing. This is the method that was looked at by the City of Kodiak and Kodiak Island Borough and is currently being explored by the Ketchikan Gateway Borough and the City of Ketchikan. The fourth method involves cities within a borough dissolving under the procedures set out in Title 29 whereby the borough succeeds to the responsibilities of the dissolved cities. This is currently being examined by the Northwest Arctic Borough. The Task Force endorses all of these methods.

Unification of borough and city administrations should be encouraged wherever possible for more efficient and cost-effective service delivery.

(*Id.* p. 15.)

Boroughs were first formed in Alaska during the 1960s. The 1970 census indicated that nearly 50 percent of Alaskans who lived in organized boroughs also lived within city governments. Today, that figure stands at 16.7 percent. It is a testament to the effectiveness of Alaska's constitutional policy of promoting city and borough consolidation that more than one-third of all organized boroughs in Alaska (6 of 16) have no city governments within them and that more than 83 percent of organized borough residents receive municipal services exclusively from their borough government.

A. The legal standard.

Article X, section 1 of the Alaska Constitution reads as follows:

Purpose and Construction. 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.)

B. The minimum number of local government units constraint favors boroughs that are large enough to prevent too many subdivisions in Alaska.

Article X, section 1 of the Alaska Constitution constrains the number of local government units. The Alaska Supreme Court termed the provisions in article X, section 1 to be, "an express constitutional policy of minimizing *the number of* local government units." (*City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040, 1044 (Alaska 1971), emphasis added.)

The constitutional constraint on the number of local government units is an important factor in the character of borough government. Principles articulated by the Local Government Committee at the Constitutional Convention included that "in the formation of the new areawide government units [boroughs] . . . should be large enough to prevent too many subdivisions in Alaska . . . [and] should cover large geographic areas with common economic, social, and political interests." (Victor Fischer, *Alaska's Constitutional Convention*, p. 119 (1975).)

The proposed City and Borough of Wrangell would be the sixth largest in area among Alaska’s seventeen organized boroughs. Table 2-1 lists the size of existing and proposed boroughs and the proposed expansion of the Ketchikan Gateway Borough.

C. In 1963, the Legislature passed, and the Governor signed, a law citing the Minimum-of-Local-Government-Units Clause as a basis for mandatory boroughs.

As noted earlier in this report, the Alaska Legislature, with the formal endorsement of Governor Egan, mandated formation of organized boroughs in eight regions of Alaska. The sponsor of the measure, Representative John L. Rader emphasized that “The Legislature, the Courts and the Executive are bound by the local government article to provide maximum local self-government with a minimum number of local government units and tax levying jurisdictions.” (*Supplement to House Journal*, p. 3, February 25, 1963, (emphasis added).) Representative Rader stressed that the intent of the legislature was to accomplish the constitutional purpose set out in article X, section 1. (*Id.*, p. 5.)

Section 1 of the 1963 law mandating borough formation specifically cited the provisions of article X, section 1 of the Constitution as a fundamental basis for the action.

Section 1. **Declaration of Intent.** It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation.

| Borough | Size (Square Miles) |
|---|----------------------------|
| Skagway Borough | 443 |
| Bristol Bay Borough | 850 |
| Municipality of Anchorage | 1,940 |
| Haines Borough | 2,730 |
| City and Borough of Juneau | 3,248 |
| <i>Proposed Wrangell Borough</i> | <i>3,465</i> |
| City and Borough of Sitka | 4,530 |
| <i>Proposed Deltana Borough</i> | <i>5,892</i> |
| <i>Ketchikan Gateway Borough (proposed expanded)</i> | <i>6,453</i> |
| Fairbanks North Star Borough | 7,430 |
| City and Borough of Yakutat | 9,251 |
| Kodiak Island Borough | 12,150 |
| Denali Borough | 12,610 |
| Aleutians East Borough | 15,020 |
| Kenai Peninsula Borough | 21,330 |
| Matanuska-Susitna Borough | 25,260 |
| Lake & Peninsula Borough | 29,560 |
| Northwest Arctic Borough | 39,150 |
| North Slope Borough | 94,770 |
| Median of existing and proposed boroughs | 7,430 |
| Median of existing boroughs | 9,251 |
| Average of existing and proposed boroughs | 15,583 |
| Average of existing boroughs | 16,590 |
| Source for existing boroughs: DCCED Borough Boundaries Map, March 13, 2007. | |

With the exception of planning and zoning, education, and tax collection and assessments, all powers granted the first-class boroughs are exercised at the option of the borough assemblies.

Chapter 52, Session Laws of Alaska 1963, (emphasis added).

The Legislature clearly endorsed boundaries encompassing large and natural regions for the eight regions listed in the 1963 Mandatory Borough Act. Of the eight boroughs formed under the Mandatory Borough Act, four were created with boundaries defined in the Act itself. Those were boroughs encompassing the greater Anchorage area, the Kenai Peninsula, the Matanuska-Susitna area, and the greater Fairbanks area. The average size of those boroughs was approximately 16,420 square miles.³⁷ Through the local action option allowed under the Mandatory Borough Act, the LBC approved boundaries for the other four boroughs that were smaller than those prescribed in the Mandatory Borough Act. In the case of the greater Ketchikan area, the LBC approved boundaries encompassing slightly more than one-quarter of the area proposed by the Legislature. In the case of Sitka, the Mandatory Borough Act designated boundaries that encompassed Angoon, Jamestown Bay, Mt. Edgecumbe, Sitka, and Tenakee. Boundaries approved for a Sitka borough under the local action option encompassed a considerably smaller area.

D. Conclusion: Incorporation of the City and Borough of Wrangell would comport with the minimum-of-local-government-units constraint.

Regarding the minimum-number-of-local-government-units constraint, the newly adopted LBC regulations at 3 AAC 110.982(1) provide:

Among the factors to be consider in determining whether a proposed boundary change comports with the minimum-number-of-local-government-units constraint of art. X, sec. 1, Constitution of the State of Alaska, the commission will consider (1) for borough incorporation, whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests.

In terms of the minimum-of-local-government-units constraint, it is noteworthy that incorporation of the Wrangell Borough (a unified municipality) will result in the concurrent dissolution of the City of Wrangell. Thus, the number of local governments will not increase. While the number will remain static, the size of the jurisdictional area of the local government unit serving the greater Wrangell area will grow from 71 square miles (the size of the territory within the City of Wrangell) to 3,465 square-miles.

³⁷ All four of those boroughs have undergone some boundary changes since 1964. However, only one borough has undergone significant change in terms of size. The Fairbanks North Star Borough boundaries originally encompassed 17,151 square miles, but currently encompass only 7,430 square miles. Based on the original boundaries of the Fairbanks North Star Borough and the current boundaries of the Anchorage, Kenai Peninsula, and Matanuska-Susitna area boroughs, the average size of those four boroughs originally was 16,420 square miles.

The Alaska Constitution and 3 AAC 110.982(1) promote boroughs that embrace large and natural regions. The area within the proposed Wrangell Borough is larger than five existing organized boroughs (Skagway Borough, Bristol Bay Borough, Municipality of Anchorage, Haines Borough, and City and Borough of Juneau). Based on the discussion and findings above, DCCED concludes that the Wrangell borough incorporation proposal would comport with the minimum-number-of-local-government-units constraint in article X, section 1 of the Alaska Constitution.

Part 3. Whether the Boundaries of the Proposed Unified Borough Are Suitable

The boundaries of any proposed borough must satisfy the applicable boundary standards for incorporation:

- include multiple communities (at least two) as required by 3 AAC 110.045(b), unless there is a specific and persuasive showing of a sufficient level of interrelationship in the proposed borough;
- conform to the boundaries of the existing regional school district (REAA boundaries) in accordance with 3 AAC 110.060(c);
- do not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b);
- do not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e);
- encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d);
- conform generally to natural geography and include all areas necessary for full development of essential municipal services as required by AS 29.05.031(a)(2) and 3 AAC 110.060(a);
- embrace an area and population with common interests to the maximum degree possible as required by article X, section 3 of the Alaska Constitution; and
- encompass a population that is interrelated and integrated as to its social, cultural, and economic activities as required by AS 29.05.031(a)(1) and 3 AAC 110.045(a); and is also interrelated and integrated as to its social, cultural, and economic characteristics as further required by 3 AAC 110.045(a).

A. The boundaries of any proposed borough must include multiple communities (at least two) as required by 3 AAC 110.045(b), unless there is a specific and persuasive showing of a sufficient level of interrelationship in the proposed borough.

The Alaska Administrative Code, under 3 AAC 110.045(b), requires that there be multiple *bona fide* communities in the proposed borough, as defined by 3 AAC 110.990(5) and determined under 3 AAC 110.920, unless a specific and persuasive showing is made that a sufficient level of interrelationship exists with fewer than two communities.

State law implies that any city government is a community.³⁸ Absent a specific and persuasive showing to the contrary, the city government of Wrangell is reasonably presumed to be a community by law. Therefore, the home-rule City of Wrangell automatically meets the standard for a community. Factors considered in determining the existence of a “community” include the number of residents; the population density; the location and number of schools, commercial establishments and other service centers; and unimpeded public access and the right to reside there.

For purposes of the LBC, the term “community” is defined in 3 AAC 110.990(5) as “a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920.”

The Petitioner claims that the City of Wrangell and Meyers Chuck are two *bona fide* communities in the proposed borough that fulfill the requirements of 3 AAC 110.045(b). The Petitioner correctly cites the 2000 Census population figure of 21 residents in Meyers Chuck, and stated that the Meyers Chuck and Union Bay area combined had a population of “approximately 23 persons.” (See population figures, discussion, and Table 2-1 in Part 2 of Chapter 2 of this report.) However, the population of the proposed borough has declined significantly since the 2000 Census – as much as 17.2 percent in some areas of the proposed borough. The State Demographer estimates the 2006 population of Meyers Chuck is 11 residents. Seven residents of Union Bay applied for Permanent Funds in 2006. Given these more recent populations estimates, on its face, the Meyers Chuck and Union Bay area combined does not have the requisite 25 or more permanent residents to qualify as a community as defined by 3 AAC 110.990(5) and determined under 3 AAC 110.920.

However, the lack of at least two communities in the proposed borough is not fatal to the Petition. Even if multiple communities are not found to be present in the proposed borough, the legal requirements of 3 AAC 110.045 can be satisfied if a sufficient level of interrelationship exists with fewer than two communities. After careful study, DCCED concludes that a sufficient level of interrelationship exists in this case, even though there are fewer than two communities in the proposed borough. (See the discussion below in G and H in regard to the proposed borough having an interrelated and integrated population and area with common interests.)

B. The boundaries of any proposed borough must conform to the boundaries of the existing regional school district (REAA boundaries) in accordance with 3 AAC 110.060(c).

The proposed Wrangell Borough boundaries do not conform to REAA boundaries. However, the REAA boundaries are not suitable in this case to serve as boundaries for a solitary borough.

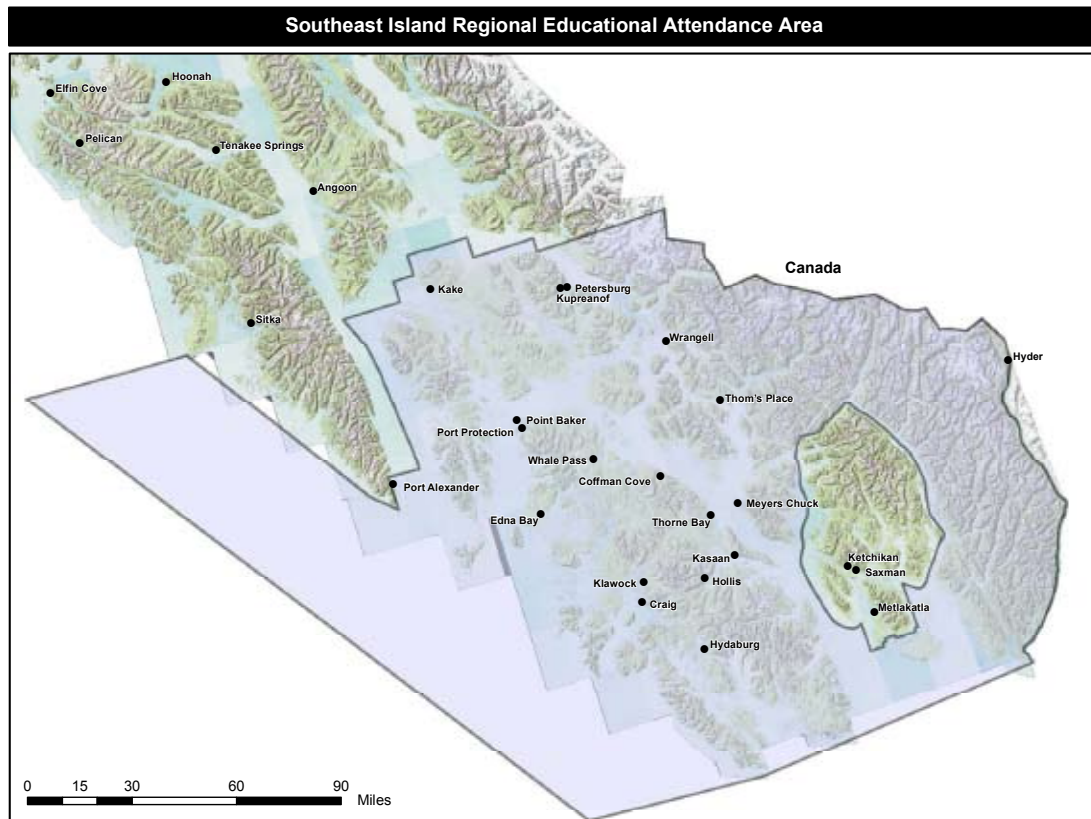
The provisions of 3 AAC 110.060(c) state:

³⁸ See AS 29.05.011, AS 29.05.021 and 3 AAC 110.005.

The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of education and early development, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

The area proposed for incorporation, including the territory inside the boundaries of the City of Wrangell, lies within the Southeast Island Regional Educational Attendance Area (REAA).³⁹ The Southeast Island REAA encompasses that portion of the unorganized borough in the southern portion of Southeast Alaska, with the exception of the Annette Island REAA. The Southeast Island REAA boundaries are described as follows:

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



³⁹ Under AS 14.08.031, the entire unorganized borough, including first-class cities and home-rule cities, is divided into REAAs. AS 14.12.010 and AS 29.35.260(b) relate only to the delegated authority for local school administration in first-class cities and home-rule cities in the unorganized borough. Neither of those statutes changes the boundaries of REAAs. REAA boundaries are established by DCCED, which also serves as Staff to the Commission under AS 44.33.020(4). Further, 3 AAC 110.990(13), adopted by the LBC on April 30, 2007, defines "Regional Educational Attendance Area" as "an educational service area established in the unorganized borough under AS 14.08.031 by the department and includes the territory within the boundaries of a home rule city, first class city, or federal transfer regional educational attendance area in that area."

In terms of the applicable standard, it is significant that the LBC concluded long ago that the Southeast Island REAA does not represent suitable boundaries for a lone borough. Using borough boundary standards in the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code, the LBC defined the area within the Southeast Island REAA to comprise three entire model boroughs plus and a portion of a fourth. More specifically, the Southeast Island REAA encompasses:

1. An estimated 4,906 square miles within model borough boundaries defined by the LBC for the Ketchikan Gateway Borough.⁴⁰
2. An estimated 7,180 square miles identified by the LBC as the Prince of Wales Island Model Borough.
3. An estimated 6,484 square miles demarcated by the LBC as the Wrangell-Petersburg Model Borough.
4. The southern portion of the 3,304 area defined by the LBC as the Chatham Model Borough.

