CITY OF DILLINGHAM ALASKA

September 21, 2010

Brent Williams, Local Government Specialist IV
Department of Commerce, Community and Economic Development
550 W. 7th Ave, Suite 1770
Anchorage, AK 99501-3569

RE: Erratum

Dear Mr. Williams:

We have noticed seven small errors in the City of Dillingham's Petition for Annexation. They are on pages 7, 8, 44, 47, 48, 50 and 54 of the Petition. The corrected pages are attached.

A copy of this letter and the revised pages has been filed in the annexation binders located at the front desk of Dillingham City Hall, Dillingham Library, the Dillingham small boat harbor office, and posted on the City of Dillingham website.

We have also sent a copy of this letter and the revised pages to the City of Clark's Point, City of Manokotak, City of Aleknagik, Village of Clark's Point, Ekuk Village Council, Manokotak Village, Native Village of Aleknagik, and Curyung Tribal Council.

Sincerely,

Alice A. Ruby

Alice Ruby,
Mayor, City of Dillingham

Attachments

RECEIVED
SEP 22 2010
Local Boundary Commission

141 Main Street • P.O. Box 889 • Dillingham, Alaska 99576
City Hall & Finance Dept. (907) 842-5211 • Fire Dept. 842-5225 • Library/Museum 842-5610
Police Dept. 842-5354 • Port 842-1069 • Public Works 842-4598 • Senior Center 842-1231
www.ci.dillingham.ak.us

In 2008, only 20 percent of the vessels with commercial fish harvest in the Nushagak District were registered to Dillingham residents and 40 percent were registered to non-Alaskans.[1]

This annexation and the accompanying local severance and sales tax on raw fish will provide more revenue to the City of Dillingham to help pay for services and facilities that the region's commercial fishermen and fleet use while in town and will help make the community more financially sustainable.

Data shows that in 2004 through ~~0, 2005 and~~ 2008 between ~~40~~ 56 to 66~~56~~ percent of the salmon harvest in Nushagak Bay each year was delivered outside Nushagak Bay for processing[2]. The proposed local severance and sales tax on raw fish will allow Dillingham to collect revenue from this portion of the region's primary economic resource. Currently, neither Dillingham nor any other community in the bay area receives any State business fishery tax from the harvest of Nushagak Bay fish that is processed elsewhere, yet Dillingham is certainly bearing costs to provide services and support for the harvest of this fishery resource.

Dillingham's per capita tax burden is ranked 21st highest out of just over 80 reporting municipalities (2009 Alaska Taxable) that levy a tax. Yet, the fees and taxes paid to the City of Dillingham by its resident and summer fisheries-related visitors are not commensurate with the cost to the City to provide services and facilities that support area commercial fisheries. Every year Dillingham uses general operating fund money (76 percent of general operating fund revenue is from local property and sales tax revenue) to help subsidize services and infrastructure that support regional fisheries. Following are some examples that account for a minimum of $330,000 in Dillingham FY 2009 expenditures to help serve the regional fisheries:

Harbors

- In Fiscal Year (FY) 09 approximately $110,000 from Dillingham's general operating fund was transferred to harbors to make up the difference between harbor fees and actual harbor annual operating expenses which do not include the cost of contributed administrative services from the City of Dillingham paid for from the General Operating Fund.

Public Safety (police, fire, EMS)

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

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[1] Source: CFEC gross earnings files and CFEC Vessel files.
[2] Source: An analysis of 2004-2008 ADF&G fish ticket data, COAR Bristol Bay price data, and state business fishery tax data; ADF&G, DOR.

Landfill

- Six large dumpsters are installed at the harbor and city dock seasonally (summer months) and generally emptied twice a day, adding about 25% to the volume of trash hauled during those months.
- In 2009, this cost $9,000, paid from the general operating fund (local taxes).
- In FY 2009, the City of Dillingham also transferred over $200,000 of general operating fund money to the landfill to cover costs that exceeded fee revenue. This payment does not include the cost of contributed administrative services from the City of Dillingham paid for from the General Operating Fund.

Revenue resulting from this annexation will allow Dillingham to help cover the costs listed above and others. It will allow Dillingham to provide better service to its own and neighboring community fishermen as well as those from outside the area and state who use the City-maintained harbor, docks, boat ramps, restrooms, bathhouse, and benefit from trash-hauling, street maintenance, etc. Revenues from this annexation will also allow some improvements that will benefit all who use Dillingham's harbor related facilities. In addition added revenue will allow enhanced coordination with the Alaska State Troopers, local search and rescue volunteers and others who together enact public safety response in Dillingham. The Alaska State Troopers will continue to be the primary first responders in Nushagak River and Bay as they are now, though the City will be better able to partner and assist when appropriate (refer to the Transition Plan). The City will also provide enhanced environmental protection through an added oil spill response cache.

