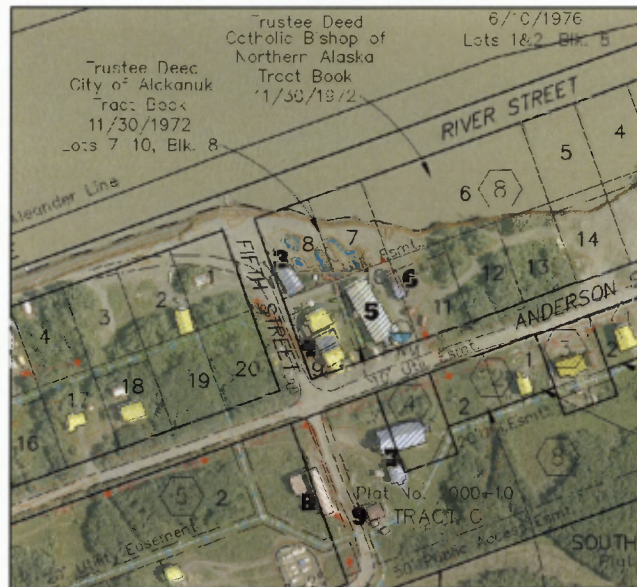


Making Land Available in Alaska Native Claims Settlement Act Villages

ANCSA 14(c) Training
Nome, Alaska
January 14 & 15, 2009



Department of Commerce, Community, &
Economic Development
Division of Community & Regional Affairs
Land Management & Mapping Program



Department of the Interior
Bureau of Land Management
Cadastral Survey

Tentative Agenda
ANCSA 14(c) WORKSHOP
Co-hosted by Bering Straits Native Corp.
And Kawerak, Incorporated
January 14 & 15, 2009
Mini-Convention Center
409 River Street, Nome, Alaska

Wednesday, January 14, 2009

- | | |
|---------|---|
| 9:00AM | Introductions |
| 9:30AM | Overview of ANCSA 14(c) |
| 10:15AM | ANCSA 14(c)(1) and (2) - in depth discussion including legal decisions, and policies and procedures governing these types of claims |
| 11:45AM | Lunch – not provided |
| 1:15PM | ANCSA 14(c)(3) – Settlement Agreements and legal decisions |
| 3:00PM | Map of Boundaries and Survey |
| 3:45PM | Survey and Platting |
| 4:30PM | End of Day One |

Thursday, January 15, 2009

- | | |
|---------|--|
| 9:00AM | Review of Day One |
| 10:00AM | Start of Breakout sessions for each village – schedule to be set mid-day of first training day |
| 12:00PM | Lunch – not provided |
| 1:30PM | Continuation of breakout sessions |
| 4:30PM | Completion of Training |

Instructors: -**Keith Jost**, Program Manager for the Alaska Department of Commerce, Community and Economic Development's Land Management and Mapping Program
-**Allan Breitzman**, BLM ANCSA 14(c) Specialist

Section 14(c) of the Alaska Native Claims Settlement Act

⌘ Making Land Available for Community Use and Expansion in Alaska Native Claims Settlement Act Villages

Background

- ⌘ ANCSA establishes for-profit Village & Regional Native Corporations.
- ⌘ Land entitlement based upon village size.
- ⌘ Congress recognized that individuals, businesses, non-profits, and communities occupied land in Alaska Villages.
- ⌘ **Section 14(c) of ANCSA** provides that the Village Corporations would transfer ownership of the land occupied by these groups.
- ⌘ V. Corporations establish their own process & policy.

ANCSA Section 14(c), Land for;

- ⌘ 14(c)(1) Individuals
 - Homes
 - Businesses
 - Subsistence Campsites
- ⌘ 14(c)(2) Non-Profits
- ⌘ 14(c)(3), Cities or Future Cities
- ⌘ 14(c)(4) Airport Operators



14-C(1)

THE VILLAGE CORPORATION MUST CONVEY, WHICH MEANS PASS LAND OWNERSHIP TO ANY INDIVIDUAL OCCUPYING LAND AS OF DECEMBER 18, 1971 FOR:

- BUSINESSES
- HOMES
- CAMPSITES OR HEADQUARTERS FOR REINDEER HUSBANDRY

THIS LAND IS FREE FOR ELIGIBLE INDIVIDUALS

14-C(2)

THE VILLAGE CORPORATION MUST CONVEY, WHICH MEANS PASS LAND OWNERSHIP TO NON-PROFIT GROUPS OCCUPYING LAND AS OF DECEMBER 18, 1971.

NON-PROFIT GROUPS SUCH AS CHURCHES OR OTHER COMMUNITY SERVICE ORGANIZATIONS.

THE VILLAGE CORPORATION MAY CHARGE NON-PROFIT GROUPS THE VALUE OF THE LAND WHEN IT WAS FIRST OCCUPIED, OR CHARGE LESS THAN THIS VALUE, OR GIVE THE LAND FREE.