It is noteworthy that the Assembly of the Ketchikan Gateway Borough concurs that the Southeast Island REAA boundaries are not suitable for a solitary borough. In fact, the Ketchikan Borough Assembly concurs with the determination by the LBC in 1991 regarding model boundaries for the Ketchikan Gateway Borough.⁴¹ Obviously, voters in the greater Wrangell area also consider the boundaries of the Southeast Island REAA to be ill suited for a lone borough. Moreover, there are indications that voters in the greater Petersburg area are contemplating a borough proposal.

Beyond the circumstances addressed above, DCCED also recognizes that 3 AAC 110.060(c) allows the LBC and the Commissioner of DEED to evaluate the impact that a particular borough incorporation might have in terms of efficiencies and economies of scale in the delivery of educational services. For example, if the boundaries of a proposed borough include only a portion of the schools in a particular school district, there may be cause for concern that the proposal would adversely impact the capacity of the school district serving the remaining schools to be inefficient and ineffective.⁴² That is not the case here. All of the publicly educated students living in the proposed Wrangell Borough are presently served by the City of Wrangell School District or another district operating correspondence study. In other words, as shown in the table below, the number of schools served by the Southeast Island REAA will not change if the proposed Wrangell Borough is created.

⁴⁰ In a separate preliminary report dated June 30, 2007, DCCED recommended approval of the pending petition for annexation of 4,701 square miles of the area to the Ketchikan Gateway Borough.

⁴¹ The Ketchikan Gateway Borough's pending petition for annexation of 4,701 square miles seeks to defer annexation of 205 square miles of the area within its model borough boundaries.

⁴² In the case of the pending Ketchikan Gateway Borough annexation proposal, approval of the proposal would create a 205-square mile enclave in and around Hyder. The Southeast Island REAA operates a school at Hyder. The creation of the enclave, like the incorporation of a Wrangell Borough, would not alter the number of schools served by the Southeast Island REAA. DCCED took the position regarding the Ketchikan annexation proposal that concern over the creation of a Hyder enclave need arise only in the event of the creation of a Prince of Wales Island Borough.

| School | Model Borough in Which the School is Located |
|--|---|
| Hollis School | Prince of Wales Island |
| Howard Valentine School (Coffman Cove) | Prince of Wales Island |
| Hyder School | Ketchikan Gateway Borough |
| Kasaan School | Prince of Wales Island |
| Naukati School | Prince of Wales Island |
| Port Alexander School | Prince of Wales Island |
| Port Protection School | Prince of Wales Island |
| Thorne Bay School | Prince of Wales Island |

Balancing the standards for incorporation of a borough and considering the facts above, DCCED finds sufficient evidence to support a conclusion that the Southeast Island REAA boundaries do not represent an area that is best suited to the public interest and therefore, in this instance, smaller boundaries are appropriate.

DCCED recognizes, of course, that 3 AAC 110.060(c) requires the LBC to consult with the Commissioner of the Department of Education and Early Development (DEED) in terms of in terms of satisfaction of this standard. Notice of the filing of the Wrangell Petition was provided to the Commissioner of DEED on May 17, 2006. DEED did not comment on the Petition during the period of public comment on the proposal. DCCED will provide a copy of this report and the final report to DEED and invite that agency to comment on the preliminary report. Notice of the LBC's public hearing on the proposal will also be provided to DEED. Beyond that, DCCED will take any additional measures directed by the Commission to consult with DEED.

C. The boundaries of any proposed borough must not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b).

The provisions of 3 AAC 110.060(b) state:

Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.

The proposed boundaries of the City and Borough of Wrangell overlap the model borough boundaries of the KGB. In regard to the current competing KGB annexation proposal that claims the same 191-square mile area in the vicinity of Meyers Chuck and Union Bay, DCCED finds that Meyers Chuck and Union Bay have more in common with Ketchikan than Wrangell, and therefore recommends that the LBC amend the Wrangell Petition to exclude this area.

1) The 1963 Legislature Concluded That Meyers Chuck had More in Common With Ketchikan Than Wrangell.

The 1963 Alaska State Legislature defined boundaries for a prospective mandatory greater-Ketchikan-area borough to include Meyers Chuck. (See Section 3(a)(7) CSHB 90, Third Alaska State Legislature.) That action, on its face alone, warrants the presumption that the boundaries defined by the 1963 Legislature fully satisfied all constitutional and statutory standards for borough incorporation. Those standards included the constitutional mandate (still in place today) that “Each borough shall embrace an area and population with common interests to the maximum degree possible” (article X, section 12 of the Alaska Constitution).



Meyers Chuck

If the area and population of Meyers Chuck did not have greater interests in common with the area and population of Ketchikan compared to any other area and population in Alaska, including Wrangell, Section 3(a)(7) of SCHB 90 would have been unconstitutional and a violation of the statutory standards for borough incorporation.

It is significant that a majority of the 1963 legislators who defined the boundaries for a prospective mandatory greater-Ketchikan-area borough to include Meyers Chuck were also legislators during the enactment of the borough incorporation standards in 1961.⁴³ Further, eight members of the 1963 Legislature had been delegates to the Alaska Constitutional Convention.⁴⁴

⁴³ The 1961 Legislature enacted the first statutory standards for incorporation of organized boroughs (Chapter 146 SLA 1961). The following twelve individuals were part of both the twenty-member 1961 Alaska State Senate and the 1963 Alaska State Senate: Howard C. Bradshaw, Lester Bronson, John B. Coghill, Eben Hopson, Robert J. McNealy, James Nolan, Alfred A. Owen, Frank Peratrovich, Brad Phillips, Vance Phillips, W.O. Smith, and Pearse M. Walsh. The following twenty-three individuals were part of both the forty-member 1961 Alaska State House of Representatives and the 1963 Alaska State House of Representatives: Edgar L. Baggen, Forbes L. Baker, C.M. Binkley, Robert R. Blodgett, William K. Boardman, Frank E. Cashel, Raymond C. Christiansen, Robert I. Ditman, Jay S. Hammond, Arthur J. Harris, Gilbert A. Jarvela, Bruce Kendall, Walter L. Kubley, Bennie Leonard, John E. Longworth, James C. Parsons, Grant H. Pearson, Morgan W. Reed, William H. Sanders, Jacob A. Stalker, Harold D. Strandberg, Dora M. Sweeney, and Warren A. Taylor. Additionally, Harold Z. Hansen was a member of the 1961 House of Representatives and the 1963 Senate.

⁴⁴ The former delegates in the 1963 Senate were Senators John B. Coghill, Yule F. Kilcher, Robert J. McNealy, James Nolan, Frank Peratrovich, and W. O. Smith. The former delegates that were members of the 1963 House of Representatives were Representatives Dora M. Sweeney and Warren A. Taylor.

2) In 1963, Governor Egan Concurred with the Legislature That Meyers Chuck had More in Common With Ketchikan Than Wrangell.

Following passage of CSHB 90 by the 1963 Legislature, then-Governor Egan did not veto the measure nor did he simply allow it to become law without his signature. Instead, Governor Egan signed CSHB 90 into law as Chapter 52 SLA 1963. By doing so, the chief executive of the State of Alaska affirmatively embraced the action of the 1963 Legislature, including the definition of boundaries for the prospective mandatory greater-Ketchikan-area borough.

It is notable that article III, section 16 of the Alaska Constitution provides that “The governor shall be responsible for the faithful execution of the laws.” By signing CSHB 90 into law, Governor Egan faithfully executed the statutory standards for borough incorporation and the constitutional mandate that each borough embrace an area and population with common interest to the maximum degree possible.

3) In 1991, the LBC Determined that the 191-Square Mile Area in Question had More in Common with Ketchikan Than Wrangell.

After applying borough boundary standards in the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code, the LBC in 1991 formally defined model borough boundaries for the Ketchikan Gateway Borough. Those boundaries encompass the 191-square mile area common to both the pending Wrangell and Ketchikan petitions. Thus, the LBC concluded in 1991 that the people and area within the 191 square miles have more in common with the people and area of the existing Ketchikan Gateway Borough than any other part of Alaska. The model borough boundaries are formally established in law under regulations adopted by the LBC.

4) In 1999, the LBC Determined that the 191-Square Mile Area in Question had More in Common with Ketchikan Than Any Other Adjacent Portion of the Unorganized Borough.⁴⁵

In 1998, the Ketchikan Gateway Borough petitioned for annexation of nearly all of the area within its model boundaries. The exception was the exclusion of 17.9 square miles in and around Hyder and 3.5 square miles in and around Meyers Chuck. The LBC rejected the annexation proposal, in part, because it did not include Meyers Chuck. The Commission expressly concluded that the applicable legal standards, including those set out in the Alaska Constitution, required Meyers Chuck to be within the boundaries of the Ketchikan Gateway Borough.

In its 1999 written decision regarding the annexation proposal, the LBC made the findings and conclusions regarding the omission of Meyers Chuck:

“One of the ways to access the northwestern portion of the territory proposed for annexation is to travel through Meyers Chuck.” (LBC, *Statement of Decision in the Matter of the February 28, 1998 Petition of the Ketchikan Gateway Borough for Annexation Of 5,524 Square Miles*, p. 5, April 16, 1999.)

⁴⁵ As reflected in the quotes below, the LBC stated in 1999 that Meyers Chuck has more in common with Ketchikan than it does with any other “select adjacent portion of the unorganized borough.” The 1999 LBC recognized ties between Meyers Chuck and Prince of Wales Island, but in their deliberations, they never recognized any ties between Meyers Chuck and Wrangell.

“Meyers Chuck appear[s] to be integrated into the transportation and communication system centered in Ketchikan. For example, DCRA reported that there were 249 commercial passenger enplanements in Meyers Chuck during 1996 (equivalent to eight enplanements per resident, which is higher than that found in many communities in Southeast Alaska). According to DCRA, an official from the Alaska Department of Transportation stated that it was reasonable to assume that virtually all of the 249 passengers were destined for Ketchikan. Regarding communications, DCRA reported that approximately 40% of the occupied homes in Meyers Chuck subscribe to the *Ketchikan Daily News*.” (*Id.*)

“Meyers Chuck (located approximately 40 air miles from Ketchikan) may be considered by some to be distant from Ketchikan. However, communities in many other organized boroughs in Alaska are separated by far greater distances.” (*Id.*)

“The . . . communication and exchange standard set out in 19 AAC 10.160(b) is satisfied, albeit minimally. The exclusion of Hyder and Meyers Chuck from the annexation proposal significantly diminishes the extent to which this standard is met.” (*Id.*, p.6.)

“The western boundaries followed various natural waterways (e.g., along the mid-point of Clarence Strait), with the exception of the exclusion of Meyers Chuck.” (*Id.* 7.)

“Consideration of existing and reasonably anticipated transportation patterns in the context of this standard raised the same concerns for the Commission that were noted previously with respect to the standard dealing with the communication and exchange necessary for development of integrated borough government. Here again, it appears that Hyder and Meyers Chuck are key links to portions of the territory proposed for annexation.” (*Id.* 8.)

“The exclusion of Hyder and Meyers Chuck from the annexation proposal precludes the satisfaction of the requirement that the Borough conform generally to natural geography and include all areas necessary for full development of municipal services on an efficient, cost-effective level.” (*Id.*)

“[T]he Borough’s model boundaries also reflect the application of all borough boundary standards and relevant constitutional principles to the pertinent facts in the Borough’s circumstances. In the record, there is insufficient justification for deviation from those model boundaries here. If the Borough’s annexation proposal were approved, the Borough would have little or no incentive to further extend its boundaries to include Hyder and Meyers Chuck.” (*Id.* 9.)

“[T]he territory proposed for annexation has a great deal in common with the Borough. Existing State House Election District 1 conforms closely to the proposed new boundaries of the Borough. However, Election District 1, like the Borough’s model boundaries, includes Hyder and Meyers Chuck. The area

proposed for annexation also conforms substantially to the “Outer Ketchikan Census Subarea” of the “Prince of Wales-Outer Ketchikan Census Area.” Hyder and Meyers Chuck are included in that subarea as well.” (*Id* 11.)

“[T]he territory proposed for annexation includes most of the Cleveland Peninsula. That area is used by the residents of Ketchikan and surrounding communities for subsistence hunting, fishing, and primitive recreation. Meyers Chuck is also located on Cleveland Peninsula.” (*Id.*)

“In 1963, the Legislature determined that the territory proposed for annexation, plus Hyder and Meyers Chuck, was suitable for inclusion within the Borough under the terms of the Mandatory Borough Act.” (*Id* 12.)

“There are strong ties between the Borough and both Hyder and Meyers Chuck. Common ties concerning transportation and communication were addressed previously. Beyond that, the Borough identified four factors that it considered to be of “particular importance” in demonstrating the close ties between it and the territory proposed for annexation. Those factors related to: (1) election districts, (2) recording districts, (3) borough government boundaries as mandated by the 1963 legislature, and (4) model borough boundaries. However, each and every one of those four factors also links the Borough to Meyers Chuck and Hyder. Other common interests linking the Borough to Hyder and Meyers Chuck include natural geography and census sub-area boundaries. Medical care is another area in which there are common interests since both Hyder and Meyers Chuck are within the “Primary Service Area” of the Ketchikan General Hospital.” (*Id.*)

“Given the extreme diversity of the unorganized borough, coupled with the social, cultural, economic, geographic, transportation, and other ties between the Borough and the area proposed for annexation, the territory unquestionably has stronger ties to the Borough than it does to the rest of the unorganized borough. Even if a comparison is made between a select adjacent portion of the unorganized borough (e.g., Prince of Wales Island) versus the Borough, the territory still exhibits stronger ties to the Borough.” (*Id.*) (Emphasis added.⁴⁶)

“While annexation would better satisfy the constitutional mandate for the Borough’s boundaries to encompass maximum common interests than is the case currently, the constitution calls for boundaries to embrace an area of common interests “to the maximum degree” possible. Without Meyers Chuck and Hyder, this standard cannot be met.” (*Id.*)

⁴⁶ Again, it is noteworthy that the 1999 LBC stressed that the area and population of Meyers Chuck had more in common with Ketchikan than it did with any “select adjacent portion of the unorganized borough (e.g., Prince of Wales Island).” It is especially notable that ties between Meyers Chuck and Wrangell were not even reflected in the LBC’s deliberations.

[T]he need for municipal government is not limited to the area proposed for annexation. That area includes Meyers Chuck and Hyder as well. When planning is conducted around those communities, special focus should be given to how activities in the adjacent region will affect those communities. As such, the Borough's annexation proposal significantly undercuts its own ability to effectively address planning needs by excluding Meyers Chuck and Hyder." (*Id* 13.)

"There are no schools in the territory proposed for annexation. However, here again, the Borough undermines its own annexation proposal by excluding Meyers Chuck and Hyder. The State would be left with the responsibility for the education of students in those communities." (*Id.*)

"Because the annexation petition excludes Hyder and Meyers Chuck, the Commission considers the proposal to fail in terms of promoting maximum local self-government." (*Id* 14.)

5) The Area and Population Within the 191-Square Miles Continues to Have the Strong Ties to Ketchikan Cited by the LBC in 1999.

The common ties between the area and people of Meyers Chuck and Ketchikan identified by the LBC in 1999 remain in place today. Examples of these continued ties are provided below.

