

THE COMMUNITY OF ELFIN COVE

P.O. BOX 1
ELFIN COVE, AK 99825

February 23, 2024

Via E-Mail

Jedediah R. Smith, Local Government Specialist
Department of Commerce, Community &
Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501
LBC@alaska.gov

Re: Responsive Brief of the Elfin Cove to Hoonah's Petition for Incorporation
of a Xunaa Borough

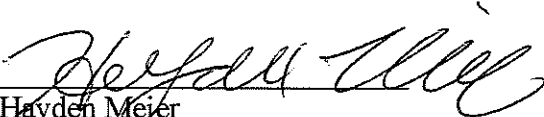
Dear Mr. Smith:

Please find enclosed the Elfin Cove responsive brief opposing Hoonah's petition.

Attached you will find an original and five copies of the Elfin Cove's brief and exhibits,
along with the affidavits required by 3 AAC 110.480(b) and (c).

Thank you for all your assistance. If you need any additional information, please let us know.

Sincerely,


Hayden Meier

**LOCAL BOUNDARY COMMISSION
STATE OF ALASKA**

In the Matter of the Petition by the City of)
Hoonah for Incorporation of the Xunaa Borough)
As a Home Rule Borough and Dissolution of)
The City of Hoonah)

AFFIDAVIT OF SERVICE

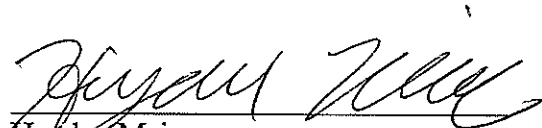
STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

I, Hayden Meier, certify that I am a member of the Board of Directors of Elfin Cove, and that on the ____ day of February, 2024, I caused two true and correct copies of the RESPONSIVE BRIEF OF ELFIN COVE TO THE PETITION OF THE CITY OF HOONAH to be served via U.S. Mail, postage prepaid, on:

Dennis H. Gray, Jr., City Administrator
City of Hoonah
300 Front Street
P.O. Box 360
Hoonah, AK 99829

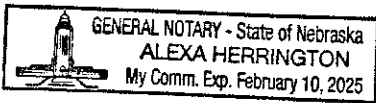
with an additional copy sent via electronic mail to: dgrayjr@cityofhoonah.org

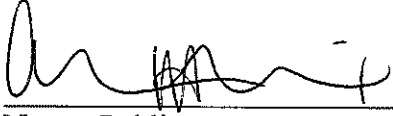
DATED this 26th day of February, 2024.



Hayden Meier

SUBSCRIBED AND SWORN before me this 26th day of February 2024





Notary Public
My commission expires: 02/10/2025

**LOCAL BOUNDARY COMMISSION
STATE OF ALASKA**

In the Matter of the Petition by the City of)
Hoonah for Incorporation of the Xunaa Borough)
As a Home Rule Borough and Dissolution of)
The City of Hoonah)


AFFIDAVIT OF RESPONDENT ELFIN COVE

STATE OF ALASKA.)
) ss.
FIRST JUDICIAL DISTRICT)

I, Hayden Meier, am the respondent Elfin Cove's designated representative with respect to this matter.

To the best of my knowledge, information, and belief, formed after reasonable inquiry, the Responsive Brief and attached exhibits are founded in fact and are not submitted to harass or cause unnecessary delay or needless expense in the cost of process the Petition for Incorporation filed by the City of Hoonah.

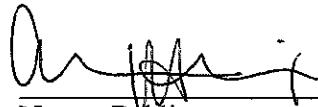
DATED this 23rd day of February, 2024.



Hayden Meier

SUBSCRIBED AND SWORN before me this 26th day of February, 2024





Notary Public
My commission expires: 02/10/25

**LOCAL BOUNDARY COMMISSION
STATE OF ALASKA**

In the Matter of the Petition by the City of)
Hoonah for Incorporation of the Xunaa Borough)
As a Home Rule Borough and Dissolution of)
The City of Hoonah)

**RESPONSIVE BRIEF OF ELFIN COVE TO THE PETITION OF THE CITY OF
HOONAH**

The Community of Elfin Cove is opposed to the Petition submitted by the City of Hoonah for incorporation of the Xunaa Borough. Petitioner City of Hoonah has failed to meet the statutory requirements for incorporation of a borough, for the reasons identified below. In response to the petitioner’s brief (Exhibit E of the Application) we present the following comments and points of clarification.

