

NSB Mayor and Corporate President square off over Red Dog lands

The following is the text of NSB Mayor George Ahmaogak's address to the Local Boundary Commission in Anchorage.

Thank you for your attention as we discuss the extremely important detachment of over 2.1 million acres from the North Slope Borough. This is the first of five scheduled public hearings on a 1600-mile trip to the corners of our vast state, beginning less than 72 hours before your advertised final decisional meeting in Fairbanks this coming Saturday morning.

How you, in all fairness, will absorb all this testimony, in both English and Inupiat, with less than one day from the final hearing in Barrow to your Fairbanks meeting is beyond my understanding. You have a reputation for taking a far more careful and deliberative approach in precedent-setting cases such as the Akiaachak dissolution petition and you've usually taken much longer to process relatively minor annexations and other boundary changes.

I sympathize with your considerable agenda, but once again I want to make crystal-clear our position that 51 days is totally inadequate to process such a major decision. Private interests such as NANA/Cominco may advocate this unprecedented timetable to seek the most favorable political climate for tax concessions and regulatory concessions. But your task is to address public interests. I tell you straight out — there is absolutely no need to rush, especially since your regulations do not allow incorporation of NANA borough before March 1987. You are risking a very bad precedent, and inviting further damage to the boundaries and fiscal status of governments from Ketchikan to Kenai to Kaktovik. I think the most valuable background that I as Mayor can share with you today is my perception of the basic public policy question that dominated our own efforts to address NANA's request to us for a boundary change.

In October 1984, I was elected Mayor of the North Slope Borough on the basis of my commitment to open government and my commitment to responsible management of the borough's financial affairs. Before I was elected Mayor, I was head of Ukpeagvik Inupiat Corporation. My own personal experience impressed on me the important difference between accountability to stockholders and accountability to citizens, even when the shareholders and citizens are mostly the same people.

When NANA Regional Corporation asked me to initiate detachment of about 433,000 acres, including the Red Dog minesite, from the North Slope Borough to provide a tax base for a proposed new NANA regional borough, I committed my administration to work with NANA region representatives in a public process to find a way to help them form their own borough. Specifically, I directed the Borough Planning Commission to review and advise me on NANA's detachment proposal.

From the very outset, the Planning Commission was concerned about two aspects of NANA's detachment proposal. First, the Planning Commission was concerned about the propriety of our local government accepting NANA, a private corporation, as sole spokesman, for NANA had obvious financial and regulatory stakes in the proposal. Second, the Planning Commission was concerned about the impact of detachment precedent on the borough's future fiscal and territorial integrity. I think these were legitimate public issues.

This public interest issue quickly became the central element in our detachment discussions with NANA. As discussions progressed, we noticed that NANA urged us to suspend our planning and regulatory powers during the Red Dog mine development. We noticed that NANA had gotten tax-exempt status for mine-related improvements in the NANA region. We noticed that NANA/Cominco would reap significant tax benefits from the boundary change. And we noticed that none of the ten city governments in the NANA region and none of the regional governing agencies — the Coastal Resource Service Area Board, the Regional Housing Authority, the Northwest REAA School District — whose responsibilities and duties would be radically altered by borough formation, had spoken up to us in favor of detachment or borough incorporation.

For all these reasons, we concluded it would be premature and presumptuous for the North Slope Borough to take an official position in favor of NANA borough incorporation and detachment before the general public in the NANA region had a fair chance to state their views on these matters. That is why: (1) the Borough requested that Maniilaq Association, not NANA Regional Corporation, be the region's representative in the detachment negotiations. That is why: (2) we insisted that a NANA borough petition be forthcoming before we submitted a detachment petition. That is why: (3) we sought assurance that NANA voters favored borough incorporation before the LBC forwarded both our detachment petition and the proposed NANA borough incorporation for legislative approval, as required by 19 AAC 10.830 (c). We thought these safeguards were in the public interest of NANA region residents. We thought these were prudent safeguards for us to take before putting the Borough's boundaries and tax base needlessly and indefinitely at risk without so much as a public show of hands by NANA regional citizens on this incorporation/detachment concept.