- Following the 1999 LBC decision, State House Election District boundaries in Alaska were adjusted on the basis of the 2000 federal census in accordance with article VI of the Alaska Constitution and AS 15.10.300. Meyers Chuck and Union Bay continue to be in the same State House election district as the area within the existing boundaries of the KGB (House Election District 1). In contrast, most of the inhabited portions of the proposed Wrangell Borough are in adjoining House District 2.
- Meyers Chuck remains in the Outer Ketchikan Census Subarea. In contrast, the proposed Wrangell Borough lies principally within the Wrangell-Petersburg Census Area.
- The National Forest lands in the vicinity of Meyers Chuck and Union Bay are managed by the Ketchikan Ranger District. The Ketchikan Ranger District headquarters and personnel are based in Ketchikan.
- To the extent that the Federal government develops or improves lands in the Meyers Chuck and Union Bay area, it is likely that the area and people within the boundaries of the existing Ketchikan Gateway Borough that will provide the majority of infrastructure, goods, and services for their improvement.
- Alaska Department of Fish and Game (ADF&G) boundaries link Meyers Chuck and Ketchikan. According to ADF&G data, Game Management Unit 1A is used primarily by Ketchikan residents. For example, 81% of the 523 hunters engaged in deer hunting in Unit 1A listed Ketchikan as their community of residence. In addition, according ADF&G commercial fisheries data, 94% of subsistence salmon and personal use permits (218 total) issued within the area proposed for annexation (principally Yes Bay) were issued to residents of the existing Borough. Hunters

residing in Ketchikan who participated in the survey reported that they hunted in Game Management Units 1A, 1B, 2, 3, 4, and perhaps other areas (“unknown”). Hunters residing in Meyers Chuck who participated in the survey reported that they hunted in both Game Management Units 1A and 1B, as well as Game Management Unit 3 and perhaps other areas (“unknown”). Hunters residing in Wrangell did not report that they hunted in Game Management Units 1A.

- Emergency medical service patient transportation pattern links Meyers Chuck with the Ketchikan General Hospital. DHSS indicated further that Meyers Chuck has three volunteer Emergency Medical Technicians in the summer and one “First-Aider with AED [Automated External Defibrillators]” in the winter. In 2006, Dr. Anthes, a medical doctor in Ketchikan, was listed as the Meyers Chuck EMS Medical Director.
- Meyers Chuck reliably receives radio signals from Ketchikan which carry news and other items of local and regional interest. DCCED’s Community Database lists only two radio stations as serving Meyers Chuck. Those are KTKN-AM and KRBD-FM, both based in Ketchikan. No station based in Wrangell is listed as serving Meyers Chuck.
- Only one of the few households in Meyers Chuck subscribes to the *Ketchikan Daily News*. None subscribes to the *Wrangell Sentinel*.
- The Ketchikan International Airport, which is operated by the Ketchikan Gateway Borough, provides facilities serving residents of Meyers Chuck in traveling to destinations outside of the region. Aviation firms based in Ketchikan provide air transportation from Ketchikan to the area proposed for annexation, including Ketchikan. According to the Ketchikan Gateway Borough, data show that there were 210 regularly scheduled passenger trips, 3,648 pounds of freight, and 13,609 pounds of mail on flights from Ketchikan to Meyers Chuck in 2004. Additionally, the same statistics indicated that there were 88 trips, 335 pounds of freight, and 221 pounds of mail on flights from Meyers Chuck to Ketchikan. DCCED contacted Sunrise Aviation, the only air carrier in Wrangell that has the capacity to serve Meyers Chuck. Other than to state that it does not offer regular passenger service to Meyers Chuck, Sunrise Aviation representatives declined to make any statement regarding the extent, if any, to which Sunrise Aviation serves Meyers Chuck.

6) Current Law Creates a Presumption Against Inclusion of the 191-Square Mile Area in the Proposed Wrangell Borough.

As noted many times, the 191-square mile area common to both the Ketchikan and Wrangell boundary proposals lies exclusively within the model borough boundaries of the Ketchikan Gateway Borough. The provisions of 3 AAC 110.060(b) state, “Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.”

The LBC is barred from including the 191-square mile area in a Wrangell Borough unless the Wrangell petitioners make “a specific and persuasive showing” to the contrary. Stated another way, the Local Boundary Commission lawfully must be wary and skeptical when evaluating whether to include the 191-square mile area in the proposed Wrangell Borough.

DCCED finds no evidence, let alone a “specific and persuasive showing” that the area and people within the 191-square mile area have more in common with Wrangell as contrasted with Ketchikan.

7) In the Ketchikan Gateway Borough’s 1998 annexation proposal that included Meyers Chuck, the City of Wrangell did not object.

The City of Wrangell objected to a 1998 Ketchikan Gateway Borough annexation proposal to extend the Borough’s boundaries to encompass all of the area within its model borough boundaries except for a 3.5-square mile area in and around Meyers Chuck and a 17.9-square mile area in and around Hyder.

The City of Wrangell’s stated objection in 1998 dealt solely with the concern that annexation of territory to the Ketchikan Gateway Borough would reduce National Forest Receipts payments to cities and regional educational attendance areas located in the Tongass National Forest portion of the unorganized borough, including, of course, the City of Wrangell.⁴⁷ See City of Wrangell Resolution No 3-98-717.

It is particularly noteworthy the 1998 Ketchikan annexation proposal included more than 98 percent of the 191-square mile area common to both the pending Wrangell petition and the pending Ketchikan Gateway Borough annexation proposal. That is, 187.5 square miles of the 191 square miles overlapping area was proposed for annexation to the Ketchikan Gateway Borough in 1998. The City of Wrangell did not assert that the area and population in question had greater interests in common with Wrangell compared to Ketchikan.

8) The Alaska Department of Natural Resources Central/Southern Southeast Area Plan, adopted November, 2000, includes Meyers Chuck and Union Bay in the Ketchikan Planning Region (and in the Ketchikan-Cleveland Peninsula Subregion) rather than in the Wrangell Planning Region.

The Petitioner uses DNR’s Map of the Wrangell Planning Region in DNR’s *Central/Southern Southeast Area Plan*⁴⁸ as justification for the boundary of the proposed borough, separating it from the Petersburg Planning Region. However, Meyers Chuck and Union Bay, located on the Cleveland Peninsula, are included in the Ketchikan Planning Region, rather than in the Wrangell Planning Region.

⁴⁷ If the proposed Wrangell borough is formed, it would reduce National Forest Receipts payments to cities and regional educational attendance areas located in the Tongass National Forest portion of the unorganized borough. DCCED estimates that a Wrangell Borough would have received a National Forest Receipts payment of \$958,795 in FY 07 (\$814,976 would have been paid to the borough and \$143,819 would have remained with the US Forest Service for Title II projects). That compares to a FY 07 National Forest Receipts payment of \$725,437 to the City of Wrangell with \$117,454 staying with the USFS for Title II projects.

⁴⁸ Attachment 14 to Petitioner’s Supporting Brief in Exhibit H, referred to on p. 46 of the Petitioner’s Brief.

D. The boundaries of any proposed borough must not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e).

The provisions of 3 AAC 110.060(e) state:

If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping region from the existing organized borough.⁴⁹ The commission will consider and treat that petition for incorporation as also being a detachment petition.

The area within proposed Wrangell Borough is wholly within the unorganized borough. The proposed borough boundaries do not overlap any part of an existing organized borough so this prohibition is adhered to.

E. The boundaries of any proposed borough encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d).

The proposed boundaries for the City and Borough of Wrangell do not contain enclaves, so this requirement is satisfied.

F. The boundaries of any proposed borough must conform generally to natural geography and include all areas necessary for full development of essential municipal services.

The 191 square-mile area in the vicinity of Meyers Chuck and Union Bay is on the Cleveland Peninsula and is part of the Ketchikan Gateway Borough's model boundaries. A body of water – Ernest Sound – separates Etolin Island from the Cleveland Peninsula. Therefore, natural geography excludes Meyers Chuck and Union Bay from the proposed borough. Other than this 191 square-mile area, the petition for the incorporation of the City and Borough of Wrangell – on a scale suitable for borough government – proposes boundaries that conform generally to natural geography. The geographic area of the proposed Wrangell Borough, which comprises an estimated 3,465 square miles, is of a scale suitable for borough government. With the exclusion of Meyers Chuck and Union Bay, the remaining 3,274 miles proposed for incorporation is of a scale suitable for borough government.

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

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: . . . 2) the [must have] boundaries [that] of the proposed borough or unified municipality

⁴⁹ AS 29.06.040(a) and 3 AAC 110.270 establish standards for detachment. Procedures for detachment are set out in AS 29.06 and 3 AAC 110. Those provisions are not listed here.

conform generally to natural geography and include all areas necessary for full development of municipal services. (AS 29.05.031(a)(2)) (Emphasis, de-emphasis, and clarification added.)

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

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

G. The boundaries of any proposed borough must embrace an area and population with common interests to the maximum degree possible as required by article X, section 3 of the Alaska Constitution.

Background Regarding Article X, Section 3 of the Alaska Constitution

The Alaska Supreme Court has characterized Article X, Section 3 as a “constitutional mandate” that each borough embrace an area and population with common interests to the maximum degree possible. Further, the Supreme Court has stated that the LBC must apply the statutory standards for borough incorporation in the context of that key constitutional provision. Specifically, the Court stated:

To avoid conflict with the constitutional mandate that each borough “embrace an area and population with common interests to the maximum degree possible,” the provisions of AS 29.05.100(a) dealing with the rejection, acceptance, and alteration of proposed boroughs must be interpreted to require that the LBC apply the statutory standards for incorporation in the relative sense implicit in the constitutional term “maximum degree possible.” In other words, AS 29.05.100(a) must be construed to mean that, in deciding if the statutory standards for incorporation have been met, the LBC is required to determine whether the boundaries set out in a petition embrace an area and population with common interests to the maximum degree possible.

Petitioners for Incorporation of City and Borough of Yakutat, v. Local Boundary Commission, 900 P.2d 721, 725 (Alaska 1995).

H. The boundaries of any proposed borough must encompass a population that is interrelated and integrated as to its social, cultural, and economic activities; and is also interrelated and integrated as to its social, cultural, and economic characteristics.

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

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law. (Art. X, sec. 3 of the Alaska Constitution) (Emphasis and de-emphasis added.)

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

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

- (1) compatibility of urban and rural areas within the proposed borough;
- (2) compatibility of economic lifestyles, and industrial or commercial activities;
- (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) extent and accommodation of spoken language differences throughout the proposed borough. (3 AAC 110.045(a))

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

[A] 'community' means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920. (3 AAC 110.990(5))

Determination of community. (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the

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

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

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

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if

(1) public access to or the right to reside at the location of the population is restricted;

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

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

Wrangell's petition to incorporate 3,465 square miles as the City and Borough of Wrangell, and the Ketchikan Gateway Borough's petition for annexation of a 4,701 square-mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (KGB), both claim the same 191 square-mile area in the vicinity of Meyers Chuck and Union Bay.

Eight reasons listed under section "C" explain why the 191 square-mile area in the vicinity of Meyers Chuck and Union Bay has more in common with Ketchikan than with Wrangell. Based on the evidence in this incorporation proceeding and the pending proceeding for annexation to the Ketchikan Gateway Borough, DCCED concludes that only 95 percent of the area proposed for incorporation as the Wrangell Borough share common interests to the maximum degree possible. Therefore, DCCED concludes that the remaining 191 square-mile area and the population in the vicinity of Meyers Chuck and Union Bay on the Cleveland Peninsula have greater interests in common with Ketchikan as compared to Wrangell. That 191-square mile area is within the Ketchikan model borough boundaries and is currently proposed for annexation to the Ketchikan Gateway Borough.

The remaining 3,274 square miles proposed for borough incorporation embraces an area and population with common interests to the maximum degree possible and, on a scale suitable for borough government, has a

population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities. Educational services have long been provided to the area. Therefore, residents of the proposed Wrangell Borough have shared common interests on a regional scale with respect to educational services.

The transportation and communication network facilitates the administration of education and communication between settlements that comprise the area. Identifiable geographic features are used to describe the boundaries of the area proposed for incorporation. For the most part, the proposed boundaries include whole islands, rather than portions thereof.

Furthermore, most of the services (such as education) and facilities provided by the City of Wrangell are already areawide in nature, both in terms of the contributions of human and financial resources necessary to provide those services and facilities, as well as in terms of the use of or benefit from those services and facilities by residents of the entire region. Wrangell is used as a consumer hub.

The area within the proposed Wrangell Borough lacks multiple bona fide communities as determined under 3 AAC 110.920.⁵⁰ We can overcome the presumption in 3 AAC 110.045(b) that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough through a higher level of proof (“a specific and persuasive showing”) that the proposed Wrangell Borough meets the Community of Interests Standard. In that regard, we find the residents of the proposed borough have strong ties with respect to social, cultural, and economic characteristics and activities, enough to overcome the presumption in 3 AAC 110.045(b). There exists among residents of the proposed City and Borough of Wrangell a compatibility of urban and rural areas, including compatibility of economic lifestyles, and industrial, or commercial activities. There also exists throughout the proposed borough transportation and communication patterns that reflect, on a scale suitable for borough government, a population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities. Lastly, the geographic area of the proposed borough, which comprises an estimated 3,274 square miles (excluding Meyers Chuck and Union Bay), is of a scale suitable for borough government.

Based on the findings above, DCCED concludes that the proposed City and Borough of Wrangell embraces an area and population with common interests to the maximum degree possible and, on a scale suitable for borough government, has a population that is interrelated and integrated with respect to social, cultural, and economic characteristics and activities.

While DCCED has concluded here and elsewhere that the proposed City and Borough of Wrangell boundaries satisfy all applicable standards, we express our awareness, however, that each time a new borough is formed from the unorganized borough, it naturally diminishes the

⁵⁰ Commissioner Hicks expressed the conclusion that Whitestone and Healy Lake are both closed communities in the sense that there is not unimpeded public access to or the right to reside there. He indicated further that there is a lack of frequent personal interaction between residents of Whitestone and the immediately adjoining properties. Moreover, he characterized the Whitestone Community Association as a contrivance created for purposes of securing permits for developments of the local landfill.

size of the unorganized borough. There is some degree of concern among us that a future LBC is going to look back at what was done here, and in actions taken by earlier commissions and question whether the Commissioners did not create some economic orphans in the unorganized borough. Anytime a borough is formed, it captures certain resources and may put the adjoining region at a disadvantage. It is fitting in this context to recognize remarks by Senator Gary Wilken of Fairbanks, during the February 27, 2007, meeting of the Senate Community and Regional Affairs Committee:

[The LBC] is the most difficult and most under-appreciated commission that I know of in State government. It is so important that it is in our Constitution, and [the Framers of our Constitution] had the vision that local government is the best government. It has been difficult to move us ahead. Most of us – we’re worried about what’s around the corner. This commission, the Local Boundary Commission, is charged with looking what’s over the horizon. We think about the next election; they’re charged with thinking about the next generation and beyond. That’s really, really difficult especially when you deal with issues that carry a lot of dogma and a lot of angst about change; and that is what we’re talking about – change. Not change for today, but change for the next generation. We’re the only state in the nation with unorganized areas. So, as much as people would like to ignore local government, it does work. It is the bedrock of our system in America, and it will be, over time, the bedrock of our system in Alaska. This commission is charged with some very difficult decisions.

. . . .

It seems to me that we’re at a spot here that we can make our state a bunch of little boroughs – and when we do that we disenfranchise – we don’t bring to the surrounding area, whatever that may be – the benefit of the discussion – of the tension of local government. We’re at the point – and we just passed that first milestone, and we’re heading for Donlin Creek [within the prospective Kuspuk region borough] – perhaps we may be headed for Delta – where we carve out the little enclaves of wealth. And those little wealthy areas are very happy because they’ll have a big tax base and they’ll provide very little, if anything, of local support that comes out of their wallets. In the meantime, the people that are carved out, the people that aren’t considered because we’re thinking what is around the corner and not what’s over the horizon -- those people, twenty years from now or forty years from now, will look back and say, “How come? What happened back there that we’re not a part of that?” And, so, we’re asking these five people to look over that horizon.

Part 4. Whether the Population of the Proposed Borough Is Large and Stable Enough to Support Borough Government

AS 29.05.031(a)(1) and 3 AAC 110.050(a) require that the population of a proposed borough must be large and stable enough to support borough government. Additionally, 3 AAC 110.050(b) creates a presumption that at least 1,000 permanent residents must live in the proposed borough.

According to the State Demographer, the 2006 estimated population of the proposed Wrangell Borough is 2,017 residents. That figure is obviously well above the minimum 1,000 person threshold set out in 3 AAC 110.050(b).