Exhibit E, (a): “Promotion of equal rights, opportunities, protections, and obligations among all Alaskans. 47 Alaskans who have never been part of any municipality will now be part of and represented by a local government.”

- Elfin Cove is a non-profit corporation, formed 11/13/1981, entity #25426D, that functions as a local government. The community has developed a government structure, operates a fuel dock and a water and utility company. Citizens of Elfin Cove elect a Board of Directors to provide governmental oversight and operations.
- Though lacking taxation, zoning and planning powers, Elfin Cove has been able to develop, improve and maintain the community.
- Elfin Cove has improved and maintains the community’s access to fuel, electricity, safe water, emergency medical services, U.S. Postal service, an indoor recreation area, meeting and record keeping rooms, a repository of the community’s past at the Elfin Cove Museum, and a continuing effort to secure alternative energy sources, such as hydropower.
- Elfin Cove’s non-profit corporation, through our Board of Directors, has worked with many State and Federal agencies concerning boardwalks, docks and dredging. Elfin Cove was awarded grants for the replacement and upgrade of the dock leading to the seaplane base, for dredging of the channels entering Elfin Cove, and a grant for repair and maintenance of area boardwalks.

- The nonprofit corporation has been very successful in establishing, developing and maintaining all the services necessary to support rich social, economic and family life. These efforts include maintaining and repairing the State of Alaska-owned inner harbor. Elfin Cove continues to work with the Alaska Dot to secure funding for state-owned docks and pilings, which are in need of repair. Nothing in the Hoonah petition addresses this issue, and there is certainly no budgetary item identified that would provide funding or send maintenance people over to repair a damaged boardwalk plank or a broken dock piling bracket on what is now State-owned property. We have been successfully self-sufficient and desire to continue.

Exhibit E(b): “Promotes maximum local self-government with a minimum of local government units.”

- The Hoonah Borough Petition claims to bring local government to the communities of Game Creek, Elfin Cove and Funter Bay, who “currently have no organized local government at all.” This is an inaccurate claim. As stated above, Elfin Cove is an established community with a functioning governmental structure. The Petition also states Petitioner does not intend to expand services or create local committees. This does not provide local government; it dissolves the currently functioning government.
- Including Elfin Cove in the Hoonah Borough would diminish the existing level of local government. The citizens of Elfin Cove, through its Board of Directors, can now make decisions at local meetings attended by citizens and take action accordingly. This ability to manage local affairs would be diminished under Borough management. Management would shift to the Borough assembly located in Hoonah. The overlay of Borough government would eliminate local government, substantially harming Elfin Cove’s ability to manage their local affairs.
- Additionally, the claim of “extending local government on a regional scale to areas in the now-unorganized borough” is inaccurate; it would not be local to Elfin Cove. Hoonah may only be 32 land miles from Elfin Cove, but no roads connect the communities. The reality is that Elfin Cove is more than 42 miles by water which equates to over five-hour trip by boat, weather permitting, with no regular ferry service.
- As a governmental entity formed under the laws of, and recognized by, the State of Alaska, Elfin Cove should receive full recognition as a local governmental entity, like any other Alaskan municipality.

Exhibit E, (c) and (d): “Embrace an area and population with common interest”, and “social, cultural and economic characteristics and activities... are interrelated and integrated”. Hoonah claims to be the “hub of this region, and even the proposed borough’s most remote residents depend on Hoonah for supplies, support and transportation.” This claim is easily demonstrated to be inaccurate.