14-C(3)

THE VILLAGE CORPORATION MUST CONVEY LAND TO COMMUNITIES FOR PUBLIC USE AND EXPANSION PURPOSES. LANDS TO BE INCLUDED ARE:

<p>IMPROVED COMMUNITY LANDS</p> <p>LAND BEARING THE COMMUNITY NAME</p> <p>THE SCHOOL BUILDING</p> <p>THE COMMUNITY CENTER</p> <p>COMMUNITY HALLS AND CLUBS</p> <p>LANDS NOT INCLUDED, BUT MADE BY THIS ACT: LANDS OCCUPIED BY BUSINESSES, INDIVIDUALS, OR OTHER NON-COMMUNITY GROUPS; LANDS OCCUPIED BY BUSINESSES, INDIVIDUALS, OR OTHER NON-COMMUNITY GROUPS; LANDS OCCUPIED BY BUSINESSES, INDIVIDUALS, OR OTHER NON-COMMUNITY GROUPS.</p>	<p>LAND FOR FUTURE EXPANSION</p> <p>LAND FOR ROAD EXPANSION</p> <p>LAND FOR PARKING EXPANSION</p> <p>LAND FOR FUTURE BUILDING</p> <p>AMOUNT OF LAND COMMUNITIES MAY RECEIVE UNDER 14-C(3)</p> <p>COMMUNITIES MAY RECEIVE UP TO 100 ACRES OF LAND UNDER 14-C(3) IF THEY MEET THE REQUIREMENTS OF THIS ACT. THE AMOUNT OF LAND MAY BE INCREASED TO 200 ACRES IF THE COMMUNITY CAN SHOW THAT IT NEEDS THE ADDITIONAL LAND FOR PUBLIC USE AND EXPANSION PURPOSES. THE COMMUNITY MUST APPLY FOR THIS LAND BY DECEMBER 31, 1980.</p> <p>NOTE: THE AMOUNT OF LAND MAY BE INCREASED TO 200 ACRES IF THE COMMUNITY CAN SHOW THAT IT NEEDS THE ADDITIONAL LAND FOR PUBLIC USE AND EXPANSION PURPOSES.</p>
--	--

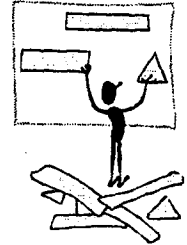
Identification of 14(c)(3) Land

- ⊗ "Remaining Improved Lands" (surface estate)
- ⊗ And as much as necessary for:
 - ☑ Community Expansion
 - ☑ R/W's for Public Use
 - ☑ & Other Foreseeable Needs
- ⊗ Best Interest of a City or Future City



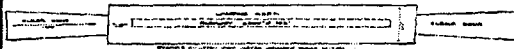
What does "necessary" and "foreseeable" mean?

- ⊗ Essential vs. Useful from Seldovia court case
- ⊗ Broad meaning for Necessary & Foreseeable
- ⊗ Unreasonable to require a city to establish that a parcel is essential to immediately predictable need
- ⊗ For municipal purposes, not for speculation or to compete with the Corporation in income production



14-C(4)

THE VILLAGE CORPORATION MUST CONVEY, WHICH MEANS PASS OWNERSHIP TO THE LAND, ON OR AFTER DECEMBER 18, 1971 FOR AIRPORTS, AIRWAY BEACONS, AND OTHER NAVIGATION AIDS. SECTION 14-C(4) REQUIRES THIS CONVEYANCE GO TO THE GOVERNMENTAL AGENCY RESPONSIBLE FOR THE AIRPORT. IN MOST CASES THE GOVERNMENTAL AGENCY INVOLVED WILL BE THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.



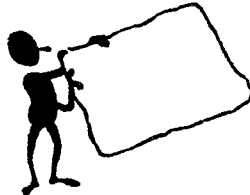
AS A RESULT OF AN AGREEMENT BETWEEN THE ALASKA FEDERATION OF NATIVES LAND MANAGERS ASSOCIATION AND THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, COMMUNITIES NOW HAVE THE OPTION TO RETAIN AIRPORT LAND UNDER SECTION 14-C(3). THE ONLY REQUIREMENT IS THAT THE COMMUNITY MUST AGREE TO LEASE THE AIRPORT LANDS TO THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.

14(c) Does not apply to all Village Lands

- ⊗ 14(c) applies only to land conveyed to the Village Corporation by BLM.
- ⊗ Federal Townsite lands, Native Allotments & other private lands are not subject to 14(c).
- ⊗ How do Federal Townsites affect 14(c)(3)?

Implementing ANCSA 14(c)(3)

- ⊗ ANCSA 14(c)(1) & (2) claims first.
- ⊗ 14(c)(3) 1,280 acres unless parties agree to less in writing.
- ⊗ Groups should try to focus on what they want to accomplish with 14(c)(3).
- ⊗ ANCSA did not set a deadline for completion.



12/18/71, Vesting Date for 14(c)(1), (2) & (4) Claims

- ⊗ 14(c)(1)
 - ☑ Homes (Primary Place of Residency, w/o charge \$)
 - ☑ Businesses (Primary Place of Business, w/o charge \$)
 - ☑ Subsistence Campsites & HQ for Reindeer Husbandry (w/o charge \$)
- ⊗ 14(c)(2) Non-Profits, (Land Occupied, Churches, etc. with or w/o \$)
- ⊗ 14(c)(3) Cities or Future Cities (no vesting date)
- ⊗ 14(c)(4) Airport Operators (w/o charge \$)

Why do 14(c)?

- ⌘ Clears the "cloud" on the Village Corporation's land title.
- ⌘ Determines land ownership so development can be done easier.
- ⌘ Provides for needs of shareholders and residents.
- ⌘ Results in more surveyed boundaries in the community.
- ⌘ Good boundaries and clear title are an asset for your community.



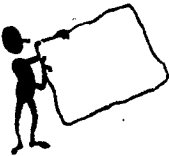
What about land for Village Council Governments?

- ⌘ Title 29 and most City's Ordinances allow for land transfers to Tribal Council's where the land use meets a public purpose.
- ⌘ In unincorporated communities the State in Trust typically recognizes Tribal Council's as "Appropriate Village Entities" and can make long term leases to Council's for Public or Charitable projects.
- ⌘ Village Corporations sometimes make certain transfers to Council's. Does not count towards 14(c)(3) obligation.