The population of Alaska's 16 organized boroughs ranged from a low of 618 (Yakutat) to a high of 278,241 (Anchorage).

The 2005 mean population of the 16 organized boroughs, (before Skagway became the State's 17 organized borough in 2007) was 36,392. That figure was skewed by the Anchorage borough, which accounted for 47.8 percent of Alaska's organized borough population. Without the Anchorage borough, the 2005 mean population of the remaining 15 organized boroughs was 20,269. The 2005 median population of all 16 organized boroughs was 8,135.

Based on the foregoing, DCCED concludes that the population of the proposed borough is certainly large enough to support borough government.

Based on the population figures for the proposed City and Borough of Wrangell, DCCED concludes that the proposed borough has a population large and stable enough to satisfy the requirements set out in AS 29.05.031(a)(1) and 3 AAC 110.050.

| Area | Petitioner's Estimate | 2000 Census | Estimate Used by DCCED |
|-----------------------------------|------------------------------|--------------------|---|
| City of Wrangell | 2,308 | 2,308 | 1,911 (397 or 17.2 percent less than Petitioner's figure and 2000 Census) |
| Thoms Place | 22 | 22 | 7 (15 or 68.2 percent less than Petitioner's figure and 2000 Census) |
| Balance of Census Subarea Tract 3 | 94 | 88 | 88 (the same as the 2000 Census figure) |
| Meyers Chuck | 21 | 21 | 11 (10 or 47.6 percent less than Petitioner's figure and 2000 Census) |
| Total | 2,445 | 2,439 | 2,017 (428 or 17.5 percent less than the Petitioner's figure; 422 or 17.3 percent less than the 2000 Census figure) |

The Petitioner estimates that the proposed Wrangell Borough has a population of 2,445 residents, including 2,308 residents in the City of Wrangell and “an additional 116 persons residing within the remainder of the U.S. Census Bureau’s Wrangell-Petersburg Census Subarea Tract 3.” (Exhibit H, pp. 9 – 10.) The Petitioner states further that Thoms Place, which is included in Tract 3 outside the City of Wrangell, has a population of 22. (Id.)

In the table above, DCCED listed 22 residents of Thoms Place separately in the column for the Petitioner’s estimate, and reduced the Petitioner’s stated estimate for the balance of Tract 3 by the same number (from 116 to 94). DCCED also listed 21 as the Petitioner’s estimate of the population for Meyers Chuck. The Petitioner stated that the Meyers Chuck and Union Bay area combined had a population of “approximately 25 persons.” (Id.) Union Bay is in Tract 3, but Meyers Chuck is in the Outer Ketchikan Census Subarea. The total of the figures listed in the table above for the Petitioner’s estimated population equals the figure stated in the Petition.

The most current population figures indicate that the population of the proposed borough has declined significantly since the 2000 Census. The State Demographer estimates that the 2006 population of the City of Wrangell was 1,911. That represents a drop of 397 or 17.2 percent compared to the Petitioner’s figure and the 2000 Census figure. The State Demographer estimates that the 2006 population of Thoms Place is 7, which represents a loss of 15 or 68.2 percent compared to the 2000 Census. The State Demographer also estimates that the 2006 population of Meyers Chuck is 11. That represents a decline of 10 residents or 47.6 percent compared to the Petitioner’s figure and 2000 Census. The State Demographer does not have a 2006 estimate for the balance of Census Subarea Tract 3. Given the population losses of 17.2 percent or more in all other areas of the proposed borough, it is likely that the population for the remainder of the area also declined. However, since no official figure is available for the remainder of the proposed Borough, DCCED used the 2000 Census figure of 88 for purposes of its analysis in this Preliminary Report. Thus, DCCED’s total estimated population of the proposed Wrangell Borough for 2006 is 2,017. That figure is 428 or 17.5 percent less than the Petitioner’s figure. It is also 422 or 17.3 percent less than the 2000 Census figure.

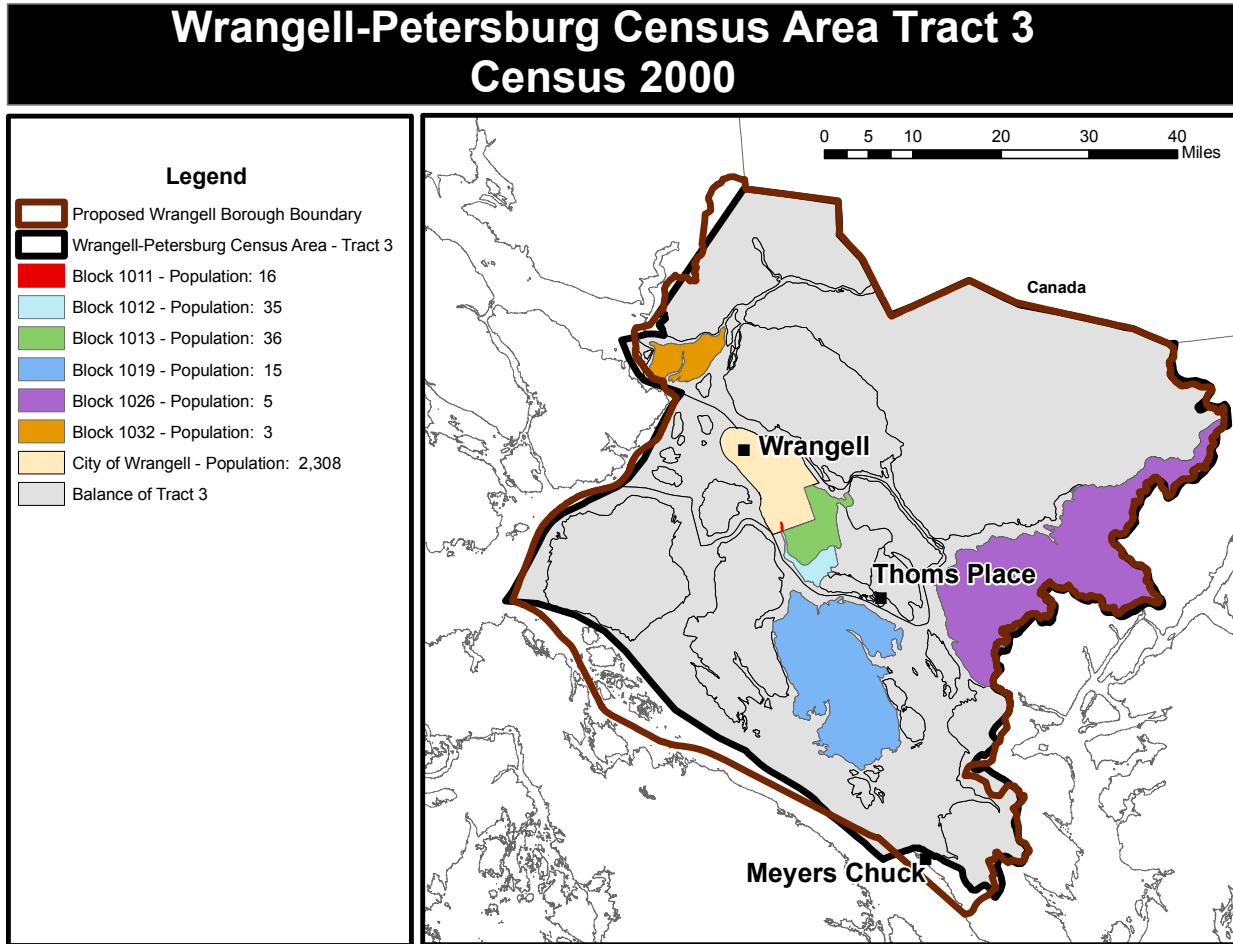
The map on the following page illustrates the population distribution of the 2000 Census block groups and census blocks in Census Tract 3 of the Wrangell-Petersburg Census Area. Block Group 1 is the area outside the City of Wrangell and Thoms Place CDP boundaries.

The general geographic description of census blocks is as follows:

Block 1011: The southern boundary is the City of Wrangell boundary; Zimovia Highway is the eastern boundary; Zimovia Strait is the western boundary; and Pat Creek is the northern boundary.

Block 1012: Thom’s Lake Trail is the southern boundary; and then easterly along Vista Thoms Lake Road and connecting to the Zimovia Highway to McCormack Creek Road as the eastern boundary. Zimovia Strait is the western boundary, and the City of Wrangell boundary is the northern boundary.

Block 1013: McCormack Creek Road is the southern boundary and Vista Thoms Lake Road is the eastern boundary. The Zimovia Highway is the western boundary, and the City of Wrangell boundary is the northern boundary.



Block 1019: Olive Cove and surrounding area.

Block 1026: Bradfield Canal is the northern boundary, while Seward Passage forms the western boundary. The Wrangell-Petersburg Census Area boundary is the eastern boundary, with a Point-to-Point (invisible) from the Santa Anna Inlet to the Wrangell-Petersburg Census Area boundary.

The Tye Lake Hydroelectric Project facility is located in Block 1026 – a large area.

Block 1032: All of Farm Island.

The 2000 Census also reported the following population:

| | |
|---|-------|
| Wrangell-Petersburg Census Area: | 6,684 |
| City of Wrangell (Block Groups 2, 3 & 4): | 2,308 |
| Thom’s Place CDP (Block 1016): | 22 |
| Census Tract 3:..... | 2,424 |

There are no 2006 census estimates for the blocks.

According to the census figures, the proposed Wrangell Borough – on a scale suitable for borough government – has a population that is large enough to support borough government. Several provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: (1) the [must have a] population of the area [that] is interrelated and integrated 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.)

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

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

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

DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – has a population that is large enough to support borough government. The boundaries of the proposed Wrangell Borough encompass an estimated 3,465 square miles. DCCED estimates that there were 2,017 residents of the proposed Wrangell Borough in 2006. This number exceeds 1,000 person threshold presumed by 3 AAC 110.050(b) to be a population of sufficient size to support borough government. Moreover, this population figure is greater than the 2005 populations of four of Alaska's sixteen organized boroughs that existed when the petition was filed. The average 2005 population for those six boroughs was 1,667, 82.6 percent of the size of the 2005 population of the proposed Wrangell Borough.

Based on the findings above, DCCED concludes that the proposed Wrangell Borough has a population that is large enough to support borough government.

A proposed borough – on a scale suitable for borough government – is required to have a population that is stable enough to support borough government. Several provisions of law relate to this particular standard. Those consist of AS 29.05.031(a)(1); 3 AAC 110.050(a); and 3 AAC 110.050(b). Those laws state:

An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality: (1) the [must have a] population of the area [that] is interrelated and integrated 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.)

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

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

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

As the graph of the City of Wrangell’s Census population history between 1880 and 2000 below shows, the population steadily climbed. The closing of the Alaska Pulp Corporation Sawmill in late 1994 resulted in a drop in population, since Wrangell’s economy is largely based on timber and commercial fishing. However, Silver Bay Logging bought the Alaska Pulp Corporation Sawmill and reopened in April 1998, with 33 employees.

According to a report prepared by Southeast Strategies, “The 1994 sawmill closure in Wrangell resulted in the layoff of 225 workers, or 20% of all wage employment. Wrangell’s total real payroll in 2000 remains 29% below the pre-mill closure level.”⁵¹ This report attributes the population loss in the Prince of Wales-Outer Ketchikan and Wrangell-Petersburg Census Areas to the decline in the timber harvest and manufacturing industries; a secondary cause is a slowing in the commercial fishing industry. In addition, the report says reductions in State and

⁵¹ “*Business Climate in Southeast Alaska Communities*,” prepared by Southeast Strategies for the Southeast Conference, June 2005.

federal funds available to communities and high fuel prices have curtailed municipal services offered and increased the cost of living in small communities, which has resulted in people moving away.

Economic activity in Southeast Alaska is addressed at p. 7 of the report:

Major economic sectors that bring money into Southeast Alaska from outside the region (basic industries) include commercial fishing, timber, mining, tourism, and some government jobs (mostly State and Federal government). Manufacturing is also considered a basic industry and is made up mostly of fish and timber processing businesses.

The most current population figures indicate that the population of the proposed borough has declined significantly since the 2000 Census. This decline is mirrored in the population loss in the Prince of Wales-Outer Ketchikan and Wrangell-Petersburg Census Areas.

Despite the population loss and the loss of jobs in the area, the economic forecast for the future of the proposed Wrangell Borough is guardedly optimistic. In an August 2007 study of the distressed community status of Alaska communities for the Denali Commission conducted by the Alaska Department of Labor and Workforce Development, Research and Analysis Section, they used employment and earnings information to determine the distressed community status for 2007. Wrangell was not determined to be a distressed community.

According to a population projection, by age and sex, for the years 2007 through 2030, for the Wrangell-Petersburg Census Area which includes most of the proposed City and Borough of Wrangell, the State Demographer projected the rate of decline of the population in that census area. The rate of decline was relatively stable.⁵²

Based on the findings above, it is reasonable to conclude that the size and stability of the population within the proposed City and Borough of Wrangell are sufficient to support the proposed borough. Therefore, in DCCED's view, the standards set out in 3 AAC 110.050(a) and 3 AAC 110.050(b) are satisfied.

Part 5. Whether the Economy of the Proposed Borough Includes the Human and Financial Resources Capable of Providing Municipal Services

AS 29.05.031(a)(3) provides that the LBC may approve the borough incorporation petition only if it determines that the economy of the proposed borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must be capable of providing essential borough services on an efficient, cost-effective level.

⁵² The DOLWD report is at <<http://www.labor.state.ak.us/research/pop/projections/AlaskaPopProj.pdf>>. The average annual percent change was -0.27% for 2006-2010; -0.60% for 2010-2015; -0.72% for 2015-2020; -0.88% for 2020-2025; and -1.01% for 2025-2030.

In applying these standards, the LBC is required to consider a number of factors. Those include the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation. The LBC is also required to consider the economic base; property valuations; land use; existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and personal income of residents of the proposed borough. Moreover, the LBC may consider other relevant factors, including the need for and availability of employable skilled and unskilled persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government. These considerations are discussed in great detail in Part 7 of this report. In Part 7, DCCED concludes that formation of the City and Borough of Wrangell is in the best interests of the State because the economy of the proposed borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must be capable of providing essential borough services on an efficient, cost-effective level. After studying the matter, DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – proposes boundaries that include all areas necessary for full development of essential borough services on an efficient, cost-effective level.

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

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

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

- (1) land use and ownership patterns;
- (2) ethnicity and cultures;
- (3) population density patterns;
- (4) existing and reasonably anticipated transportation patterns and facilities;

(5) natural geographical features and environmental factors; and

(6) extraterritorial powers of boroughs. (3 AAC 110.060(a)) (De-emphasis added.)

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

Determination of essential city or borough services. (a) If a provision of this chapter provides for the identification of essential borough services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the territory; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

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

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;⁵³

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

(4) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory. (3 AAC 110.970(a) and (b))

State law, AS 29.35.150 – 29.35.180, sets out the mandatory powers of organized boroughs:

⁵³ Under AS 14.12.010(2) and AS 29.35.160(a) education is a mandatory areawide borough power and may be determined by the LBC to be an “essential” borough service under § 970. AS 14.12.025 prohibits the creation of a new school district with fewer than 250 students absent a determination 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 standard in § 060(a).

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

Sec. 29.35.160. Education. (a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education and Early Development. However, operation of the military reservation schools by the borough school district may be required by the Department of Education and Early Development under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional 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.

(b) This section applies to home rule and general law municipalities.

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

(b) Taxes levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities.

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

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

In this proceeding, no evidence regarding land use and ownership patterns; ethnicity and cultures; population density patterns; existing and reasonably anticipated transportation patterns and facilities; natural geographical features and environmental factors; and extraterritorial powers of boroughs suggests that any powers or facilities beyond those set out in AS 29.35.150 – 29.35.180 are “essential borough services” for the area within the proposed Wrangell Borough. No portion of the proposed borough is non-contiguous or contains enclaves.