- Elfin Cove is a geographically distinct and isolated area. Its primary social and economic interaction is with Juneau and Gustavus. There is no common carrier connection between Hoonah and Elfin Cove. It is much more economical to get supplies from Juneau, which is only marginally farther than Hoonah. Daily float plane service from Juneau to Elfin Cove ensures consistent, and economical, supplies, support and transportation. Gustavus, which is half as far away from Elfin Cove as Hoonah, is a much larger city with substantially more opportunities for supplies, support and transportation.
- Very few commercial fishermen from Hoonah come to Elfin Cove. Cross Sound Marketing is a local co-op operated by commercial fishermen which owns the town store and laundromat which services the commercial fleet and community, members are not based out of Hoonah as they are not interrelated or integrated.
- Transportation: There are no direct flights between Elfin Cove and Hoonah; all flights go through Juneau. No ferry service is available between Elfin Cove and Hoonah. Residents from Elfin Cove wishing to utilize services in Hoonah, or attending Borough meetings, would be required to go to Gustavus or Juneau, or risk the arduous trip in a private boat.
- Exhibit E (d) of the Petition misleadingly claims that Elfin Cove is 33 miles from Hoonah. This straight-line measurement would only apply to air travel, and there is no air service between Elfin Cove and Hoonah. The much more challenging route by boat is 42 miles or more and is limited to good weather in the summer months.
- Elfin Cove has more in common with the communities of Pelican and Gustavus. These communities have economies connected to our commercial fishing and sportfishing lodge operations, and are much more accessible.
- Finally, Exhibit E (d) of the Petition makes the claim that “even the proposed borough’s most remote residents depend on Hoonah for supplies, support and transportation”. This statement is demonstrably false. All of the residents, and all of the fishing lodges, rely on Juneau and Gustavus for supplies, support and transportation. Hoonah gets its supplies from Juneau. Elfin Cove residents are resourceful in combining orders and limiting trips to reduce expenses. There is no chance that Hoonah could provide the supplies necessary for Elfin Cove during the busy summer months. Expenses would go up dramatically.

Exhibit E (d)(iv)(B)(1) Hoonah makes the claim that they are a regional hub for transportation.

- Hoonah’s claim to a central role in aviation and boat transportation is simply false. While a full-service boat harbor is mentioned, the exhibit also glaringly notes that the only ferry service is between Hoonah and Juneau. No municipality in the proposed borough is identified, because there is no ferry service. The Exhibit itself makes clear that Juneau and Gustavus, not Hoonah, are the regional hubs.
- The Exhibit also mentions a wheeled aircraft-capable airport. There isn’t a municipality in the proposed Borough for which this is a benefit. All the municipalities, including Elfin Cove and Hoonah, can be serviced by float plane. However, to purchase a flight to Hoonah, a traveler from Elfin cove would first have to travel to Juneau, since no direct flights exist.

- Roads: We have none in Elfin Cove and no roads currently connect Elfin Cove and Hoonah.

Exhibit E (d)(iv)(B)(2), (3) Public Safety and Public Health.

- No public safety officers come from Hoonah to Elfin Cove. Over the past years VPSO officers from Pelican have occasionally come to Elfin Cove. If public safety needs arise, State Troopers from Juneau are called and respond. The Coast Guard based in Sitka provides emergency medical and rescue services.
- We do not utilize public health services in Hoonah. All public health issues are handled through Gustavus or Juneau, and in an emergency, the Coast Guard.

Exhibit E (d)(iv)(B)(5) Tourism.

Cruise ship tourism in Hoonah does not have an impact on Elfin Cove and Hoonah does not hire people from Elfin Cove. Elfin Cove does host smaller cruise ships periodically in the summer. These smaller cruise ships have provided much needed economic activity in Elfin Cove, which would be decreased by taxation by Hoonah Borough.

Exhibit E (e) Communications and development of an integrated borough government.