ANCSA 14(c)(3) in those Villages that are not Cities

- ⌘ ANCSA set out and the State accepted a Trust role for 14(c)(3) in those communities where cities do not exist.
- ⌘ AS 44.33.755 Established DCCED as Trustee. The law does not allow the Land to be transferred with out the approval of village residents.
- ⌘ **Community Land** is managed for residents and a future city.



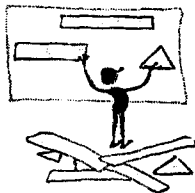
Local Initiative

- ⌘ Most villages have a recognized "Appropriate Village Entity" (AVE), that advises the Trustee on the acceptance and management of Trust Land.
- ⌘ MLT staff look to the AVE and Village Corporation to propose the layout and acreage of 14(c)(3) land settlement.
- ⌘ Land is made available only if lease or deed is approved by the AVE.

Getting Started on 14(c)(3)

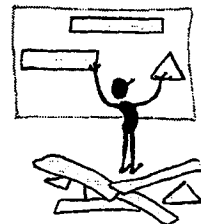
Preparing a 14(c)(3) Planning Map

- ⌘ Aerial Photo Base Map
- ⌘ Land Ownership
- ⌘ Current Land Use
- ⌘ Land Suitability
- ⌘ Future Land Use
- ⌘ 14(c)(3) Proposal
 - ☑ Improved Land
 - ☑ Expansion Land
 - ☑ Rights of Way



Other Planning Considerations

- ⌘ Who is the lead?
 - ☑ V. Corporation
 - ☑ City/Village
- ⌘ Existing Plans
 - ☑ Comp Plan
 - ☑ Sanitation Plan
 - ☑ Transportation Plan
- ⌘ Community Profile Maps



ANCSA 14(c)(3) Agreements

- ⌘ Who draws the map?
- ⌘ Partial or Complete?
- ⌘ Future Parcels
- ⌘ Alternatives to out right ownership
- ⌘ Procedures for City Settlement
- ⌘ Procedures for Corporation Settlement
- ⌘ Sample documents & assistance



Submitting a 14(c) Map of Boundaries



- ⌘ Map displays all of the 14(c)(1), (2), (3) & (4) lands.
- ⌘ Must have an agreement in writing if less than 1,280 acres.
- ⌘ BLM will publish notice of the filing of the map of boundaries.
- ⌘ Potential claimants have one year to litigate the decisions that the Village Corp. has made.
- ⌘ BLM can do 638 contracting for the surveying of the map.
- ⌘ DCCED encourages Communities to use DCCED maps and sample documents to do 14(c).

For More Information;

- ⌘ **Keith Jost**
- ⌘ Dept. of Commerce, Community & Econ. Development
- ⌘ 550 W. 7th Ave. Suite 1770
- ⌘ Anchorage, AK 99501 (907) 269-4548
- ⌘ Fax (907) 269-4525
- ⌘ Keith.Jost@alaska.gov

- ⌘ **Al Brietzman,**
- ⌘ Bureau of Land Management, Cadastral Survey
- ⌘ 222 W 7th Ave. #13,
- ⌘ Anchorage, AK 99513 (907) 271-5606
- ⌘ Fax (907) 271-4193
- ⌘ Al.Brietzman@ak.blm.gov



DCCED Land Management

- ⌘ For the status of 14(c) in your community-
http://www.commerce.state.ak.us/dca/commdb/CF_BLOCK.htm
- ⌘ For a map of your community-
<http://www.commerce.state.ak.us/dca/profiles/profile-maps.htm>
- ⌘ For a copy of "Getting Started on ANCSA 14(c)"
<http://www.commerce.state.ak.us/dca/StaffDir/GetPubl.cfm>
- ⌘ For More Info:
- ⌘ Keith Jost
- ⌘ Land Management and Mapping
- ⌘ Dept. of Commerce, Community & Economic Development
- ⌘ 550 W. 7th Ave. Suite 1770
- ⌘ Anchorage, AK 99501
- ⌘ (907) 269-4548 Fax (907) 269-4525
- ⌘ Keith.Jost@Alaska.gov



14 (C) AT A GLANCE

14 (C) (1): INDIVIDUALS



- HOMES



- BUSINESSES



- SUBSISTENCE CAMPSITES



- REINDEER HEADQUARTERS SITES

As of 12/18/71
NATIVE AND NON-NATIVE
WITHOUT CHARGE

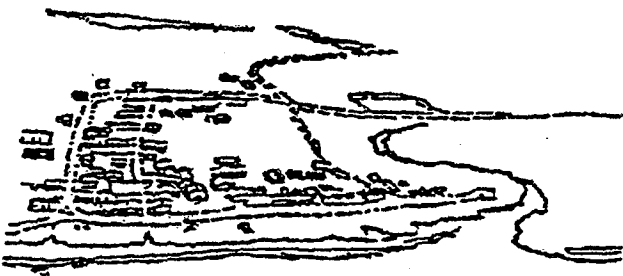
14 (C) (2): NON-PROFIT ORGANIZATIONS

- RELIGIOUS
- EDUCATIONAL
- CHARITABLE
- CULTURAL
- ATHLETIC
- FRATERNAL
- CIVIC
- TRADE UNION
- AGRICULTURAL
- COMMERCIAL ASSOCIATION
- PATRIOTIC
- ETC. ETC. ETC