Brenda Itta, Chairperson of the Borough Planning Commission, will explain more fully the steps the Planning Commission took to address this concern. The Planning Commission was concerned also about stewardship of the Borough's public resources. As public officials, we all had to be able to satisfy the citizen or news reporter who asked how our public's interest was served by our giving away the Borough's planning and taxing jurisdiction over a quarter-billion dollar development project at the request of and to the benefit of a private corporation.

It is important for you to continually keep in mind the substantial differences between private and public interests. Excessive speed, very limited public hearings and unresolved conflict-of-interest questions are clearly inappropriate to your major task at hand. What we have here is, in effect, an unprecedented state condemnation of tangible tax base, against the will of local voters and without any compensation to the host jurisdiction.

Last minute attempts to tighten up the record or sanitize the previous participation by special interests are clearly not enough. I am still awaiting the emergence of some sound research and forward thinking leadership on this issue on behalf of the state. This would be much more positive for the public interest than state agencies such as C&RA acting as partisan advocates and urging a state commission to rush through flawed procedures.

The following are just a few of the half-truths and distortions which have emerged in the 51 days:

1. You've been told that the North Slope

Borough's original boundaries were set without regard for standards and statewide interests. *The truth is:* the Borough's boundaries were approved by the State and found fully consistent with the statutory standards by the Local Affairs Agency, by the LBC, by the Attorney General's Office, by the State Superior Court and finally by the Alaska Supreme Court.

2. You've been told by NANA that the boundary changes between the two Native regions was unsettled at the time of incorporation because Point Hope was undecided about what region to join. *The truth is:* Point Hope had decided to join with Arctic Slope well before the borough began incorporation. NANA's own documents — Mr. Newlin's 1971 letter and map and Mr. Schaeffer's proposed ANCSA regional map — reflect this truth.

3. You've been urged by NANA and Commissioner Notti to believe the commission was misled about the Arctic Slope Native Association's boundaries. *The truth is:* at the time of its decision the Commission was fully aware of the unresolved ASNA/NANA boundary dispute and, therefore, aware of the possibility that the borough and eventual ANCSA boundaries might not match.

4. You've been told that the LBC made its original boundary decision without regard for the effect of its decision on the formation of future rural boroughs. *The truth is:* in 1972, the LBC and the executive and legislative branches were more intensely interested in organizing rural Alaska into boroughs than at any other time since statehood.

5. You've been told that now — 1986 — is time to correct the alleged "error" that the Commission made in 1972. *The truth is:* the Borough was incorporated on July 1, 1972 and the ANCSA regional boundaries were agreed upon less than a month later. If LBC or NANA believed that borough boundaries were supposed to match the ANCSA boundaries, why didn't they object then. *The truth is:* in 1972, the State was defending these very boundaries in court, against the challenge from special interests. In 1972, NANA was debunking the very idea that there was any connection between Borough and ANCSA corporate boundaries. John Schaeffer's exact words in June 1972 were that "we (NANA) have always believed that the proposed (North Slope) borough boundary has no relation to regional boundaries set up under the Settlement Act and therefore have not opposed the proposed Arctic Slope boundary." The facts have not changed since 1972, except that the Department of Community and Regional Affairs and NANA are reneging on their original positions.

6. You've been told that the Red Dog mine project threatens unprecedented growth and adverse impacts for the NANA region. *The truth is:* the Environmental Impact Statement, C&RA's own analyses and Cominco's press releases, show that the project will have few adverse impacts and little effect on growth.

7. You've been told this detachment is needed for unified local governmental planning for the development of the detachment area. *The truth is:* NANA asked the North Slope Borough to suspend its planning and permitting functions during the critical three years when the mine is to be developed.

8. You've been told this petition is needed to help finance a new NANA region borough.

10. You've been told that NANA region residents are urgently concerned to form a borough. *The truth is:* NANA held back submitting a borough incorporation petition, but urges you take final action on detachment before you have had a chance to look at an incorporation petition.

11. You've been told that the detachment area is worthless to the North Slope Borough. "little more than Alpine tundra," according to Willie Hensley. And then the same Mr. Hensley would have you believe it can be the financial foundation for another local government.