Other municipalities in this part of Alaska, which are likewise fiscally dependent on fisheries revenue also include adjacent commercial fishing district waters within their corporate boundaries. This has been explicitly permitted by the Local Boundary Commission ("Commission" or "LBC") either as a part of initial municipal incorporation or through annexation. For example, in 1995 the LBC approved incorporation of the City of Egegik with 105 square miles of water to include the Egegik fishing district; in 1991 the LBC approved incorporating the City of Pilot Point with 115 square miles of water in the Ugashik commercial fishing district; in 1986 the LBC approved annexation of approximately 194 square miles of commercial fishing waters into the City of St. Paul; and in 1985 the LBC approved annexation of 183 square miles of water to the City of Togiak to bring in the Togiak Bay and its commercially fished waters into the City's corporate boundary.

These communities also levy a local raw fish tax (sales or severance), including several that are within a borough where both a local city and a borough raw fish is levied and collected. Local municipalities levying a raw fish tax include Saint Paul, Unalaska, Akutan, Togiak, King Cove, Sand Point, Chignik, Pilot Point, Egegik, Aleutians East Borough, Kodiak Island Borough, Bristol Bay Borough, Lake and Peninsula Borough, and City and Borough of Yakutat (see map, Exhibit I).

The proposed annexation is in the best interest of the State, as it will promote maximum local self-government and the long-term economic vitality of the City of Dillingham, a regional hub in western Bristol Bay, Alaska.

benefit of the Dillingham small boat harbor, an all-tide dock, boat launch ramps, parking, water and ice availability at the harbor, trash collection at the harbor and dock areas, access to a full complement of vessel repair, equipment and storage businesses as well as seafood processing facilities, and access to a regional hospital and airport and to commercial stores for provisioning.

Of the fish harvested commercially from the Nushagak district, an estimated 56~~40~~ to 6~~5~~6 percent (depending upon the year) is processed outside of the Nushagak district or adjacent municipalities (Dillingham or Clark's Point) so no Nushagak area community is receiving a portion of the State business fishery tax from this harvest. Yet, Dillingham residents are bearing costs to provide services and support for the harvest of this fishery resource. The fees and taxes paid to the City of Dillingham by its resident and summer fisheries-related visitors are not commensurate with the cost to the City to provide the services and facilities that support area commercial fisheries. Every year Dillingham uses general operating fund money (76% of which is from local property and sales tax revenue) to subsidize services and infrastructure that are used by the permit holders in the region. Just a few examples that account for a minimum of $330,000 in costs to Dillingham in fiscal year (FY) 2009 to help serve the regional fisheries are:

Harbors

- In Fiscal Year (FY) 09 approximately $110,000 from Dillingham's general operating fund was transferred to harbors to make up the difference between harbor fees and the harbor's annual operating expenses. This figure does not include harbor administrative services also funded from the general operating fund.

Public Safety (police, fire, EMS)

- 10% of 2009's total calls for service (Dillingham city dispatch) are from the fishery-related areas (the boat harbor, Wood River boat launch, city dock or processing plants).
- 20% of all calls for service in June and July are from these areas.
- 10% of the FY 2010 public safety budget is $211,990 *(public safety includes patrol, dispatch, corrections, fire, animal services).*
- There is no additional public safety staff in summer.

YEAR 2009 Dillingham Dispatch Data	**JAN**	**FEB**	**MAR**	**APR**	**MAY**	**JUN**	**JUL**	**AUG**	**SEP**	**OCT**	**NOV**	**DEC**	**total**
Total Calls for Service	506	524	676	562	768	674	774	748	680	609	569	512	7602
Number in fishery related areas*	24	18	29	19	89	135	153	112	71	62	49	26	787
Percent of total in fishery related areas*	5%	3%	4%	3%	12%	20%	20%	15%	10%	10%	9%	5%	10%

*= Boat Harbor, City Dock, Wood River Launch, Canneries

improvements are funded by federal or state grants, however, the cost of maintaining the expanded facilities will fall entirely on the City.