The proposed borough would have no impact on electronic communications at Elfin Cove. Phone service exists, although it can be spotty at times. As mentioned above, land, water and air transportation is essentially non-existent between Elfin Cove and Hoonah. To suggest that because AT&T provides spotty cell service the “level of communication and exchange necessary to develop an integrated borough government” exists is simply false. This requirement is simply not met. Communication for Elfin Cove is far more integrated with Gustavus or Juneau. As an example of the lack of integrated communication, the Public Notice for filing the Petition was placed in two locations in Hoonah. Elfin Cove was apparently too remote to justify posting this required notice.

Exhibit E (f)(i) A sufficiently large and stable population.

- Hoonah makes the unwarranted assumption that the State Statute population threshold of 1,000 is somehow “arbitrary” and “unwarranted.” However, this standard also anticipates a stable population rather than seasonal fluctuations. Even more onerous is the reality that less than 10% of the proposed borough would live in communities other than Hoonah. Combined with the logistical, service and communication/transportation issues mentioned above, it is highly unlikely that the needs of the outlying communities, including Elfin Cove, will have any voice in governance.
- It appears that Hoonah growth and population is tied directly to Icy Strait Point tourism. If the cruise industry were to diminish again it is uncertain that Hoonah would maintain the population or talent to run borough government.

Exhibit E(g) Human and Financial Resources to provide essential borough services on an efficient, cost-effective level.

- Although Hoonah can demonstrate a growing economy and public service facilities, nearly all of this is based on their tourism industry, primarily the cruise ship industry. The facilities identified in Exhibit F, §5.A provide no benefit to the outlying communities, including Elfin Cove. In fact, Elfin Cove residents can expect to see their tax dollars go to supporting this tourism infrastructure, not the needs of Elfin Cove. What Hoonah has created is a substantial and expensive administrative state, far out of proportion to the population of under 1,000.
- Equally importantly, Hoonah's reliance on cruise ship tourism, and the substantial expense associated with the infrastructure and public service facilities is in direct conflict with Exhibit E(d) above. Nothing about Hoonah's economic characteristics and activities are interrelated with Elfin Cove. Expenses for the proposed Borough will be primarily driven by Hoonah's need to support their tourism industry, to the detriment of the outlying communities. During an economic downturn, there will be substantial pressure on the outlying communities to financially support the fixed costs of the tourism-based infrastructure and public service facilities.
- Elfin Cove receives IRIS SOA CAP money annually, which will not be available if the new borough is formed. Elfin Cove uses these funds to help with maintenance of community buildings, boardwalks and harbors. The Hoonah budget does not take into account this loss of revenue or suggest a replacement of these funds from the tax collected.
- The proposed Hoonah Borough is silent on how the borough, and the increased taxes, will benefit Elfin Cove. Exhibit W, Section C states that "sales tax levied and collected under subsection B of the section shall be appropriated for areawide purposes." And yet in the projected budget, Exhibit D, there is no expenditure category for areawide purposes. The transition plan repeatedly states that the borough does not intend to expand services outside of Hoonah.
- Finally, it should be noted many of the expenses that would be the responsibility of the borough are not needed or available in Elfin Cove. For example, there is no need for a school, since there are no school-age children.

Exhibit E(h) Natural Geography.

- The Petitioner recognizes the weakness of its claim to conformity with the requirements of 29.05.031(a)(2) and 3 AAC 110.060(a). To suggest that the exclusion of Gustavus, Pelican or Tenakee Springs does not create "enclaves" is disingenuous. The tortured use of a Merriam-Webster definition of enclave to support their claim has no merit. An enclave need not be "closed in or fenced off" to qualify under state requirements. Pelican would be entirely surrounded, with no logical option for inclusion into another borough. And the exclusion of Gustavus is especially glaring, since the proposed borough would leave little left for inclusion into a future borough including Gustavus. Petitioner curiously cites the resistance of Gustavus, Pelican and Tanakee Springs as evidence that Petitioner is in conformity with state requirements, while including Elfin Cove, who has similarly opposed inclusion into the Borough. In fact, the opposition of these

communities is further evidence that Hoonah is not the appropriate center for governance in this region.

Exhibit E(h)(iii) Western Boundary extending into the Gulf of Alaska.