As of 12/18/71
CHARGE OR NO CHARGE

14 (C)(3): CITIES OR FUTURE CITIES

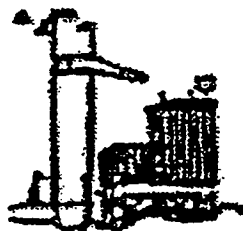


PRESENT AND FUTURE NEEDS

- REMAINING IMPROVED LANDS
- COMMUNITY EXPANSION LANDS
- LAND FOR OTHER FORESEEABLE NEEDS
- PUBLIC RIGHTS-OF-WAY

14 (C)(4): FEDERAL STATE & MUNICIPAL GOVERNMENTS,

- AIRPORTS
- NAVIGATIONAL AIDS



- AIRWAY BEACONS
- RELATED SERVICES
- EASEMENTS TO INSURE SAFE APPROACHES

ALASKA NATIVE CLAIMS SETTLEMENT ACT

(As amended by Alaska National Interest Lands Conservation Act)

SECTION 14(c)

14(c)(1)

Upon receipt of interim conveyance or patent, whichever comes earlier, . . . "The village corporations shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971, as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as a headquarters for reindeer husbandry."

14(c)(2)

Upon receipt of interim conveyance or patent, whichever comes earlier, . . . "The village corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied as of December 18, 1971 by a nonprofit organization."

14(c)(3)

Upon receipt of interim conveyance or patent, whichever comes earlier, . . . "The village corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, that the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the state in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, that any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, the word "sale," as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;"

14(c)(4)

Upon receipt of interim conveyance or patent, whichever comes earlier, . . . "The Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existing as of December 18, 1971;"

Footnotes

1. The original ANCSA language included a section 14(c)(5). It said:

Section 14(c)(5) "For a period of ten years after the date of enactment of the Act, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Corporations on all land sales, leases or other transactions prior to any final commitment."*

This section required village corporations to give their Regional Corporation the opportunity to review all land transactions until December 18, 1981. Since the ten-year period has passed, it is now up to village corporations to decide if and how they want to involve Regional Corporations in 14(c) land reconveyances. It is recommended that regional corporations, as owners of the subsurface estate continue to be advised of 14(c) activities in their respective regions.

2. Originally, section 14(c) of ANCSA read "upon receipt of patent or patents . . ." This was amended by sections 1410 and 1437(d) of the Alaska National Interest Lands Conservation Act of 1980 to mean patent or interim conveyance, whichever is earlier.

Alaska Statute 44.33.755. Land Conveyed In Trust.

(a) The commissioner

- (1) shall accept, administer, and dispose of land conveyed to the state in trust by village corporations under 43 U.S.C. 1613(c)(3) (Sec. 14(c)(3) of the Alaska Native Claims Settlement Act) for the purposes specified in that section;
- (2) may, with the concurrence of an appropriate village entity recognized by the commissioner under (b) of this section or, in the absence of an appropriate village entity, under procedures prescribed by regulations of the commissioner, accept, administer, and dispose of land conveyed in trust by a state or federal agency and by the dissolution of a municipality under AS 29.06.450 - 29.06.530.

(b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. This approval shall be by resolution filed with the department.

(c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality that includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.

(d) Separate accounts shall be maintained in the name of each village for the land, including the revenue from the land, acquired from each village corporation under this section.

(e) Upon the conveyance of land to a municipality under this section, the commissioner shall account to the municipality for all profits including interest generated from the land. The municipality may then request the governor to submit a request to the legislature for an appropriation for the amount due the municipality.

(f) Title to or an interest in land acquired by the department under this section may not be acquired by adverse possession or prescription. Notwithstanding (a) - (e) of this section, on the dissolution of a municipality under AS 29.06.450 - 29.06.530, unimproved land that was owned by the municipality on the date of its dissolution and received by the municipality from the state under a municipal land grant entitlement program is transferred to the commissioner of natural resources.

(g) For the purposes of this section, "municipality" includes only first and second class cities incorporated under the laws of the state.