Based on the findings above, DCCED concludes that the proposed City and Borough of Wrangell – on a scale suitable for borough government – proposes boundaries that include all areas necessary for full development of essential borough services on an efficient, cost-effective level.

The Reasonably Anticipated Functions of the Proposed Borough

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.

DCCED concludes that the proposed Wrangell Borough – on a scale suitable for borough government – has an economy with the human resources necessary to provide essential borough services on an efficient, cost-effective level. The City of Wrangell has provided services to the region on an areawide basis for many years. The City has successfully operated and managed the cemetery, library, community center, museum, and other community buildings used by all residents of the area. Thus, the City of Wrangell has long demonstrated that it has the human resources necessary to serve the residents of the region. The City of Wrangell provided educational services, planning and zoning, and collected taxes. DCCED has confidence that the City and Borough of Wrangell will continue to provide all the essential services that the City of Wrangell has successfully provided in the past. The City of Wrangell has successfully operated since its incorporation in 1903. This proves that the residents of the region have the expertise and the level of commitment and interest necessary to sustain a borough government. The new borough will collect the proposed taxes and the National Forest Receipts, and will continue to provide essential and non-essential municipal services to residents. Analysis of the civilian workforce and the employable skilled and unskilled persons available to serve the proposed borough in Part 7 of this report indicates that the human resources are adequate to operate the borough. Based on these findings, DCCED concludes that the proposed Wrangell Borough, on a scale suitable for borough government, has an economy with the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level.

Part 6. Whether communications media and transportation facilities allow for the level of communications and exchange necessary to develop an integrated borough government.

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

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

The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission may consider relevant factors, including

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

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

DCCED and the Petitioner agree that nearly 95 percent of the population of the proposed Wrangell Borough currently resides within the 71-square miles encompassed by the existing boundaries of the City of Wrangell. Moreover, the Petitioner indicates that approximately 40 individuals (1.6 percent of the population of the proposed borough) live immediately outside the boundaries of the City of Wrangell in “Wrangell West,” an area connected to Wrangell by road. Thus, nearly 97 percent of the population of the proposed borough is concentrated in and immediately adjacent to the community of Wrangell. If the Meyers Chuck and Union Bay area were excluded from the Wrangell Borough proposal, it would increase the margin to just over 97 percent.

In addressing this standard, DCCED stresses that in the early 1970s, the Commission and Alaska Supreme Court both found the communications and transportation standard to be met for the North Slope Borough (NSB). At the time, the NSB encompassed approximately 97,121 square miles and was inhabited by 3,384 people. The population density of the North Slope at that time was 1 person per 29 square miles. It is difficult to imagine that any area of the state today is as lacking in transportation and communication facilities as was remote portions of the NSB when it incorporated in 1972. Point Hope, the westernmost community in the NSB, and Kaktovik, the easternmost community in the NSB, are separated by nearly 600 miles. Yet, regarding transportation and communication in the NSB 35 years ago, the Alaska Supreme Court concluded:

We are also satisfied that the transportation standard has been reasonably met. The dispute surrounds the language of AS 07.10.030(4):

The transportation facilities in the area proposed for incorporation shall be of such a unified nature as to facilitate the communication and exchange necessary for the development of integrated local government and a community of interests. Means of transportation may include surface (both water and land) and air. Areas which are accessible to other parts of a proposed organized borough by water or air only may not be included within the organized borough unless access to them is reasonably inexpensive, readily available, and reasonably safe. In considering the sufficiency of means of transportation within a proposed organized borough, existing and planned roads and highways, air transport and landing facilities, boats and ferry systems, and railroads, shall be included.

Regular travel among borough communities is available only by charter aircraft. Surface transportation is limited to dog teams and snowmachines. Even at this stage of development, we agree with the superior court that the Commission could reasonably have found travel facilities adequate to support borough government when present and future capacity is considered in the context of transportation in Alaska generally and compared to the present cost and availability of travel to centers of government which affect the lives of North Slope residents.

Mobil Oil v. Local Boundary Commission, p. 100.

Wrangell has well-developed communications and transportation facilities. According to DCCED's online Community Database,⁵⁴ Wrangell is served by two radio stations KSTK-FM and KRSA-AM. There is also a locally-published newspaper, the *Wrangell Sentinel*. This database says the City of Wrangell is accessible by air and water:

The State-owned 6,000 feet long by 150 feet wide paved lighted runway enables jet service. A seaplane base is adjacent to the runway. Scheduled air taxi services are also available. The marine facilities include a breakwater, deep draft dock, State Ferry terminal, two small boat harbors with 498 slips, and boat launch. Freight arrives by barge, ship, ferry and cargo plane.

With respect to the Meyers Chuck area, DCCED's Community Database states as follows regarding transportation to and from that settlement:

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

⁵⁴ <http://www.commerce.state.ak.us/dca/commdb/CF_BLOCK.htm>

The Ketchikan Gateway Borough's pending petition for annexation of 4,701 square miles, including Meyers Chuck and Union Bay, offers the following evidence regarding transportation ties between Ketchikan and Meyers Chuck:

The territory proposed for annexation is part of the region's air transportation system based in Ketchikan. The Ketchikan International Airport is located in Ketchikan and provides travel to destinations outside of the region. Float plane companies based out of Ketchikan provide air transportation from Ketchikan to the remote areas of the existing Borough, as well as to the territory to be annexed. Combined air carrier statistics to Meyers Chuck for 2004 (approximately 40 air miles distant) indicate 210 regularly scheduled passenger trips, 3,648 pounds of freight, and 13,609 pounds of mail out-bound and 88 trips, 335 pounds of freight, and 221 pounds of mail in-bound to Ketchikan. The disparity between outbound and in-bound passenger trips to Meyers Chuck most likely results from the use of personal watercraft for at least one of the trip legs between Ketchikan and Meyers Chuck.

Ketchikan Gateway Borough Annexation Petition, p. 63.

DCCED contacted Sunrise Aviation, the only air carrier in Wrangell that might serve Meyers Chuck. Other than to state that it does not have regular passenger service to Meyers Chuck, a representative of Sunrise Aviation declined to make any statement regarding the extent, if any, to which Sunrise Aviation serves Meyers Chuck. (Personal communication, June 5, 2007.)

DCCED also contacted the representatives of the *Ketchikan Daily News* and *Wrangell Sentinel* to determine the number of subscribers in Meyers Chuck. The *Ketchikan Daily News* indicated that there is one subscriber living in the settlement; the *Wrangell Sentinel* stated that no one in Meyers Chuck subscribes to its newspaper. (Personal communications, June 4, 2007.)

It is noted further that DCCED's Community Database lists two radio stations as serving Meyers Chuck. Those are KTKN-AM and KRBD-FM, both based in Ketchikan.

Based on the above findings, DCCED concludes that the area of the proposed Wrangell Borough – on a scale suitable for borough government – has the communications media and the land, water, and air transportation facilities to allow the communication and exchange necessary for the development of integrated borough government. However, the Cleveland Peninsula area encompassing Meyers Chuck and Union Bay has much stronger communications and transportation ties to the greater Ketchikan area compared to Wrangell.

Part 7. Whether the Proposed Borough Serves the Best Interests of the State

A. Introduction

AS 29.05.130(a) provides that the LBC may grant the borough incorporation petition only if the Commission determines that the proposal is in the best interests of the State. The LBC is guided by 3 AAC 110.065 and 3 AAC 110.980 in making the requisite best interests determination. Those provisions call for the LBC to consider whether the proposal promotes the constitutional principles of “maximum local self-government” and “a minimum number of local government units.” The regulations also allow consideration of other relevant factors.

Part 1 of this chapter presents DCCED’s extensive analysis of whether the proposed borough incorporation proposal promotes maximum local self-government. Based on that analysis, DCCED concluded earlier that the proposal does indeed serve that fundamental constitutional principle. In particular, the pending proposal would do so by attaining home-rule status for the unified borough. Currently, only the residents of the City of Wrangell (who comprise 94.7 percent of proposed borough population) exercise the powers of self-government in this home-rule city. Under the proposal, all the residents of the proposed unified borough will have the opportunity to enjoy home-rule status.

In Part 2 of this chapter of the report, DCCED analyzed whether the pending incorporation proposal fosters a minimum number of local government units. DCCED’s conclusion is that the proposal clearly serves that important constitutional principle.

In addition to the two critical constitutional principles, DCCED takes the position that the broad public interest is also served by promoting equity in the delivery of municipal services and also in promoting a governmental structure in which all residents have a voice in the delivery of municipal services to those residents.

The State encourages regions to assume and exercise local self-determination and provide municipal services that are funded and provided at the local level. This is in the best interest of the public statewide and is consistent with the constitutional intent regarding municipal government throughout the unorganized borough.

Based on the foregoing, DCCED concludes that the Wrangell unified home-rule borough proposal serves the best interests of the State. It promotes the constitutional principles favoring maximum local-self government and a minimum number of local government units. Furthermore, it would create a governmental structure in which all residents would have a voice in the delivery of local services. Therefore, the standards set out in AS 29.05.130(a), 3 AAC 110.065, and 3 AAC 110.980 are met by the Petition.

B. The Reasonably Anticipated Expenses of the Proposed Borough

State law requires that all petitions to the LBC include budget projections (3 AAC 110.420) for at least the first three years. In most instances, multi-year projections are necessary to gain a proper perspective of the long-term forecast for the proposal because transition measures can create significant fluctuations during the initial years. Additionally, a new borough is entitled to organization grants from the State during each of the first three years of operation that total \$600,000.

Reproduced below in Table 2-5 are the projected expenditures of the proposed borough during the first three full fiscal years:

Table 2-5: Petitioner's Proposed Expenditure Budget for the First Three Full Fiscal Years⁵⁵

| UNIFIED BOROUGH'S BUDGET - EXPENDITURES | | | | | |
|---|--------------------------------------|--------------------|--------------------|--------------------|----------------|
| City Activities within General Fund Budget | City FY 2005-2006 Approved Budget | FY 2007 Budget | FY 2008 Budget | FY 2009 Budget | |
| Finance | \$312,317 | \$318,500 | \$330,000 | \$340,000 | |
| Assessor | \$20,000 | \$35,000 | \$28,000 | \$22,000 | <i>Note 7</i> |
| Administration | \$531,879 | \$540,000 | \$550,000 | \$560,000 | |
| Communication | \$0 | \$25,000 | \$10,000 | \$10,000 | <i>Note 8</i> |
| Fire/Search & Rescue | \$268,563 | \$275,000 | \$285,000 | \$290,000 | <i>Note 9</i> |
| Police | \$681,639 | \$689,000 | \$715,000 | \$730,000 | <i>Note 10</i> |
| Jail Operations | \$371,722 | \$392,200 | \$408,000 | \$420,000 | |
| Public Safety Building | \$158,260 | \$159,905 | \$162,000 | \$165,000 | |
| Public Works | \$154,946 | \$161,700 | \$177,000 | \$190,000 | |
| Building Permits | \$0 | \$6,000 | \$6,000 | \$6,000 | <i>Note 11</i> |
| Streets | \$295,869 | \$310,000 | \$315,000 | \$320,000 | |
| Library | \$199,427 | \$207,000 | \$212,000 | \$220,000 | |
| Museum | \$90,000 | \$90,000 | \$90,000 | \$90,000 | |
| Community Promotion | \$117,320 | \$155,000 | \$155,000 | \$160,000 | |
| Planning & Zoning | \$26,660 | \$56,000 | \$40,000 | \$32,000 | <i>Note 12</i> |
| Parks & Cemetery | \$48,850 | \$59,000 | \$61,000 | \$63,000 | |
| Swimming Pool | \$152,560 | \$155,000 | \$160,000 | \$165,000 | |
| Education | \$1,379,796 | \$1,456,201 | \$1,452,590 | \$1,457,141 | <i>Note 13</i> |
| Capital | \$159,700 | \$150,000 | \$150,000 | \$150,000 | |
| Community Center | \$103,204 | \$110,000 | \$112,000 | \$115,000 | |
| Total | \$5,072,712 | \$5,350,506 | \$5,418,590 | \$5,500,141 | |
| Budget Surplus | \$45,626 | \$387,660 | \$255,562 | \$111,582 | |

⁵⁵ The Petitioner's Budget, along with the "NOTES," are reproduced in Appendix I.

School funding: For FY 2007, the City of Wrangell's required local contribution under AS 14.17.410(b)(2) was \$592,862. In addition to that figure, the City of Wrangell was permitted under AS 14.17.410(c) to make a further contribution equivalent to a two-mill levy on the full and true value of the taxable real and personal property in the borough as of January 1 of the second preceding fiscal year, or 23 percent of basic need, whichever is greater. The maximum additional contribution allowed under AS 14.17.410(c) for the City of Wrangell in FY 2007 was \$771,098. The sum of the required local contribution (\$592,862) and the maximum additional contribution allowed (\$771,098) is \$1,363,960. According to the Alaska Department of Education, the City of Wrangell budgeted \$801,352. It would appear that the projections in the petitioner's budget reflect the maximum allowed local contribution rather than the actual contribution. For FY 2007, the City of Wrangell's contribution was \$562,608 less than the maximum.

It is noteworthy that the Joint Legislative Education Funding Task Force is currently developing a proposal for increasing funding for school districts. Consequently, any projections based on current funding formulas will likely change significantly in the near future.

C. The Reasonably Anticipated Income of the Proposed Borough

Table 2-5 on the following page, shows the projected revenues of the proposed borough during the first three full fiscal years are set out in Exhibit D-1 of the Petition:

Table 2-5: Petitioner's Proposed Revenue Budget for the First Three Full Fiscal Years

| UNIFIED BOROUGH'S BUDGET - REVENUE | | | | | |
|--|--------------------------------------|--------------------|--------------------|--------------------|---------------|
| City Dept. Activities Within General Fund Budget Revenues: | City FY 2005-2006 Approved Budget | 2007 FY Budget | 2008 FY Budget | 2009 FY Budget | |
| Taxes | \$3,235,708 | \$3,375,000 | \$3,385,000 | \$3,395,000 | <i>Note 1</i> |
| Licenses & Permits | \$2,640 | \$2,700 | \$2,700 | \$2,700 | |
| State & Federal | \$147,961 | \$60,000 | \$60,000 | \$60,000 | <i>Note 2</i> |
| PILT - Federal | \$183,448 | \$200,000 | \$203,000 | \$206,045 | <i>Note 3</i> |
| PILT - Other | \$61,052 | \$61,000 | \$61,000 | \$61,000 | |
| Charges/Services | \$343,814 | \$345,000 | \$345,000 | \$350,000 | |
| Fines & Forfeitures | \$131,750 | \$132,000 | \$135,000 | \$140,000 | |
| Sales & Leases | \$111,200 | \$112,000 | \$113,000 | \$114,000 | |
| Timber Receipts | \$579,465 | \$825,466 | \$844,452 | \$862,978 | <i>Note 4</i> |
| Miscellaneous Income | \$71,300 | \$75,000 | \$75,000 | \$75,000 | |
| Grants | \$0 | \$300,000 | \$200,000 | \$100,000 | <i>Note 5</i> |
| Permanent Fund | \$250,000 | \$250,000 | \$250,000 | \$250,000 | <i>Note 6</i> |
| Total Revenues | \$5,118,338 | \$5,738,166 | \$5,674,152 | \$5,616,723 | |

National Forest Timber Receipts (also known as Title II funds): Fifteen percent of The Title II funds stay with the U.S. Forest Service and are administered by them on behalf of the City. The Cities of Wrangell and Petersburg formed a Resource Advisory Committee (RAC), a fifteen member organization, which selects the projects for the area utilizing the two cities' Title II project funds. At 9.956% of the Tongass National Forest within their proposed borough, the Wrangell Borough would have received a NFR payment of \$958,795 in FY 07; \$814,976 would have been paid to the borough and \$143,819 would have stayed with the USFS for Title II projects. As a city, Wrangell received a FY 07 NFR payment of \$725,437; \$607,983 was paid to the City of Wrangell, and \$117,454 stayed with the USFS for Title II projects.