- Hoonah’s distance from the Gulf of Alaska will significantly impact their ability to exercise jurisdiction over the area. Lack of easy access to the area would limit their ability to ensure taxes were collected on fish caught in the borough but sold outside of the borough.

Exhibit E(i) The proposed borough will have the ability to extend services to the area... in a practical and effective manner.

- As stated above, nothing could be further from the truth. While Hoonah has invested in substantial infrastructure and public service facilities, none of this will be of benefit to the other communities, including Elfin Cove. In fact, the substantial expenses will likely be a financial drain on the other communities, with no benefit.
- Hoonah is not the center for transportation or communication and will have very limited ability to extend services to any other community, including Elfin Cove. Without effective transportation between Elfin Cove and Hoonah, it would be very impractical, and least effective, to provide services from Hoonah.
- Petitioner makes the unsupported claim that at this point, “there are no other essential services in the currently unincorporated portions of the proposed borough”. “This determination is driven by the desire of the residents of those areas – Elfin Cove, Funter Bay, and Game Creek – to live an independent life with little government involvement.” If Petitioner spent more time in these communities, it would become clear how misplaced this statement is. Elfin Cove has a volunteer fire department, maintains a well-stocked medical room, a utility commission, a water utility and a fuel dock.
- Petitioner claims that the “Petitioner has consulted with both Game Creek and Elfin on multiple occasions. To date, we have not received any statement of opposition or concern.” Elfin Cove, upon hearing of the proposed petition, submitted a resolution in opposition (see attached). Additionally, Petitioner never approached leaders of Elfin Cove, either verbally or in writing, to discuss the proposed borough. Elfin Cove became aware of the petition from neighboring communities of Pelican and Gustavus.

Exhibit E(k) Is the Proposed borough in the best interests of the State.

Although one goal of State governmental organization is “maximum local government” with “minimum local government units”, such organization should meet additional state criteria, which Petitioner clearly does not meet. To suggest that a proposed borough which excludes the communities of Gustavus, Pelican and Tanakee Springs is “minimum local government units” is clearly in error. Petitioner has had to continually adjust their plans as communities have expressed their opposition. Elfin Cove should also be excluded from this proposed borough.

CONCLUSION

The applicable constitutional, statutory and regulatory standards that must guide the Commission's evaluation of Hoonah's petition do not support incorporation of the area identified into a new Xunaa Borough. Elfin Cove respectfully requests the Commission to reject the Petitioner's Petition for incorporation.

RESPONDENT'S REPRESENTATIVE

As required by 3 AAC 110.480, Respondent Elfin Cove designates the following individual as its representative:

Name: Hayden Meier, Chairman, Board of Directors, Elfin Cove
address: 6433 S. Constellation Way
Boise, ID 83709
Telephone: (425) 281-6073
Fax:
Email: haydendme@gmail.com

DATED this ____ day of February 2024

By: _____
Hayden Meier, Chairman

Elfin Cove Notes

“From Codfish to Cohoes”, E.O. Ernie Swanson, Alaska Sportsman, October 1964.