The harbor still needs several improvements. Continuing installation (beyond the 250 ft. to occur in 2010) of a sheetpile bulkhead around the north, east and south sides of the harbor would create a true basin and contain erosion and siltation. Bulkhead installation along the east side should be accompanied by electrical and water upgrades and sewer installation. Existing utilities are now in jeopardy of exposure due to erosion and are also subject to freeze/thaw problems. Fire hydrants should be installed or upgraded. Upgrade and installation of utilities along the east side of the harbor is also needed where there is strong interest in making lots available for lease. In addition to utilities, the property boundary on the east end of the harbor needs better definition, possibly accompanied by relocating the access road and PAF Marine ~~to~~ easterly. New floats designed to rise and drop with the tides, rather than the pivoting arm design now employed, should be installed to allow boats to get closer to the bulkhead. This will increase the number of vessels that can safely moor and will provide more secure vessel loading and unloading.

The Corps of Engineers has recommended installation of a rock revetment to prevent erosion on the south side of the harbor adjacent to the Peter Pan Seafoods processing plant. This will also offer wave and wind protection.

The open upland space at the southeast end of the boat harbor is Dillingham's only waterfront public space and heavily used by the community. There are multiple large events there each summer. This area needs water and electricity, restrooms and a pavilion and a ramp for access to the beach.

There is also interest in installation of a 24 by 100 ft. grid for working on boats on the east side of the new bulkhead at the north end of the harbor. This would allow users to repair or service vessels during low tides without having to pull the boat completely out of the water and onto shore. Another potential improvement to assist with boat repair and maintenance would be installation of a facility to allow a vessel to tie to a bulkhead and sit evenly on its keel as tides change.

The Wood River boat launch is regularly used by area residents, the commercial fishing fleet, hunters and sport fishermen. Improvements are needed to the parking area next to the launch. The river course has changed and is now depositing a lot of silt in front of the old wooden bulkhead. A steel bulkhead is needed with an access ramp positioned in the middle. A fleet of setnetters launch from Dillingham's Kanakanak boat launch each year. This facility needs a parking area, access road upgrade, and ramp improvements to make it accessible at a wider tidal range.

The narrative above describes some of the improvements to be constructed and maintained by the City of Dillingham that the territory's fishing fleet can reasonably expect to receive and benefit from over time

3 AAC 110.090 (b) Territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or by an organized borough, on an areawide basis or nonareawide basis, or through a borough service area that, in the determination of the commission, was established in accordance with art. X, sec. 5, Constitution of the State of Alaska.

There is no existing city or borough that can provide services and facilities more efficiently or effectively to the Nushagak Bay commercial fleet and the Wood River fishermen.

3 AAC 110.970(d) indicates a city's essential municipal services may include, levying and collecting taxes, operating a public school system, land use regulation , providing public safety services and "other services the Commission deems reasonably necessary to meet the local government needs of the residents of the community" . As previously discussed, the "community" within the territory proposed for annexation is a seasonal commercial fishing community whose need for public services is limited to port and harbor facilities, landfill services, and public safety. All of these services may be provided more efficiently by Dillingham than by any other existing city or by the Bristol Bay or Lake and Peninsula Boroughs.

The Local Boundary Commission has deliberated in the past about competing proposals for annexation of these waters. In the past creating a deterrent to formation of a new political subdivision (borough) was among the Commission's concerns. The next part of this brief will review this history, review current conditions and demonstrate that essential municipal services cannot be provided more efficiently or effectively by another city or borough.

In April 1986, the City of Dillingham passed a resolution supporting filing a petition to annex approximately 918 square miles of land and water. Also in April 1986, the City of Clark's Point submitted a petition for annexation of 242 square miles of land and water that overlapped the territory proposed for annexation by Dillingham. In October and November 1986, during and right after LBC public hearings in Dillingham and Clark's Point, both Dillingham and Clark's Point presented revised and reduced boundaries. The LBC concluded that the communities were competing in order to obtain revenue generated by raw fish taxes, and directed the two cities to examine their conflicts and present any compromise on boundaries, or agreements for the sharing of revenues and municipal services. The two cities were unable to come to an agreeable solution. In March ~~December~~ 1988~~6~~, the Commission approved the annexation of 12.25~~40~~ square miles immediately surrounding Dillingham, which is the City's municipal boundary today. In December 1986, the Commission rejected the City of Clark's Point proposed annexation.

Inclusion of offshore commercial fishing waters within a city and levying a local fish tax has not reduced incentives for borough formation in the area.