The \$600,000 in State organizational grants that the new borough would receive is under "Grants" in the Revenue Budget. State law (AS 29.05.190(a)) entitles each newly incorporated borough to three organization grants. The first grant is \$300,000 for the borough's first full or partial fiscal year. The second grant is \$200,000 for the borough's second fiscal year, and the last grant is for \$100,000 for its third fiscal year.

The budget projection above does not include possible future revenue from any future lease or sale of Municipal Entitlement lands. Under AS 29.65.030(a), newly formed municipal governments are given a "general grant land entitlement [of] 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date."

The Petitioner estimates that the newly formed Wrangell Borough will be entitled to 2,424 acres:

Pursuant to completion of the Central/Southern Southeast Area Plan by the State Department of Natural Resources in 2000, it appears that the new borough's total municipal entitlement rights under AS 29.65.030 would approximate 2,424 acres. This will vary somewhat depending upon the level of federal conveyance of state selections which are completed within two years after incorporation of the borough, and upon any conveyances the State has made since the date of the area plan. The State's area plan leaves certain parcels of State lands in classifications eligible for municipal selection on Wrangell Island, Zarembo Island, Etolin Island, on the mainland east of Wrangell and near the head of the Bradfield Canal, and on the Cleveland Peninsula. The basis for the State's selection of many of these lands from the federal government was for community expansion. The borough's land entitlements would be relatively modest in relation to most other boroughs, but would enhance the prospects

for small settlements and private development in a region which has featured a chronic shortage of opportunities for private ownership outside the existing City of Wrangell.

D. The Ability of the Proposed Borough to Generate and Collect Local Revenue

Since its incorporation in 1903, the City of Wrangell has been responsible for the assessment and collection of revenues and fees within its boundaries, such as fees for community services, revenue from sales and leases, and collection of fines and forfeitures. The City has successfully operated and managed the library, museum, swimming pool, parks, cemetery, community center and other community buildings, and has maintained the roads. The City of Wrangell has long demonstrated its capacity to generate and collect local revenue, and to serve the residents of the region. Upon incorporation of the Wrangell unified home-rule Borough and the dissolution of the City of Wrangell, all services formerly provided by the City to the residents of the region will continue to be provided to the areas currently served.

E. The Feasibility and Plausibility of the Anticipated Operating Budget in the Third Fiscal Year of Borough Incorporation

Most of the projected revenue of the proposed consolidated borough is from sales and property taxes.

The taxes in Year Three will be \$3,395,000, which is 60 percent of the year's total revenues. Total revenues for Year Three are projected to be \$5,616,723. A summary of those projected revenues is provided in Table 2-5.

Expenditures in Year Three are projected to total \$5,505,141. Revenues are projected to be \$5,616,723. The difference between those two figures represents an overall projected surplus of \$111,582 for the third full year of operation of the City and Borough of Wrangell. The projected cumulative surplus for Year One through Year Three will be \$754,804.

Since the revenues exceed the expenditures resulting in a surplus of funds available for operation of the borough, not only in the third full fiscal year of operation but in the preceding years, DCCED concludes that the proposed budget and the City and Borough of Wrangell incorporation is fiscally viable.

F. The Economic Base of the Proposed Borough

Table 2-6 presents 2000 Census data regarding the occupations of employed civilians at least 16 years of age within the proposed Wrangell Borough area. Information is compiled for the Wrangell-Petersburg Census Area (of which the proposed borough comprises 32 percent of the population), and by localities in the proposed borough for which census data was available. The localities include the City of Wrangell, Thoms Place CDP⁵⁶, and Meyers Chuck CDP.

At the time of the 2000 Census, the employed civilian workforce 16 years old and over in the Wrangell-Petersburg Census Area was 3,031 (61.5 percent of the census area population of 4,928 of those 16 and over). For comparison, the employed civilian workforce 16 years old and over in Alaska was 281,532 or 61.4 percent of the State's population of 458,054. Table 2-6 presents 2000 Census data regarding the specific industries in which those workers were employed. Data for the affected localities and the entire state is also provided for comparison.

Table 2-6. Occupations of Employed Civilian Population 16+ Years Old in 2000 in Proposed Wrangell Borough, Compared to Wrangell-Petersburg Census Area and State of Alaska (2000 Census Data).

| Industry | Wrangell - Petersburg Census Area | City of Wrangell | Thoms Place CDP | Meyers Chuck CDP | Alaska State |
|---|-----------------------------------|------------------|-----------------|------------------|-------------------|
| Agriculture, Forestry, fishing and hunting, and mining | 544 (17.9%) | 176 (16.3%) | 0 (0.0%) | 0 (0.0%) | 13,774 (4.9%) |
| Construction | 222 (7.3%) | 98 (9.1%) | 0 (0.0%) | 0 (0.0%) | 20,534 (7.3%) |
| Manufacturing | 234 (7.7%) | 78 (7.2%) | 0 (0.0%) | 0 (0.0%) | 9,220 (3.3%) |
| Wholesale trade | 17 (0.6%) | 7 (0.6%) | 0 (0.0%) | 0 (0.0%) | 7,215 (2.6%) |
| Retail Trade | 285 (9.4%) | 89 8.2% | 0 (0.0%) | 0 (0.0%) | 32,638 (11.6%) |
| Transportation and warehousing , and utilities | 217 (7.2%) | 77 (7.1%) | 0 (0.0%) | 0 (0.0%) | 25,043 (8.9%) |
| Information | 89 (2.9%) | 27 (2.5%) | 0 (0.0%) | 0 (0.0%) | 7,652 (2.7%) |
| Finance, insurance, real estate, and rental and leasing | 54 (1.8%) | 23 (2.1%) | 0 (0.0%) | 0 (0.0%) | 12,934 (4.6%) |

⁵⁶ CDP stands for Census Designated Place. CDPs are statistical areas defined by the U.S. Census Bureau as "closely settled, named, unincorporated communities that generally contain a mixture of residential, commercial, and retail areas similar to those found in incorporated places of similar sizes." The Census Bureau notes further that it works with local participants to delineate boundaries for CDPs. By defining CDPs, the Census Bureau can tabulate and disseminate data for localities that otherwise would not be identified as places in the decennial census data products. See <<http://www.census.gov/geo/www/psapage.html#CDP>>.

| | | | | | |
|---|----------------|----------------|-------------|-------------|-------------------|
| Professional, scientific, management, administrative, and waste management services | 96 (3.2%) | 51 (4.7%) | 0 (0.0%) | 3 (100%) | 21,322 (7.6%) |
| Educational, health and social services | 597 (19.7%) | 238 (22.1%) | 0 (0.0%) | 0 (0.0%) | 61,165 (21.7%) |
| Arts, entertainment, recreation, accommodation and food services | 225 (7.4%) | 69 (6.4%) | 0 (0.0%) | 0 (0.0%) | 4,099 (8.6%) |
| Other services (except public administration) | 162 (5.3%) | 38 (3.5%) | 0 (0.0%) | 0 (0.0%) | 15,866 (5.6%) |
| Public administration | 289 (9.5%) | 108 (10.0%) | 0 (0.0%) | 0 (0.0%) | 30,070 (10.7%) |

The City of Wrangell was incorporated in 1903.⁵⁷ By 1916, fishing and forest products had become the primary industries; four canneries and a cold storage plant were constructed by the late 1920's. In the 1930s, cold packing of crab and shrimp was occurring. Abundant spruce and hemlock resources have helped to expand the lumber and wood products industry. The Alaska Pulp Corporation sawmill, the City's largest employer, closed in 1994; the sawmill was sold to Silver Bay Logging and reopened in April 1998 with 33 employees.

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

The tourism industry is growing in the City of Wrangell for sport fishing, hunting and sightseeing. Sport fishing on the Stikine River attracts visitors. Four hotels/motels and 10 bed-and-breakfasts operate in Wrangell.

G. Formation of the proposed Wrangell Borough is in the best interests of the State

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

⁵⁷ In 1960, the City of Wrangell adopted a home-rule charter.

After providing public notice of each proposed amendment or condition and an opportunity for public comment, the Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition. (AS 29.05.100(a)) (Emphasis added.)

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

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units;
- (3) will relieve the state government of the responsibility of providing local services; and
- (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution. (3 AAC 110.065)

DCCED finds that formation of the proposed Wrangell Borough is in the best interests of the State. As reflected in the findings and conclusion set out in Part I of this report, formation of the proposed Wrangell Borough would promote maximum local self-government. Formation of the Wrangell Borough would create a structure to permit governance and decision making at the local level. As stated in Part 2 of this report, formation of the proposed Wrangell Borough would also comport with the minimum number of local governments constraint in our Constitution. Incorporation of the Wrangell Borough will relieve the State of Alaska of the responsibility of providing plating outside the current boundaries of the City of Wrangell. In addition, all of the area within the proposed borough that lies outside the boundaries of the City of Wrangell will become subject to the mandatory 4-mill required local contribution provisions for schools found in AS 14.17.410(b)(2). There is no evidence that creation of the City and Borough of Wrangell is reasonably likely to expose the State of Alaska to unusual and substantial risks as the prospective successor to the borough, in the event of the borough's dissolution. Based on these findings, DCCED concludes that formation of the proposed Wrangell Borough is in the best interests of the State.

H. Property Valuations in the Proposed Wrangell Borough

The Petitioner estimates the value of taxable property in the proposed borough as follows:

| Type of Taxable Property | City of Wrangell | Remainder of Proposed Borough | Total |
|--------------------------|------------------|-------------------------------|---------------|
| Real Property | \$105,569,663 | \$14,400,000 | \$119,969,663 |
| Personal Property | \$33,652,000 | \$1,008,000 | \$34,660,000 |
| Total | \$139,221,663 | \$15,408,000 | \$154,629,663 |

The Petitioner’s estimate of the value of taxable property in the City of Wrangell comprises 90 percent of the value of taxable property in proposed borough. Formal assessed value figures do not exist for the area of the proposed borough outside the territory within the boundaries of the City of Wrangell.

The following table compares the assessed value of real and personal property within the corporate boundaries of the City of Wrangell to the State Assessor’s determination of the full and true value of taxable property within the same area during each of the past five years.

| Year | Assessed Value (change from previous year stated in parentheses) | Full and True Value (change from previous year stated in parentheses) |
|------|---|--|
| 2002 | \$100,826,691 (increase of \$651,661 or 0.7 percent) | \$148,965,100 (decrease of \$17,573,700 or 10.6 percent) |
| 2003 | \$100,285,213 (decrease of \$541,478 or 0.5 percent) | \$146,188,500 (decrease of \$-2,776,600 or 1.9 percent) |
| 2004 | \$102,173,797 (increase of \$1,888,584 or 1.9 percent) | \$148,303,900 (increase of \$2,115,400 or 1.4 percent) |
| 2005 | \$105,569,663 (increase of \$3,395,866 or 3.3 percent) | \$148,401,600 (increase of \$97,700 or 0.1 percent) |
| 2006 | \$106,840,737 (increase of \$1,271,074 or 1.2 percent) | \$143,112,000 (decrease of \$5,289,600 or 3.6 percent) |

Sources: *Alaska Taxable 2006 - 2001*

The assessed values shown in the preceding tables, of course, reflect only the value of taxable property. Excluded from the figures is the value of property that is exempt from taxation under State law (AS 29.45.030). Also excluded is the value of property that the City of Wrangell, in its discretion, has exempted from taxation as allowed by AS 29.45.050.

Given the broad discretion among municipalities in terms of the optional property tax exemptions allowed under AS 29.45.050, DCCED is required by AS 14.17.510 and AS 29.60.030 to determine the “full and true value” of property in all organized boroughs and some cities.

Those determinations provide for uniform comparisons that are utilized in funding calculations under Alaska’s education foundation formula. The State Assessor describes the full value determination as follows:

In brief, the Full Value Determination (FVD) is the sum total of the full and true value established for every piece of taxable real and personal property within a municipality’s boundary regardless of any optional exemption which may have been enacted by local ordinance. AS 29.45.110 specifies that the full and true value is the “estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with the prevailing general price levels.” This section also requires the assessor to assess property at its full and true value as of January 1 of the assessment year.

Alaska Taxable 2006, pp. 7 – 8 (January 2007).

As noted above, the State Assessor reported the 2006 assessed value of taxable property in the City of Wrangell at \$106,840,737 and the full value at \$143,112,000. The full value figure is \$36,271,263 (33.9 percent) greater than the assessed value.⁵⁸

The table below compares the 2006 full and true value of taxable property among all 16 organized boroughs and the City of Wrangell. In per capita terms, the 2006 full value of taxable property in the City of Wrangell was \$72,498 per resident. Comparable data for boroughs ranged from a high of \$1,502,630 per resident in the North Slope Borough to \$33,033 per resident in the Lake and Peninsula Borough. The average for all boroughs was \$105,505 per resident. The median figure is \$88,601. The figure for the City of Wrangell is \$16,103 (18.2 percent) less than the median.

| Borough | 2006 Full Value Determination | Population | Per Capita Full Value |
|----------------------------|--------------------------------------|-------------------|------------------------------|
| North Slope Borough | \$10,695,169,950 | 6,894 | \$1,551,374 |
| Bristol Bay Borough | \$157,644,400 | 1,073 | \$146,919 |
| City and Borough of Juneau | \$4,249,188,100 | 31,193 | \$136,222 |
| Haines Borough | \$272,988,900 | 2,207 | \$123,692 |
| Kenai Peninsula Borough | \$6,172,932,290 | 51,224 | \$120,509 |
| Denali Borough | \$197,526,000 | 1,823 | \$108,352 |
| City and Borough of Sitka | \$945,701,100 | 8,947 | \$105,700 |

⁵⁸ The assessed value listed in *Alaska Taxable 2006* is different from the figure provided by the KGB. The disparity is presumed to be the result of inclusion of a supplemental tax roll in the figure from the KGB.

| | | | |
|--|------------------|---------|-----------|
| Municipality of Anchorage | \$28,833,782,720 | 278,241 | \$103,629 |
| Matanuska-Susitna Borough | \$7,507,998,500 | 74,041 | \$101,403 |
| Ketchikan Gateway Borough | \$1,255,171,900 | 13,125 | \$95,632 |
| City and Borough of Yakutat | \$53,120,600 | 619 | \$85,817 |
| Kodiak Island Borough | \$1,134,159,100 | 13,638 | \$83,162 |
| Fairbanks North Star Borough | \$7,267,077,780 | 87,650 | \$82,910 |
| City of Wrangell | \$143,112,000 | 1,974 | \$72,498 |
| Northwest Arctic Borough | \$385,637,200 | 7,323 | \$52,661 |
| Aleutians East Borough | \$101,343,287 | 2,659 | \$38,113 |
| Lake and Peninsula Borough | \$55,133,500 | 1,620 | \$34,033 |
| Total | \$69,284,575,327 | 582,277 | \$118,989 |
| Source: <i>Alaska Taxable 2006</i> , DCCED (January 2007). | | | |

In terms of 2006 per capita full and true value of taxable property, the City of Wrangell ranks below thirteen of the sixteen organized boroughs in existence last year. It is notable that it ranks behind every organized borough that levies a property tax. (Neither the Northwest Arctic Borough, the Aleutians East Borough, nor the Lake and Peninsula Borough levies property taxes.) In fact, the City of Wrangell's per capita full and true value of taxable property is \$10,412 (12.6 percent) the lowest ranked borough that levies property taxes.