12. You've been told, repeatedly, that our October referendum was an advisory vote. *The truth is:* popular approval and submittal of a NANA borough petition and equitable compensation were all required by the borough assembly ordinance authorizing submittal of any detachment petition. I emphasize that the North Slope Borough held a democratic election on this matter, while NANA did not.

13. You've been told that the only difference between the detachment proposal NANA previously agreed to with us and commissioner Notti's detachment petition was that our voters turned down NANA's proposal. *The truth is:* the memorandum of agreement between the North Slope Borough and NANA was significantly different. It required equitable compensation for the North Slope Borough before submittal of the North Slope Borough's detachment petition. It also required local voter approval of the NANA borough incorporation before LBC submittal of the proposed boundary change for legislative approval.

14. You've been told that the standards for determining boundaries of the boroughs are "essentially identical" to the standards for determining ANCSA regional corporate boundaries. *The truth is:* none of the eleven boroughs follow regional corporate boundaries. If anything, the map of Alaska shows that borough and ANCSA corporate boundaries are universally different.

15. You've been encouraged to treat the proposed boundary change as a relatively minor adjustment. *The truth is:* the territory proposed for detachment is larger in area than five existing boroughs, with a potential tax base that exceeds the combined valuation of Bristol Bay and Haines Borough and the valuation of any city in the state except Valdez.

16. You've been told it's impractical for the North Slope Borough to meet the local public service needs of the detachment area. *The truth is:* the borough already provides a wide range of services to communities more remote than the detachment area.

17. You may have gotten the impression that the detachment area is largely comprised of NANA-owned lands. *The truth is:* only 4 percent of the area proposed for detachment is owned by NANA.

18. You've been told that the NANA borough incorporation is urgently needed for local control of Red Dog development. *The truth is:* NANA itself is owner and co-developer of the minesite. At NANA's urging, the state will build, own and operate the road and port improvements. NANA, as proprietor and developer, together with the state, is already in a very strong position to prevent or mitigate any problems stemming from mine development.

19. You've been urged by NANA to approve detachment immediately and without con-

The following is the text of remarks by president-elect Willie Hensley of NANA before the Local Boundary Commission in Anchorage.

Mr. Chairman, members of the commission: Thank you for the opportunity to state our position on this issue.

First, I would like to state that I never have thought that the efforts of our region to form our own local government, to provide both for a tax base as well as employment opportunity would face such frenetic and vigorous opposition such as we've encountered from the North Slope Borough.

I would like to state also that even though the people of the NANA Region have fought hard to turn Red Dog from an idea into reality, from words and paper into jobs and a hope for economic security, when the dust settles and our people have the same opportunity to do local planning and zoning and taxing as the North Slope Borough — as for as we are concerned — by-gones will be by-gones and our people will continue to share a language and culture and cooperate with the Arctic Slope as we have done in the past.

However, we happen to disagree with several aspects of the NSB's brief in opposition to the detachment.

I want to reiterate again that

1) While we did support the formation of the NSB in its earliest stages, President Robert Newlin of the Northwest Alaska Native Association in November of 1971 did strongly object to the 68th parallel as their southern boundary because it violated territory of our traditional use as well as our land claim. However, no hearings were held in our region; we had no finances to deal with the matter and the record shows that Arctic Slope Native Association officials stated more than once that the boundary of the borough would be coterminous with the boundary of the two regional corporations. These boundaries more accurately reflect traditional use and

occupancy as well as natural geographic features. All we desire is to return to this negotiated boundary.

2) I also strongly object to Mayor Ahmaogak's characterization of this effort to form our own borough in the NANA Region as some kind of greedy reach for profits. We are proposing an initial tax of 3 mills which is one mill higher than the original NSB tax. As far as we're concerned, the new assembly will be responsible for setting the millage at whatever rate that is reasonable in the future. Insofar as who speaks for our region — we have always worked cooperatively between NANA, Maniilaq and the School District.

If anyone has any doubts as to who is reaching for the cashbox, the NSB tax base now stands at \$12 billion. According to a recent economic newsletter, that tax base is expected to balloon by \$10 billion in the next 10 years. In the meantime, every other municipality in the state will be firing people in order to live with decreased income from the state.

3) I would also like to specifically state that we never had a legal obligation to go to the NSB to seek the boundary change.

We made the effort to work with the NSB out of a sincere desire to avoid any lingering bad feelings between the two regions.