- 1909 He was fishing with John “Jack” Rowe on halibut boat *Caesar*. Headed to Juneau with load of halibut. Rowe preferred sail power to the noise of the 2 cycle gas engine that was either in forward or reverse direct to engine. Near Pt. Adolphus the outgoing tide stopped sail power speed and the switch was made to reverse. Several hours later a progress report revealed the *Caesar* had lost 5 miles. The direction lever had been left in reverse and not forward. The early years of fuel combustion engines were not without issues; sail or oar power was not an option in extreme currents, (my opinion).
- 1909, February, while fishing with Jack Bowe they sought a safe anchorage in what would later become Elfin Cove. In 1909 the cove was “desolate”, no docks, no buildings, and no inhabitants. In these years it was known as the Gunk Hole.
- 1910-11 Tried trolling, engine powered boats were not then used; thought the noise and propeller would scare salmon. Fish were filleted and salted in tierces, a fish packer would take them to Juneau or Sitka.
- 1917 fished halibut in Icy Straits. Fish were sold to a freezer ship anchored at Idaho Inlet.
- In early 1920’s power boats became into use trolling for salmon. King and coho were caught in the 3 Hill vicinity.
- 1931 Five fish buyers were in the Gunk Hole. King salmon: 10 cents a pound for large red kings, 5 cents for small, and 2 cents a pound for whites. Cohoes were 20 cents each at beginning of season.
- 1933 first house built at the Gunk Hole. John Erickson, Henry Jussila, and Sam Butts first settlers. Sam moved to Gull Cove because the Gunk Hole was getting “too crowded”.
- 1934/5 more building at the Gunk Hole to accommodate increasing number of boats and people settling there.
- 1935 The Elfin II was built in Seattle to haul ice to the Gunk Hole and fish back to Juneau. The 50’ plus boat replaced the 32’ Elfin.
- A post office was requested and the name Elfin Cove used on the application. Ruth Swanson was appointed postmaster.
- Oil tanks were installed for a fuel dock.
- Elliot Fremming would eventually own the fuel dock.

Resolution 23-01
7/14/2023

A Resolution by the Community of Elfin Cove opposing formation and inclusion in the Xunaa Borough.

Whereas: the Community of Elfin Cove is a non-profit corporation community association established in 1981, and

Whereas: the Community of Elfin Cove is a local form of limited government as recognized by the State of Alaska, and

Whereas: the Community of Elfin Cove does provide services and perform functions, not being provided by the private sector which includes owning and operating an electrical utility, owning and operating a bulk fuel facility fuel dock and home heating delivery, owning and operating a certified public drinking water system, owning and operating a community building which provides space for the U.S. Post Office, a medical room, a museum, offices, meeting rooms and a gymnasium;

Whereas: the Community of Elfin Cove currently lacks a year-round population of school-age children, therefore; the proposed borough school district's services would not currently be required; and

Whereas: the Community of Elfin Cove is a smaller community with no voting power to oppose taxation, planning and zoning or the possibility of an attempt to take over the Community of Elfin Cove's assets by the proposed entity, and

Whereas: the Community of Elfin Cove is not linked to Hoonah via air, land or water transportation, and

Whereas: the Community of Elfin Cove has limited ties to Hoonah socially, culturally, or economically; and


Whereas: the Community of Elfin Cove has established and continues to successfully manage all the above-mentioned services and functions and more therefore;

Be it thereby resolved: the Community of Elfin Cove in order to preserve the sense of community earned through our decades long efforts to become and remain economically viable and to maintain our high quality of life opposes any attempt by the City of Hoonah to include Elfin Cove within the proposed Xunaa Borough.

Passed and approved by the Community of Elfin Cove Non-Profit Corporation on July 14, 2023.

Wayne Stauffer 7/17/23
Wayne Stauffer - Chairman

Jim Wild 7-17-23
Jim Wild - Vice-chair

From: wayne stauffer wstauffer3285@gmail.com 
Subject: Fwd: Xunaa Borough
Date: February 8, 2024 at 9:59 AM
To: Mary Crump elfincovesecretary@gmail.com, Crump Kelly kelly@watersedgealaska.com, hayden meier haydendme@gmail.com

Here is the email I sent to Dennis Gray last summer. Hope this helps,
wayne

----- Forwarded message -----
From: **wayne stauffer** <wstauffer3285@gmail.com>
Date: Mon, Jul 17, 2023 at 4:42 PM
Subject: Xunaa Borough
To: Dennis Gray Jr <dgray@cityofhoonah.org>

Good Afternoon Dennis,

Elfin Cove had a Community Meeting Friday 7-14-2023. We discussed becoming part of the Xunaa Borough. We then passed this Resolution and I wanted to pass an email copy of it along to you. The original will be sent by mail to the Hoonah City Administrator's Office.

Thanks for thinking of us however as of today, no one in Elfin Cove wishes to become part of the new borough as shown by 100 percent vote in favor of this Resolution.

Wayne Stauffer
Elfin Cove Chair-Person