I. Land Use in the Proposed Borough

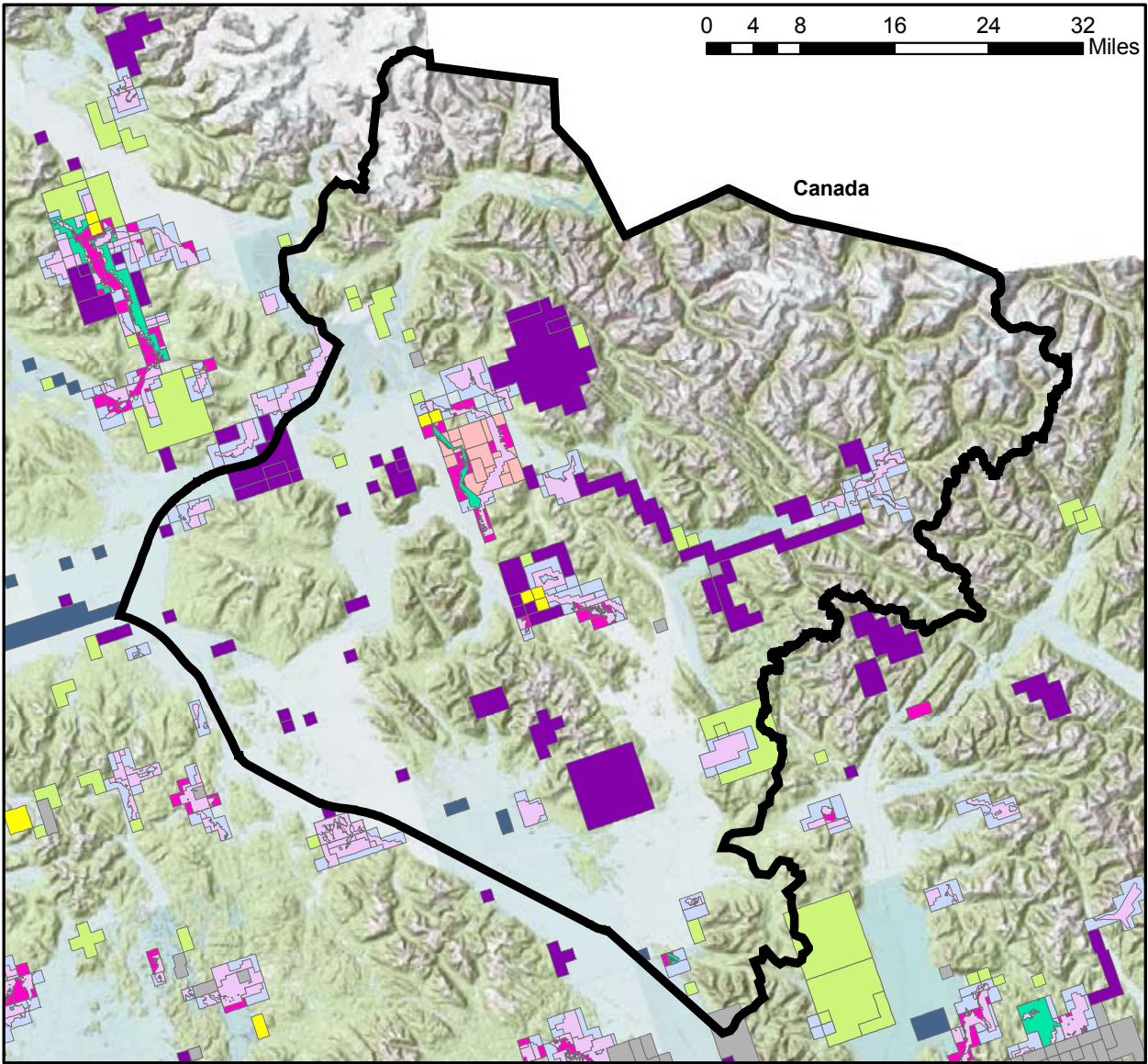
The proposed borough boundaries includes all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. The region's land ownership patterns are illustrated in the land ownership map on the following page

The State and federal governments are the largest landowners in the region. Most of the existing roads in the proposed borough, including the Zimovia Highway and numerous logging roads, are located on Wrangell Island, the island in the proposed borough with the greatest population. In order to develop recreation lands or to extract the natural resources of the area, which includes timber and possibly minerals, there will need to be access construction.












Most of the information below regarding land use, forestry, recreation, and fish and wildlife has been extracted from the Central/Southern Southeast Area Plan for State lands, adopted in November 2000, pages 3-169 to 3-231 concerning the Wrangell Planning Region; and the maps and text concerning Meyers Chuck and Union Bay in the Ketchikan Planning Region on pages 3-241 to 3-243, 3-276, and 3-299-3-301. This plan for State lands was developed by the Alaska Department of Natural Resources, Division of Mining, Land & Water, Resource Assessment and Development Section.

Maps and subdivision plats from the Central/Southern Southeast Area Plan are reproduced in Appendices G and J. Note that the land ownership maps in the area plan, except for state upland tracts, only depict generated land status current to 1997. Consult the land records of the Forest Service, borough and cities, and Native corporations to identify precise land

Land Ownership



Legend

| | |
|--|--|
|  Wrangell Borough Proposed Boundary |  CIRI Selected, Interim Conveyed, or Patented |
|  Native Allotments, Selected or Patented |  State Selected, Tentatively Approved, or Patented Land |
|  Mental Health Trust Land |  BLM Vacant, Unappropriated, and Unreserved Lands |
|  ANCSA Claims Selected, Interim Conveyed, or Patented |  Private Land, Selected or Patented |
|  DNR Tentatively Approved or Patented |  Federal Withdrawal |
|  State Land Sales | |

ownership boundaries and current land status. Land status information for State area plans, except for state tracts, is derived from the Land Status layer of the Tongass Land and Resource Management Plan Geographic Information System. Alaska Department of Natural Resources land records were used to depict state upland tracts.

Note that in the area plan maps, and in the Land Ownership map on the previous page, if there is only some land within a section that is State owned or State selected, the entire section is portrayed as State owned.

The Wrangell Planning Region includes the area north from Eastern Passage to Ernest Sound in the south; and from Clarence Strait in the west to the Canadian border on the east. The planning area includes the islands of Wrangell, Zarembo, Etolin and Woronkofski. It also contains areas of the adjacent mainland, including the Stikine River coastal tide flats and the Bradfield Canal area. The majority of state tracts are located on Wrangell Island, with minimal holdings on Zarembo and Etolin Island and somewhat larger areas near Crittenden Creek, Mill Creek and Bradfield Canal on the mainland. State tideland parcels are extensive throughout the Wrangell planning areas, reflecting the extensive coastlines along the mainland and around the offshore islands, and the unique habitat and presence of fish and marine mammals in these areas.

State uplands within this region are located primarily within Wrangell Island, with concentrations near the Wrangell community, southeast in Pat's Creek drainage, and in the southwestern part of the island at Thoms Place and Thoms Lake. The distribution of these tracts, according to principle geographic areas, is given in the table below.

| Geographic Area Acreage | |
|--------------------------------|----------------|
| Zarembo Island | 1,679 acres |
| Bradfield Canal | 5,783 acres |
| Wrangell | 17,801.8 acres |
| Etolin | 465.5 acres |
| Mainland | 4,385.7 acres |

State tideland units are primarily associated with the coastal tidelands of the Stikine River and at the head of various bays. The Stikine River area is particularly significant, functioning as a regionally important waterfowl concentration on the Pacific Flyway, as a transportation corridor to the interior, and as an important harvest and materials extraction area.

There is a total of 30,115 acres of state upland tracts in the Wrangell Planning Region. Of this total, approximately 22,995 acres are in Patent or Tentatively Approved for Patent status, with the remaining acreage (7,120 acres) in State Selected status. In addition, there is a total of 430,733 acres of tidelands and submerged lands. Of this, there are approximately 76,486 acres in the 57 tideland tracts identified in the Wrangell Planning Region.

Physical Features

The Wrangell planning region is part of the physiographic region of both the Boundary Ranges and the Coastal Foothills. Most areas, with the exception of the state tracts at the terminus of the Bradfield Canal, are located in the Coastal Foothills. The state upland parcels can be generalized into four principal areas: North/Central Wrangell Island, Wrangell Island South, Mainland, Bradfield Canal, and mainland Mill and Crittenden Creeks.

North/Central Wrangell Island. Within this area, there is State land in areas near the coast and the interior drainage of Pat's Creek. Areas near the coast are characterized by moderately sloping coastal plains. The interior areas are steeply sloped except for the floodplain and other adjacent areas to Pat's Creek. Uplands contain a mixed hemlock and spruce forest, except for some even-age regeneration areas in the Pat's Creek drainage. The flatter areas, particularly within the Pat's Creek drainage, contain wetlands, which are mostly saturated spruce bog and sphagnum bog.

Wrangell Island South. In this area, state land occupies coastal areas and the interior drainage of Thomas Lake and Creek. Areas adjacent to the coast are moderately steep to gently sloping coastal plains. The Thoms Place Subdivision occupies portions of this coastal plain. Interior areas are dominated by the Thoms Lake and Creek drainage, with terrain tending to be gently sloped near the creek but more steeply sloped away from this area. This area includes mostly dry uplands covered by a mixed spruce and hemlock forest.

Mainland, Bradfield Canal. This area consists of two sub-parts: the Bradfield River floodplain and the other steeply sloped mountainous areas adjacent to it. The latter are physiographically part of the Border Ranges, a mountainous area with steeply sloped valley walls. The floodplain of Bradfield River is extensive, consisting of the numerous braided channels formed by the river. Within the floodplain of the river, there are extensive wetland areas consisting of emerging, forested, and shrub wetland types. The steeply sloped upland areas are dry and are covered by a mixture of hemlock and spruce forest.

Mainland, Mill and Crittenden Creeks. This area consists of gently rolling coastal plains with areas of steep slope within the interior of both parcels as well as areas of fairly level floodplains adjacent to Crittenden Creek. The uplands are covered by a mixture of spruce and hemlock forest. The flatter areas, especially those within floodplains, are covered by a mosaic of dry land, saturated spruce bog, and sphagnum bog.

Uses and Resources

Uses

Uplands. State upland tracts in the Wrangell Planning Region receive varying levels of use, with the more remote tracts primarily being used for dispersed and marine oriented recreation. The range of current uses on state land includes dispersed and marine recreation, settlement areas, and timber harvest areas. There is a fairly heavy use of the Thoms Lake parcels and the Mill Creek/Virginia Lake tracts on the mainland. Recreational activities in these areas include camping, hiking, sport fishing, and other recreational uses. Other tracts receiving fairly heavy use include those in the Pat's Creek drainage in the central part of Wrangell Island, and Earl

West Cove. In these areas, fishing, hiking, and off-road vehicular uses are common. Settlement areas within the planning region are situated at Thoms Place, Olive Cove, and scattered areas along Eastern Passage. The remaining principal use of state land involves timber harvest. Most of the timber harvest has been conducted by the Forest Service, particularly along Pat's Creek drainage, and within Earl West Cove and the Bradfield Canal area. There was a State timber harvest in the Pat's Creek drainage area prior to 2000.

Tidelands. A variety of sites throughout the region are used for subsistence harvesting, involving the gathering of invertebrates and intertidal gathering, as well as salmon and finfish harvest. Harvest areas are scattered throughout the planning area and include portions of Zarembo Island, areas near Thoms Place on Wrangell Island, and Woronkofski Island.

Resources: State upland tracts include a variety of resources, including recreation, settlement, timber harvest, and habitat. Areas of recreation and settlement occur at the areas described earlier in this report under "Uses of State Land". Additional areas appropriate for future settlement exist at St. John's Harbor on Zarembo Island, adjacent to Olive Cove on Etolin Island, and north of the existing Thoms Place Subdivision along Zimovia Strait on Wrangell Island. Commercial forest resources exist in the areas of previous timber harvest, but also at Crittenden Creek on the mainland adjacent to Thoms Lake and the Thoms Creek drainage on Wrangell Island, and on Zarembo Island. Mature commercial forest areas total 23,015 acres with some 3,250 acres having been previously harvested, representing 14% of the total. Most of the large tracts, especially those adjacent to the coast or tracts that have significant anadromous streams, are likely to support deer, some moose, and black and brown bear concentrations. Particularly heavy concentrations of these resources are found at the Thoms Lake and Thoms Creek drainage, Earl West Cove, and Virginia Creek on the mainland.

MANAGEMENT CONSTRAINTS AND CONSIDERATIONS

Few State resource or management plans affect the Wrangell Planning Region. Although there are no habitat management plans by the Alaska Department of Fish and Game, DNR has prepared a site specific plan for the Pat's Creek drainage. Land use development is guided by the city comprehensive plan and zoning ordinance within the corporate limits of the City of Wrangell. The city's coastal zone plan manages coastal resources within this area.

Tongass Land Resource Management Plan designations of "Timber Production" about the St. Johns Harbor tract on Zarembo Island and portions of the Crittendon Creek parcel on the mainland. Most other State lands are adjoined by the "Scenic Resources" prescription. This prescription is particularly common in the Pat's Creek drainage on Wrangell Island and adjacent to the Mill Creek tract on the mainland. The areas of Thoms Place and Thoms Lake are abutted by the "Old Growth Habitat" prescription.

MANAGEMENT OF STATE LANDS

State lands are intended for multiple uses, including both dispersed and marine oriented recreation, timber harvest, habitat protection, and settlement. Some areas that are appropriate for eventual intensive use (such as settlement) are not recommended for development during the 20 year planning period, however. Most state upland tracts, particularly those of significant

size and in remote locations, provide for and are recommended for recreation. Among the large tracts, the Pat's Creek drainage, Earl West Cove, Mill and Crittendon Creeks, and the Thoms Lake/Creek areas are important for recreational use. There is particularly heavy use of the Mill Creek/Virginia Lake and Thoms Lake/Creek areas by Wrangell residents. Commercial timber harvest is recommended in large tracts with less intensive recreation use, and in areas not containing significant sensitive habitats. These areas are usually remote from the City of Wrangell, and are designated General Use (Gu). The General Use designation allows for a variety of uses, including potential timber harvest. Included among the areas where commercial timber harvest is recommended for consideration are the Pat's Creek drainage, Eastern Passage, Crittenden Creek, the Bradfield Canal, and Zarembo Island. Timber harvest to support subdivision development is considered appropriate and is recommended.

Several areas are identified within the Wrangell Planning Region for future settlement. There are few potential sites with the requisite water access, appropriate terrain, and safe anchorages. Areas meeting these criteria and recommended for future settlement include the St. John's Harbor area at Zarembo Island, the Olive Creek drainage on Etolin Island, and the area north of the Thoms Place Subdivision along the Zimovia Strait, Pat's Creek drainage, and the area of state land adjoining Eastern Passage on Wrangell Island. Although settlement is appropriate at Olive Cove, it is not recommended that a land disposal occur there during the 2000-2020 planning period.

Maps from the Central/Southern Southeast Area Plan -- annotated with the use designations in the table below -- are included in Appendix J. Acreage associated with these designations are as follows:

Designations Acreage

Uplands

- Gu General Use23,302 acres
- Ha Habitat7,121 acres
- Hv Harvest2,215 acres
- Ma Materials0 acres
- Pr Public Facilities – Retain4,191 acres
- Pt Public Facilities – Transfer0 acres
- Rd Recreation – Developed0 acres
- Ru Recreation – Undeveloped5,975 acres
- S Settlement5,824 acres
- Sc Settlement – Commercial4 acres

Tidelands

- Gu General Use354,247 acres
- Ha Habitat69,614 acres
- Hv Harvest73,017 acres
- Ru Recreation – Undeveloped29,670 acres
- Sd Shoreline Development4,896 acres
- Wd Waterfront Development150 acres

Municipal Entitlement Lands: A new borough is entitled to 10% of the vacant, unreserved and unappropriated state lands within its boundaries under AS 29.65.030. The Petitioner estimated the new borough would be entitled as much as 2,424 acres of vacant, unappropriated, unreserved State land. In other words, the State would transfer as much as 2,424 acres to the proposed Deltana Borough as its general grant land entitlement.