That memorandum of understanding took many weeks to work out. It was the culmination of several years of discussions. Unfortunately, the effort to negotiate with the NSB failed when the city of Barrow provided most of the votes to defeat this effort at unity.

Yet that defunct memorandum of understanding has been used to beat us over the head on several points; I would like to refute them:

1) The 433,000 acre proposal was an effort on our part to make the detachment more palatable; they knew we preferred the ASRC/NANA boundary and could not have been shocked by the 2 million acre detachment request.

2) The fact that we spent so many months attempting to negotiate with

Borough Commissioner Notti's conclusions on the best interests of the state, the detached territory and the North Slope Borough. *The truth is:* we certainly did not ask NANA's attorney to prepare words to put into our mouth. We are surprised that Commissioner Notti allowed NANA to put words into our mouth.

21. Lastly, you've been urged to believe that the Commissioner's detachment petition is in the best interests of the North Slope Borough. *The truth is:* this is the most cynical and anti-democratic falsehood in a brief studded with half-truths and erroneous conclusions. It is an insult to the intelligence of everyone in this room!

It is my sincere hope that this list of actual facts will set the record straight, and prompt you to give the historical and factual background to this petition your utmost critical attention.

The Kenai Borough has already advised you to be careful. So has the Alaska Municipal League, as well as the Alaska Planning Association. Other municipalities across the state are also concerned, as are over 1,100 of our residents who have recently signed petitions opposing this detachment.

Today it is a portion of the North Slope Borough, "little more than Alpine tundra" according to Mr. Hensley, "a miserable quarter billion dollars." Tomorrow, it could just as easily be half of the Kenai Borough or more remote resource areas in other municipalities. What is our protection against this sort of partisan advocacy by C&RA, both now and in the future? Isn't that department supposed to assist local democracy and local government in all parts of the state? What is the protection for any local government in this state if you or the LBC fail in any way to set the very highest standard of fair and impartial review by disinterested commissioners?

These are hard questions. They are meant to be hard and direct. I'm sure that the mayor

of any other municipality so threatened by such an imposed, uncompensated condemnation of its tax base would ask equally hard questions.

I want to close with a point that Sheila Gallagher will later discuss in more detail. The closer we examine the commission's own regulations, the clearer it becomes that the regulations never envisioned a detachment petition of the sort now before you. The Commission's regulations on detached standards, which singularly stress provision of local public services, and on related incorporation standards, seem clearly intended as a specific remedy for citizens with just grievances against a local government that was not fulfilling its obligations. I refer you particularly to 19 AAC 10.170(c) and 19 AAC 10.830(c). These provisions strongly suggest that detachment was intended to be a remedy for governmental problems arising exclusively within the detachment area, not to be a backdoor method to deal with problems in some other jurisdiction entirely, not to be a pretext to force one local government to donate a tax base to another jurisdiction. There are no citizens with grievances in the territory proposed for detachment. The borough is doing its job. We are providing all needed service efficiently and without controversy and we intend to provide any local public services needed in the future.

We do not believe that Commissioner Notti's detachment petition satisfies the requirements of the Commission's regulations and we respectfully urge you to reject it.

There is still time to pull back and provide hard research and leadership, but your self-imposed clock is nearing midnight. Once again, I ask you to join with me and seek other responsible alternatives to deal with the many problems of the unorganized borough.

I will be immediately followed by several borough representatives who will expand on the basic points I've made. I would ask you to save all your questions until our delegations has completed its entire presentation.

Thank you.



President-elect of NANA Regional Corp., Willie Hensley, photo by Steve Kakaruk

NSB forced us up against the wall on timing. So the NSB now claims that they don't have time to review the issue. They have had more time, staff, lawyers and consultants on this than we can count.

We had no choice once the referendum failed but to go to the state for a resolution.

In retrospect, had we gone directly to you people we would not have had to squeeze so much activity into the last several months.

With respect to the timing of our desire for detachment, now is clear for all who understand the nature of the realities of government, business and politics. We simply could not rush for our own borough without the knowledge that we'd have business activity and property to tax.

This became nearer a reality when the state agreed to finance the road and port at a profit to the state. This was signed into law the summer of 1985. We did not know that we would have a road until Congress approved and the president signed the Right of Way Legislation in September, 1985.