Even if concerns about "disincentives" for future governmental entities was part of the LBC 's overall consideration of this petition, inclusion of offshore commercial fishing waters within Dillingham does not reduce incentives for borough formation in this area. Allowing Dillingham to annex these commercial fishing waters and levy a local raw fish tax will not inhibit borough formation. Many communities in the region, both cities and boroughs, have enacted local raw fish taxes that are paid in addition to the State business fishery tax.

For example, when Lake and Peninsula Borough formed and levied a raw fish tax, it encompassed the existing City of Chignik, which already levied a raw fish tax on the approximately 12 ~~101~~ square miles of ~~offshore~~ waters ~~(Egegik Salmon District)~~ within its city boundary. Including an existing city with offshore waters and that levied its own raw fish tax, within the borough was not an obstacle to forming a successful borough, nor has the combination of a city and borough fish tax inhibited either municipality's economic sustainability. In fact, in the Bristol Bay region there are six communities where both a local city and borough raw fish tax is levied: City of King Cove, City of Sand Point, City of Chignik, City of Egegik, City of Pilot Point, and City of Akutan. The annexation of commercial waters to Dillingham with an attendant local raw fish tax will not be an impediment to future borough formation, as it has not been an impediment to formation of either the Lake and Peninsula Borough or the Aleutians East Borough both of which have been created since 1986 (see map on next page of this petition).

If a borough was to form at some point in this area, the State fisheries business tax revenue distribution formula provides that over a five-year period half the State fisheries business tax will go to the borough. This would provide revenue from the Nushagak and other fisheries to a prospective future borough.

No Uplands are Included.

The 1986 annexation petition filed by the City of Dillingham included large remote tracts of land whose inclusion drew strong objection from landowners. No uplands (other than a few islands within either Nushagak Bay or Wood River) are included in this petition. This petition focuses solely on the commercial fishing waters for which Dillingham provides significant services and facilities.

Dillingham has identified the real costs it bears annually to support regional fisheries.

Dillingham has looked carefully at use data to understand and estimate what increment of the services and facilities it provides can be attributed to the fishing fleet, and compared this to user fees it receives, to identify the real costs it bears to support regional fisheries

3 AAC 110.110 Resources.
The economy within the proposed expanded boundaries of the city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the:

(1) Reasonably anticipated functions of the city in the territory being annexed;

The only changes in functions are discussed in 3 AAC 110.090(a)(2) (p.40). Reasonably anticipated functions of the City in the territory being annexed include enhanced public safety and spill prevention, economic development, ongoing support of a small boat harbor, an all-tide dock, boat launch ramps, parking, water and ice availability at the harbor, trash collection at the harbor and docks (and subsequent disposal in a city operated landfill), access to a full complement of vessel repair, equipment and storage businesses as well as seafood processing facilities, and access to a regional hospital and airport and to commercial stores for provisioning.

(2) Reasonably anticipated new expenses of the city that would result from annexation;
Reasonably anticipated new expenses of the City that would result from annexation are $246,000 the first year and $150,000 annually thereafter. See Exhibit C-1 and C-2.

(3) Actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
Reasonably anticipated revenue from the territory to be annexed is $710,883 annually, based on a 2.5% local raw fish severance and sales tax. This estimated tax revenue is based on actual salmon harvests in Nushagak Bay in 2000, 2005, 2008 (ADF&G fish ticket data), the price paid for salmon those years in Bristol Bay (COAR data), and the amount of State Business fisheries tax shared those years with Dillingham and Clark's Point (see work sheets on next two pages). Actual revenue will vary depending on the annual harvest and price. Dillingham is not assuming that it will receive an increased share of State business fishery tax as a result of annexation, although this could be the case some years.

There should be no difficulty collecting this revenue. Twelve or thirteen other municipalities in the region levy ~~either~~ a raw fish severance, ~~or~~ sales or flat tax. Dillingham will likely structure its tax similar to the Lake and Peninsula Borough.~~s~~ There, as in most places with local fish taxes, ~~where~~ though the taxpayer (fisherman in this case) is obligated pay the tax it is the ~~a~~ buyer of fishery resources (processor) who remits ~~pays~~ it on behalf of the taxpayer ~~either a sales or severance tax~~ to the borough (or city) based on the value of the raw fish harvested (or severed~~, but not both~~). We have already talked with a few municipalities that levy~~ing~~ taxes about how their forms, ordinances, code and process work. The City of Dillingham does not anticipate any capacity problems in implementing this tax. The first year's budget includes additional funding for finances and administration to set up and provide public notice of the new tax rules and process. The proposed transition budget also includes funding for a compliance/fishery advisor position.