University Land Settlement: The 2005 University Lands Bill (Chapter 8, FSSLA 2005) Contains Provisions that concern the Wrangell Borough Proposal and the prospective Petersburg Borough proposal. In relevant part, Section 3 of that law provides:

Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled 'University of Alaska Land Grant List 2005,' dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009, that includes Wrangell or Petersburg. If a borough is not formed before July 1, 2009, land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (2) Parcel Number SD.1001, Favor Peak; (3) Parcel Number CS.TL.1001, Three Lake Road; (4) Parcel Number SD.1001, Read Island; (5) Parcel Number SD.1001, Whitney Island; (6) Parcel Number CS.EW.1001, Earl West Cove; (7) Parcel Number CS.OV.1001, Olive Cove; and (8) Parcel Number SD.1001, Thoms Place.

Officials from the City of Petersburg have expressed their intent to pursue borough formation.

J. Personal Income of Residents of the Proposed Borough

The U.S. Department of Commerce Bureau of Economic Analysis gathers personal income data. The Alaska Department of Labor characterizes personal income as "a good measure of economic wellbeing because it includes income generated through work and investments, as well as transfer payments (essentially government payments)." (*Alaska Economic Trends*, p. 4, Alaska Department of Labor and Workforce Development, November 2005.) The Bureau of Economic Analysis' formal definition of *personal income* is:

[T]he income received by all persons from all sources. Personal income is the sum of net earnings by place of residence, rental income of persons, personal dividend income, personal interest income, and personal current transfer receipts. Net earnings is earnings by place of work (the sum of wage and salary disbursements (payrolls), supplements to wages and salaries, and proprietors' income) less contributions for government social insurance, plus an adjustment to convert earnings by place of work to a place-of-residence basis. Personal income is measured before the deduction of personal income taxes and other personal taxes and is reported in current dollars (no adjustment is made for price changes).

Table 2-10. Personal Income in 1999 (reported in 2000 Census)

| | State of Alaska | Wrangell-Petersburg Census Area | City of Wrangell |
|-------------------------------------|-----------------|------------------------------------|------------------|
| Personal Per Capita Income | \$22,660 | \$23,494 | \$21,851 |
| Median Household Income | \$51,571 | \$46,434 | \$43,250 |
| Median Family Income | \$59,039 | \$54,046 | \$54,167 |
| Persons in Poverty | 57,602 | 525 | 206 |
| Percent Below Federal Poverty Level | 9.4% | 7.9% | 9.0 % |

K. Existing and Reasonably Anticipated Industrial, Commercial, and Resource Development for the Proposed Borough

Table 2-11 shows the classification (e.g., private wage and salary, and government) of the civilian workers in the proposed Wrangell Borough at the time of the last census. These figures are based on a sample and are subject to sampling variability; 23% of all households in Wrangell were sampled in the 2000 Census. Data for the entire State is also provided for comparison. Notice that 34% of the Total Employed were government workers, according to the 2000 Census. This means there is a large pool of experienced government employees who may choose employment with the new borough.

Table 2-11. Class of Worker of Employed Civilian Population 16+ Years Old in Proposed Wrangell Borough, Compared to State of Alaska (2000 Census Data)

| Employed Civilian Population Number (Percentage of Population 16 Years and Over) | | | | |
|---|---------------------|--------------------|------------------|--------------------|
| Classification | City of Wrangell | Thoms Place CDP | Meyers Chuck CDP | Alaska State |
| Total Employed | 1,079 (100%) | 0 | 3 (100%) | 281,532 (100%) |
| Private wage and salary workers | 515 (47.7%) | 0 | 0 | 182,840 (64.9%) |
| Government workers | 368 (34.1%) | 0 | 0 | 75,330 (26.8%) |
| Self-employed workers in own, not incorporated, business | 196 (18.2%) | 0 | 3 (100%) | 22,520 (8.0%) |
| Unpaid family workers | 0 | 0 | 0 | 842 (0.3%) |

L. The Need for and Availability of Employable Skilled and Unskilled Persons to Serve the Proposed Borough

Table 2-12 compares 2000 census data regarding educational attainment of the proposed Wrangell Borough population and the population of the entire state (25 years of age and older). The data shows that a higher percentage of residents completed or graduated from high school, while a lower percentage received a Bachelor's degree or higher.

TABLE 2-12
EDUCATIONAL ATTAINMENT OF POPULATION 25+ YEARS OLD
IN PROPOSED BOROUGH COMPARED TO ALASKA
2000 Census Data

| Educational Attainment | Population 25+ Years Old (Percentage) | | | | |
|---|---|---------------------|---------------------|--------------------|--------------------|
| | Wrangell- Petersburg Census Area | City of Wrangell | Meyers Chuck CDP | Thoms Place CDP | Alaska State |
| Population 25+ years old | 4,359 (100%) | 1,549 (100%) | 13 (100%) | 29 (100%) | 379,556 (100%) |
| Less than 9th grade | 127 (2.9%) | 53 (3.4%) | 0 | 4 (13.8%) | 15,663 (4.1%) |
| 9th to 12th grade, no diploma | 491 (11.3%) | 222 (14.3%) | 0 | 0 | 28,619 (7.5%) |
| High school graduate (includes equivalency) | 1,589 (36.5%) | 541 (34.9%) | 8 (61.5%) | 15 (51.7%) | 105,812 (27.9%) |
| Some college, no degree | 1,196 (27.4%) | 429 (27.7%) | 0 | 0 | 108,442 (28.6%) |
| Associate degree | 246 (5.6%) | 92 (5.9%) | 0 | 0 | 27,213 (7.2%) |
| Bachelor's degree | 511 (11.7%) | 153 (9.9%) | 5 (38.5%) | 4 (13.8%) | 61,196 (16.1%) |
| Graduate or professional degree | 199 (4.6%) | 59 (3.8%) | 0 | 6 (20.7%) | 32,611 (8.6%) |
| Percent high school graduate or higher | 85.8% | 82.2% | 100% | 82.6% | 88.3% |
| Percent bachelor's degree or higher | 16.3% | 13.7% | 38.5% | 34.5% | 24.7% |

M. The Reasonably Predictable Level of Commitment and Interest of the Population in Sustaining a Borough Government

The City of Wrangell, the only local government in the area, has successfully operated since 1903 when they were incorporated. The City has provided educational services for many years and has served residents throughout the proposed borough. The City owns the Wrangell Hospital which is operated by municipal employees and is administered by a 5-member board. The City owns 4 harbors. It is evident that residents of the region have the level of commitment and interest necessary to sustain a borough government.

N. Conclusion

The foregoing analysis of the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation reflect a fiscally viable proposal. The economic base, property valuations, land use, existing and reasonably anticipated development, and personal income are evidence of an economy that is fully capable of supporting borough government. Lastly, the availability of employable persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government reflect positively on the region. Accordingly, Commerce concludes that the standards set out in AS 29.05.031(a)(3) and 3 AAC 110.055 regarding the human and financial resources are fully satisfied by the Petition.

Part 8. Whether the Transition Plan Included in the Petition is Complete and Otherwise Complies with the Requirements of Law

The provisions of 3 AAC 110.900 require the Petitioner to reasonably demonstrate through a transition plan, the capability of the proposed borough to serve the area, implement consolidation in a timely manner, and do so without loss in value of municipal assets or credit.

The petition presented a 3-page transition plan (Exhibit E of the Petition) whose provisions also formed the basis of the home-rule charter (Exhibit I of the Petition).

According to Section 18.08 of the Home Rule Charter of the City and Borough of Wrangell, “The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.”

After incorporation, the Charter of the proposed City and Borough of Wrangell would become the organic law of the borough. A charter is the equivalent of a municipal constitution, and is a legal requirement for a new borough.

The Petitioner was required to develop the transition plan in consultation with officials of the City of Wrangell and other relevant entities. According to the Petition's Transition Plan, Exhibit E:

Transitional measures will be relatively simple, because, in most cases, the services supplied, respectively, to the service area and areawide, correspond closely to services already being provided by the City of Wrangell to these areas.

Education services will be minimally affected, because the City of Wrangell schools have historically educated between five and ten students who resided outside the city limits of Wrangell, in the "Wrangell West" area past the southern boundary of the city limits. These students have been previously counted in the average daily membership (ADM) of the Wrangell City School District for purposes of formula funding, and this will continue to be the case. Currently, no correspondence study students from outside the City of Wrangell pursue their studies through the Wrangell City school correspondence program. Petitioner is unaware of any students in the proposed borough but outside the existing city who are enrolled in a correspondence school course with either the Southeast Alaska Island REAA, the state's correspondence program, or any other school's correspondence program.

Taxation by the City and Borough of Wrangell inside the existing City of Wrangell will continue without interruption. Depending upon the timing of certification of incorporation, it may be necessary to delay property taxation of areas outside the existing city until assessment may be completed. The intention is to bring all areas into the same assessment-taxation cycle as soon as possible. This is dependent upon when actual incorporation is approved, in relation to the assessment-taxation cycle. At the latest, this will occur sometime in the first calendar year following incorporation. Sales taxes will not be implemented in the area outside the existing City of Wrangell until no more than 6 months following incorporation, to permit adequate time for borough officials to inform retailers and sellers in that area of their responsibilities in collection of sales taxes, and in familiarizing them with the reporting forms.

The City and Borough of Wrangell will immediately undertake planning and zoning in the areas outside the current city. Areas outside the existing city will initially be placed in a "holding" district, in which uses shall be unrestricted until the area is otherwise zoned.

Because nearly all territory within the proposed service area of the City and Borough of Wrangell is already within the existing City of Wrangell, the borough will undertake to immediately extend service area functions to the limits of the service area.

As set out in Section 13 of this petition, the facilities of the City of Wrangell will be transferred to the proposed borough, along with the bonded indebtedness associated with such facilities. In order to provide for orderly transition

from the City of Wrangell to the City and Borough of Wrangell, the City and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the City under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.

This plan was developed in consultation with officials of the City of Wrangell and the Southeast Alaska REAA. Susan Sciabbarrasi, Superintendent of the Wrangell School District and Jim Nygaard, Superintendent of the Southeast Island REAA, were contacted to discuss the proposed petition for incorporation of the CBW and its potential impact upon educational funding. Those students residing in the REAA but located in the area of the proposed borough are already attending Wrangell schools and being counted in Wrangell's ADM rather than the REAA. There are no students residing within the existing City who take correspondence studies from the REAA. The few students residing within the City who take correspondence courses through Craig's correspondence studies are already being counted in Craig's ADM. There are no REAA school sites within the area proposed for incorporation.

The transition plan demonstrates to DCCED's satisfaction that the proposed borough would have the capacity to extend essential borough services in the shortest practicable time after the effective date of incorporation. Thus, the requirement set out in 3 AAC 110.900(a) is satisfied.

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

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

The provisions of 3 AAC 110.900(d) allow the LBC to require the City to execute an agreement for the assumption of powers, duties, rights, and functions and for the transfer and integration of assets and liabilities. DCCED considers such unnecessary in this case, particularly given provisions in the Alaska Statutes regarding incorporation and the provisions in the Charter of the proposed City and Borough of Wrangell.

Part 9. Whether the Proposed Borough Incorporation Has a Racially Discriminatory Purpose, Would Make Minority Voters Worse Off, or Would Deny Civil or Political Rights in Violation of the Law

Under federal law (42 U.S.C. Section 19; 28 C.F.R. Part 51) and State law (3 AAC 110.630) incorporation of municipal governments (borough incorporation) is subject to the federal Voting Rights Act. The Voting Rights Act requires demonstration to federal authorities that municipal

boundary changes do not have a racially discriminatory purpose or will not make minority voters worse off than they were prior to incorporation. Additionally, State law (3 AAC 110.910) provides that, "A petition will not be approved by the [local boundary] commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin."

The federal Voting Rights Act was enacted in 1965. Standards were established to determine which jurisdictions nationwide would be required to preclear changes in voting rights and practices under Section 5 of the Act. If the U.S. Justice Department determined that a state or political subdivision maintained a "test or device"⁵⁹ and if the Census Bureau determined that less than 50 percent of the voting-aged residents of the jurisdiction were registered to vote or voted in the 1964 presidential election, the state or political subdivision was covered by the Act. At that time, Alaska had low voter registration and turnout. The U.S. Justice Department had also determined that Alaska had maintained a literacy test, which was considered a prohibited test or device. Therefore, at the outset, Alaska was among the jurisdictions that were required to comply with the preclearance provisions of Section 5 of the Voting Rights Act. However, as expressly authorized by the Voting Right Act, Alaska immediately filed a lawsuit asserting that the State had not applied a test or device with the prohibited discriminatory purpose or effect. The Justice Department concurred with the State's position and Alaska was allowed to withdraw from the preclearance requirements. The federal Voting Rights Act was amended in 1970, at which time Alaska was once more made subject to the preclearance requirements. However, with the concurrence of the Justice Department, Alaska again withdrew from the requirement to preclear changes affecting voting. In 1975, the Voting Rights Act was amended a third time. The amendments expanded the definition of "test or device" to apply to a jurisdiction that conducted elections only in English if five percent or more of the population were members of a single language minority. Because Alaska conducted most aspects of its elections in English and because all Alaska Natives were considered to be members of a single language minority, Alaska and all of its local governments were once again required to preclear all changes affecting voting.

The 1975 amendment was retroactive to cover any changes made after November 1, 1972. Alaska and its political subdivisions have since remained subject to the Section 5 Voting Rights Act requirements. All municipal incorporations in Alaska are subject to review under the Voting Rights Act.

According to Table 2-13 15.4 percent (361/2351) percent of the population in the City of Wrangell and the two CDPs within the proposed Wrangell Borough were Alaska Native or American Indian in 2000. Additional study of the census data reveals that 23.6 percent (555/2351) of the population in the proposed Wrangell Borough were Alaska Native or American Indian alone or in combination with one or more races.

⁵⁹ "Test or device" was defined as "any requirement that a person as a prerequisite for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement of his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

Table 2-13. U.S. Census 2000 Population by Race

| Census Designated Place (CDP) or City | One Race | White | Alaska Native or American Indian* | | Black | Asian | Native Hawaiian and Other Pacific Islander | | Other Race | 2 or more Races* |
|---------------------------------------|----------|-------|-----------------------------------|------|-------|-------|--|------|------------|------------------|
| | | | Indian* | | | | | | | |
| City of Wrangell | 2,083 | 1,696 | 358 | 3 | 15 | 3 | 8 | 225 | | |
| | 90.3% | 73.5% | 15.5% | 0.1% | 0.6% | 0.1% | 0.3% | 9.7% | | |
| Thoms Place CDP | 22 | 19 | 3 | 0 | 0 | 0 | 0 | 0 | | |
| | 100.0% | 86.4% | 13.6% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | | |
| Meyers Chuck CDP | 19 | 19 | 0 | 0 | 0 | 0 | 0 | 2 | | |
| | 90.5% | 90.5% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 9.5% | | |

| Census Designated Place or City | Alaska Native and American Indian alone or in combination with one or more races | Percent Alaska Native and American Indian alone or in combination with one or more races |
|---------------------------------|--|--|
| City of Wrangell | 550 | 23.8% |
| Thoms Place CDP | 3 | 13.6% |
| Meyers Chuck CDP | 2 | 9.5% |

The Petitioner states that in accordance with 3 AAC 110.910, incorporation of the proposed borough will not deny any person the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. No evidence has been presented in this proceeding to indicate that proposed incorporation of the Wrangell Borough will have the purpose or effect of discriminating based on race, color, creed, sex, or national origin. Moreover, no evidence has been presented to suggest that proposed incorporation of the Wrangell Borough will have the purpose or effect of discriminating against a language minority group. Therefore, DCCED concludes that formation of the proposed Wrangell Borough will not have the effect of denying any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.