The detachment is necessary for our people to feel secure that they will not be the only ones shouldering the burden of taxation.

The borough incorporation petition is now in the hands of the DCRA. We want to proceed with the borough vote this year. The reasons should be clear to anyone:

1) Since the Red Dog Mine Project is imminent we want our own assembly and staff to be in a position to begin monitoring the development in the early stages of construction — we don't feel comfortable with planning and zoning being done in Barrow.

2) In spite of the NSB comments to the contrary, the Red Dog Project will have socio-economic impacts that will have an affect in our Region. The project will create economic activity and that in turn will require planning by the borough in conjunction with our villages in the areas of housing, social services and training. You will hear more on this in Kotzebue, which no doubt will bear the brunt of the increased demand for services.

3) The Northwest Arctic Borough, if approved by our electorate, may well want to consider providing some of the services at Red Dog Mine much as the NSB does at Prudhoe Bay. Having the borough approved at the inception of construction of the road and port will enable the borough time to deal with such subjects prior to the constructing of facilities at the mine site itself.

In many respects our region is no different than the North Slope Borough in that they also wanted to form their borough prior to Prudhoe Bay actually being developed so that they could control the affects of such activity that disturbs the earth as well

as social environment.

There was no necessity for the NSB to use the memorandum of understanding as a vehicle to try to show that great harm was being done to the Borough. The MOU had nothing to do with DCRA — that department in no way was blessing that document. It was simply a vehicle for NANA area and NSB to try a mutual effort.

There are some other allegations that I must clarify. The NSB has made it appear, as if NANA was promoting a period of total absence of planning and zoning or environmental controls on the Red Dog Mine.

That position was definitely proposed by John Schaeffer — but only in the context of negotiations on the MOU. We knew it was a throwaway item and we knew there was no way that NSB regulations would be exempted at Red Dog if it remained in the NSB. Indeed, it was our desire that planning, zoning and taxation be provided by our own borough. After all, it is our environment, our rivers and hunting grounds that will be affected by the development, not that of the people in the North Slope.

Since the LBC has the obligation of considering all aspects of this matter, I would be remiss if I didn't state a very important aspect of our concern in the NANA region.

That is the issue of employment. The NSB has downplayed — in fact, denied — that they require substantial NSB resident hire when issuing permits to the oil industry.

One of the main objectives we have in pursuing the Red Dog Project is jobs. It is these jobs that will help our people pay the taxes we'll need to operate the borough. We are concerned that the NSB may withhold permits for the project at the mine site, forcing the project to hire NSB residents rather than NANA area people.

This permit power by the NSB was used to require 7500 hours of work for Slope people in the Endicott project, for instance.

Mr. Chairman, our area is unfortunately highly dependent on state and federal spending for our economy. We are doing everything in our power to try to bring some element of private economic activity into our region that will last long after we're gone — something that will not be dependent on annual state appropriation.

In looking at your constitutional and statutory requirements, we feel that this request for a boundary change meets the law. We do not ask that you consider the feelings of our people with respect to the matter of use and occupancy of that area — as well as our people's need to regulate Red Dog and any other developments in our own region.

Thank you for all your consideration on this matter.



North Slope Borough Mayor George Ahmaogak.

photo by Steve Kakaruk

"These are hard questions. They are meant to be hard and direct..." — Mayor Ahmaogak

The truth is: 80 percent of the financial benefits go to the mine developers and only 20 percent go to the proposed new borough. Most of the detachment benefits constitute yet another public subsidy for an international mining venture.

9. You've been told that the NANA region's tax base is inadequate. *The truth is:* NANA promoted the legislation that exempted the \$150,000,000 in road and port improvements for its mine from local taxation. That's why the tax base is inadequate.

consideration for distribution of assets and liabilities. *The truth is:* last August, NANA was agreeable to borough incorporation before final approval of detachment. Why not today? Last August, a detachment submitted to the 1987 legislation was agreeable to NANA. Why not today? Last August, NANA was agreeable to equitable compensation for the North Slope Borough for lost revenues. Why not today?

20. You've been told that NANA's attorney first prepared for the use of the North Slope