14(c)(3): LAND TRANSFERS TO A CITY OR THE STATE-IN-TRUST FOR A FUTURE CITY

COMPLYING WITH ANCSA

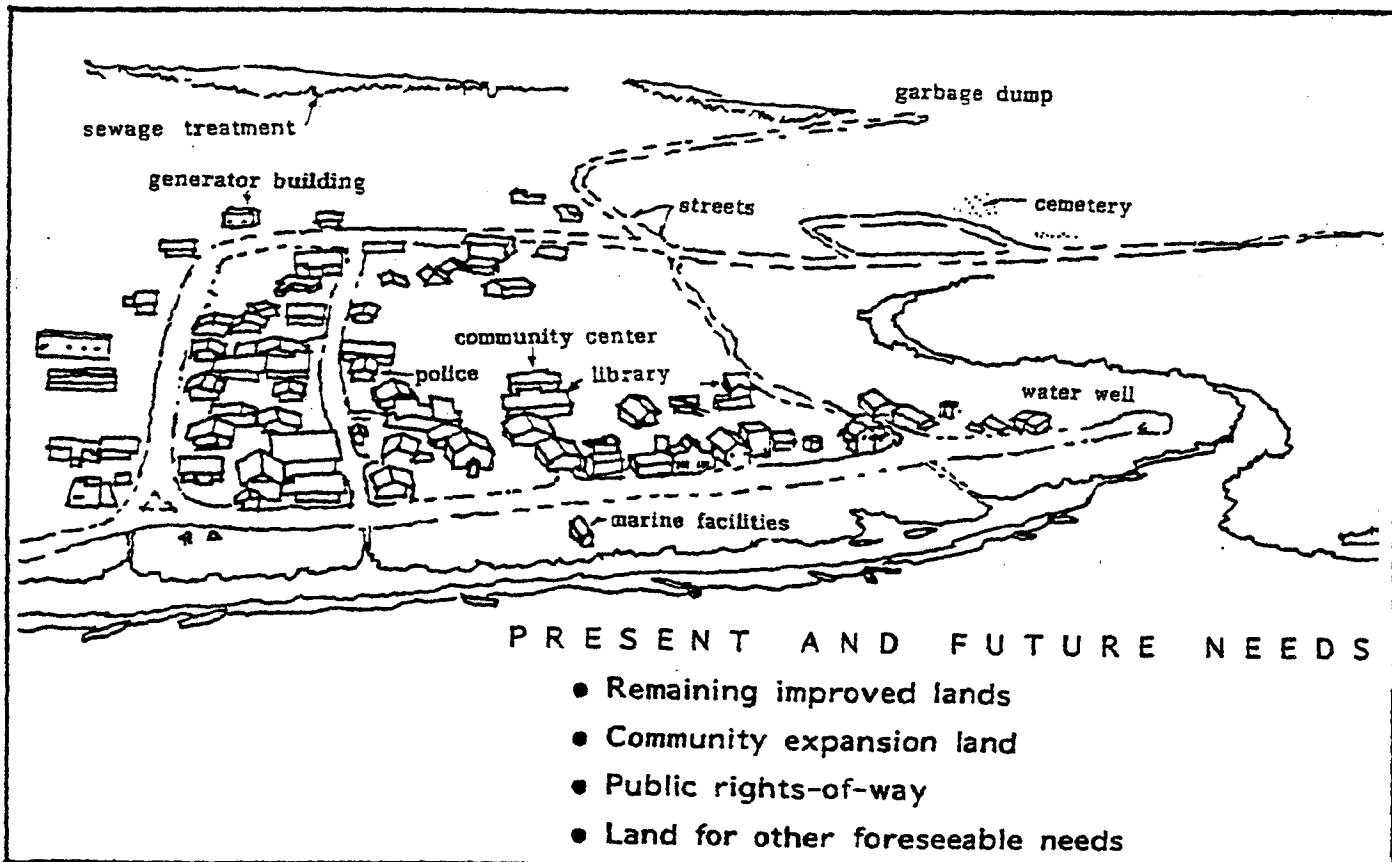
To comply with Section 14(c)(3) of the land claims act, village corporations must consider transferring land for public use to the city or to the State-in-trust for a future city. Typically such lands are the remaining improved lands in the village, additional community expansion lands, appropriate village rights-of-way, and lands for other foreseeable community needs.

Taking priority over the city's needs, however, are claims of individuals for their primary places of residence and primary places of business, subsistence campsites and reindeer headquarters

AMOUNT OPEN TO NEGOTIATION

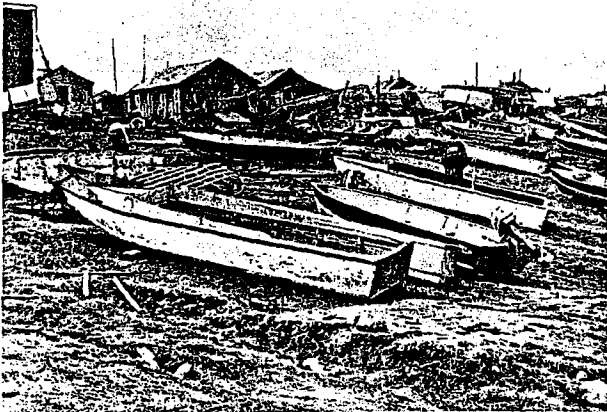
sites under 14(c)(1), and the claims of non-profit organizations under § 14(c)(2). Consequently these claims must be resolved first, in sequence, before final commitments of land transfers can be made to cities or to the Municipal Lands Trustee in trust for future cities.

Originally the law said that no less than 1280 acres was to be transferred to cities or for future cities. However a change in the law in 1980 -- Section 1405 of ANILCA -- gave village corporations the right to negotiate for less than 1,280 acres, as long as any agreement was in writing.



POSSIBLE PUBLIC USES OF LAND

The following list of possible public uses of city land is intended to help village planners identify all of the areas used from time to time by most people in the community. Not all of these uses will occur in every village.



- school
- public health clinic or hospital
- dental clinic
- city offices
- community hall
- police station/jail
- municipal shop and maintenance building
- community shops
- community freezer
- washeteria
- community warehouse
- sewage lagoon/treatment facilities
- solid waste disposal (dump)
- water or fuel storage tanks
- public dock
- recreation areas, parks
- boat storage area
- boat launching area
- playgrounds and parks
- swimming area
- greenbelts/open space, including
 - wetlands and flood plains
- shooting range
- public housing project
- library
- cemetery
- museum
- historic sites, buildings, monuments
- sewer lines
- electrical generator building
- TV satellite earth station
- public watershed or reservoir
- wind generator site
- hydroelectric power site
- wetlands
- flood plain
- common berry picking areas
- community fish camp
- common garden sites
- ~~common wood lots~~
- common fish racks
- common dog staking area
- other common use areas



Choosing a new garbage dump site

Certain projects have specific site requirements. These include garbage dumps, airports, docks, sewer systems, water systems, hydroelectric plants, and wind generators. There may be only one or two sites near a village for such projects, so if one of these projects is planned for the future the best site should be identified now and reconveyed to the city under section 14(c)(3).

A new garbage dump is a good example of these projects. There are several factors which must be considered when considering where to locate a new dump.

1. For a small community, the new site should probably be five acres or more, depending upon the depth that the hole can be dug.
2. It should be far enough away from the village in the prevailing downwind direction so odors do not reach the community.
3. The dump should be at least one mile from the airport to minimize the danger of seagulls and other birds interfering with airplanes.
4. It should be located where it cannot pollute the village drinking water, especially during break-up when there is a lot of surface run-off.
5. The dump must not pollute the ground water. State regulations require that the bottom of the dump be at least four feet from the highest level of the water table.
6. There must be good access to the dump all year.
7. Dirt at the dump needs to be good enough so equipment can operate on it most of the year. If possible, gravel should be close to the surface. Avoid permafrost.

The Alaska Department of Environmental Conservation is responsible for regulating dumps and may provide assistance with finding a good dump location.

MINIMUM RIGHT-OF-WAY REQUIREMENTS

SAMPLE RIGHTS-OF-WAY

NOTE: Depending on what the right-of-way is to be used for, widths may range from a couple of feet to 200 feet. The drawings shown here provide three examples.

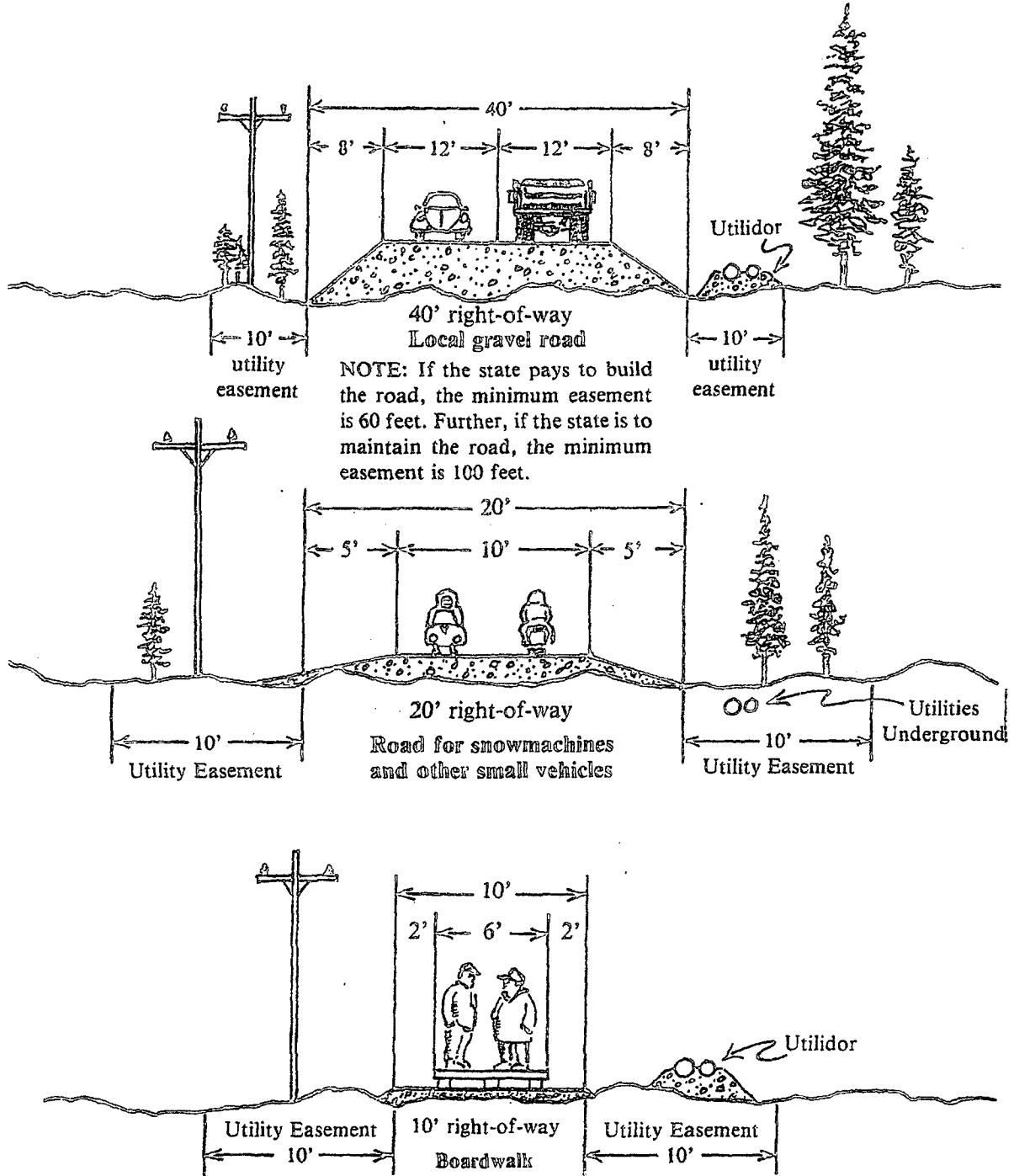


FIGURE 16

How do you make a 14(c)(3) planning map?

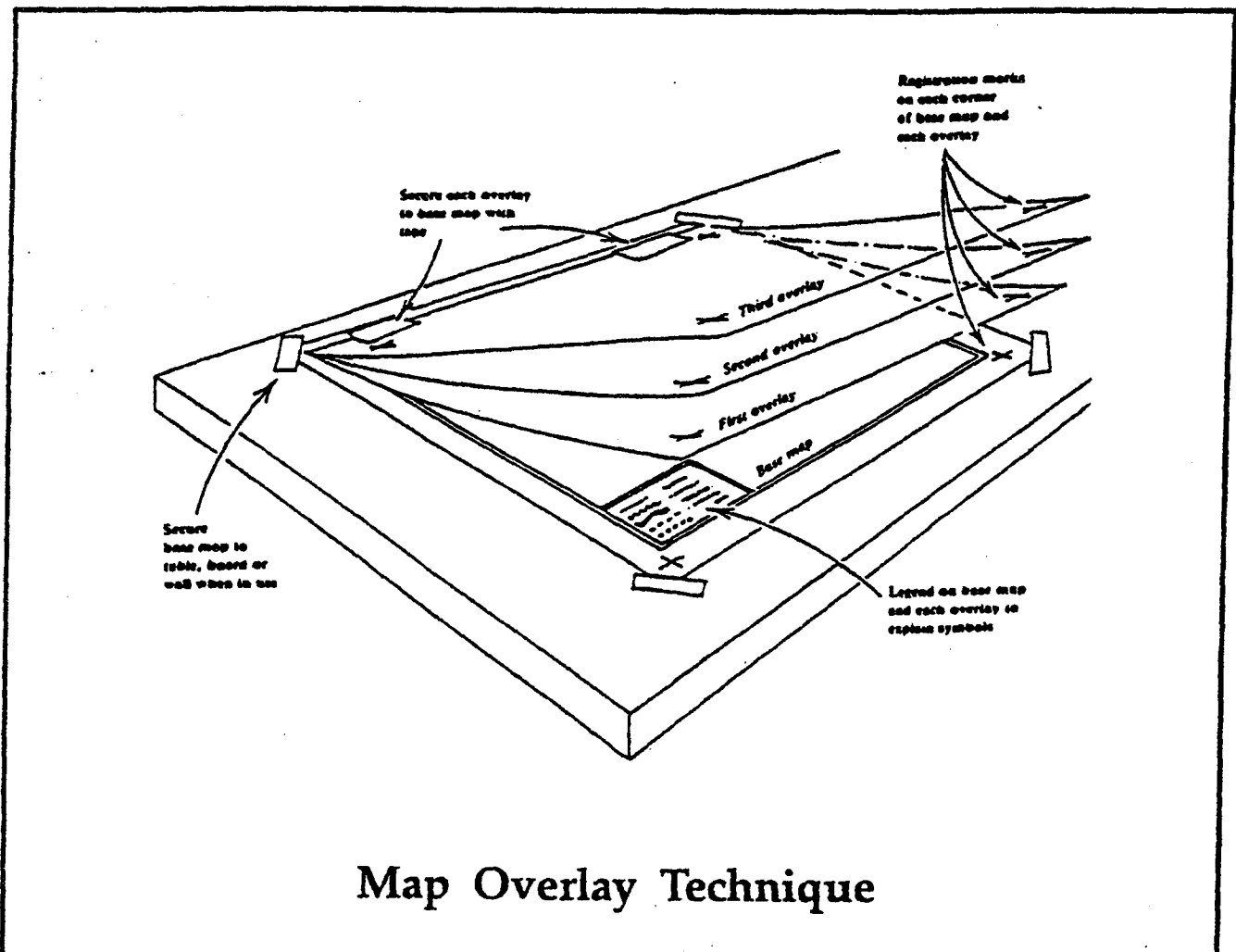
> **Base map:** You need a base map to plot information on. An aerial photo is the best. It shows existing structures, terrain features, and, more importantly, is the only map available at a usable scale. The Department of Community and Regional Affairs can assist you in getting a map.

Draw information on the map or on clear plastic sheets that fit over the base map (overlays). This allows you to compare several types of information. Plot information on

land ownership, current land use, land suitability, and future land use.

> **Land ownership:** Only land received by the village corporation under ANCSA is available for selection by the city under 14(c)(3). Within these boundaries, there may be private land holdings such as Native allotments, patented mining claims, Federal townsite land, and other land ownerships. These parcels are not available for selection.

> **Current land use:** Identify current land uses including public buildings, residences, businesses, public use areas, roads and trails, and utilities.



➤ **Land suitability:** Identify land suitable for development. Consider such things as:

- ✓ type of soil,
- ✓ steepness,
- ✓ accessibility (how you get to it),
- ✓ whether it is in the flood plain or subject to erosion,
- ✓ sites suitable for projects with special requirements, such as landfills.

These are areas where future development should be located to avoid problems.

➤ **Future land use:** Determine future land needs of the community and identify areas to meet those needs. Show all planned development — private and public. If future land needs have not been identified, now is the time to do so. Consider such development as:

- ✓ new housing areas,
- ✓ businesses,
- ✓ commercial activities,
- ✓ community projects, and
- ✓ roads and trails.

Using these maps, you can develop a 14(c)(3) proposal. It will identify three types of land: rights-of-way, publicly used land, and expansion land.

➤ **Rights-of-way:** Include existing roads and trails as well as roads to serve future development. Identify proposed and existing utility lines.

➤ **Public land:** Include land used for public buildings and public uses.

➤ **Expansion land:** Include land for future public buildings, facilities,

and services. Include land for future housing if this has been identified as a need that the city will meet.

Make sure the 14(c)(3) proposal does not include 14(c)(1) or (2) claims or other private land.

14(c)(3) requires mutual agreement.

Ideally, the corporation and the city agree to a jointly planned 14(c)(3) conveyance. When the city, or State in trust, and the corporation work together on the reconveyance, each benefits from shared information on plans and capabilities.

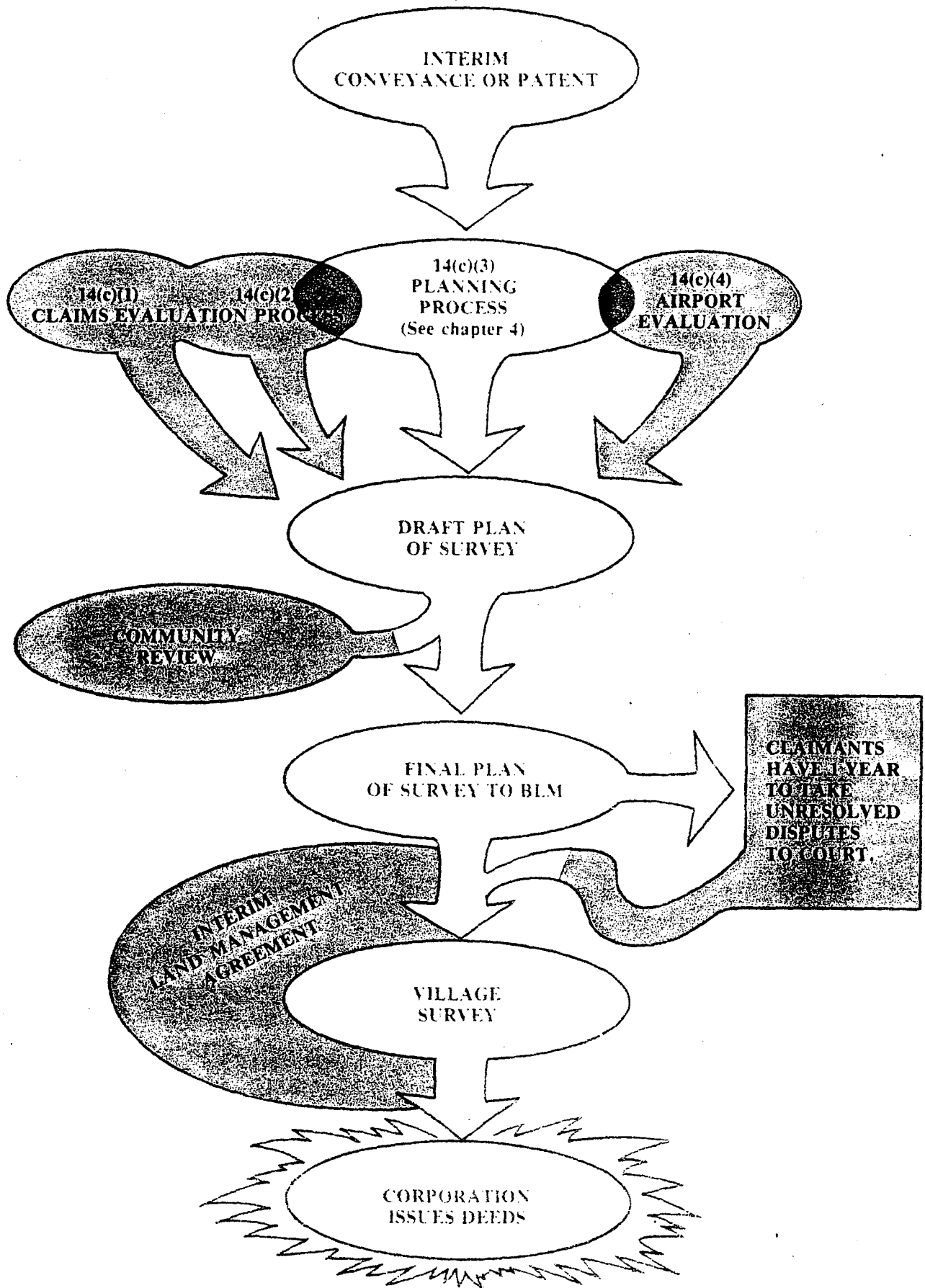
Each party in the process can influence the final decision. The village corporation deeds the land over. They will not proceed until they are satisfied with the 14(c)(3) proposal. The city can influence the agreement because the law requires that any conveyance of less than 1,280 acres to be agreed to in writing by the city, or State in trust. Furthermore, any claimant, including the city, not satisfied with the proposed 14(c) conveyance can file suit within one year from the date that the Bureau of Land Management (BLM) accepts the map of boundaries. Obviously, the 14(c)(3) process works best if the city and corporation agree. This avoids delay in transfer of land to individuals and to the city.

A written agreement is best.

A 14(c)(3) agreement should be in writing. The agreement describes the land and the terms of the contract. The law requires any agreement for less

(FIGURE 1)

THE 14(c) PROCESS



CONFLICT OF INTEREST POSES PROBLEM IN 14(c) DECISIONS

In many Alaskan communities having small populations, a few key people are often relied upon to make decisions which affect the community. Often, the same people will serve on the village corporation board of directors and the city council at the same time.

In matters of general community well-being this "wearing of two hats" may not be a problem. However, in matters which involve both economic and community interests, it could be an issue because a potential conflict of interest situation could arise.

What is a Conflict of Interest?

A conflict of interest refers to a situation in which a person is involved in a decision made in the interest of one group when the outcome benefits himself or herself personally, or if it affects another group which s/he also represents.

How does it apply in 14(c) decisions?

A conflict of interest could apply in several ways to 14(c) reconveyance decisions or negotiations.

1) If the village leadership in both city and corporation is identical. The village corporation cannot properly represent both Grantor and Grantee.

2) If a corporation board member must make a decision on land that he has filed for as a 14(c) claim. The board member cannot properly represent the corporation and look out after his/her own personal financial interests at the same time.

3) If a person serving on either the corporation board or city council makes a decision on 14(c)(3) land that s/he has a financial interest in. The official cannot properly make a decision on 14(c)(3) issues if s/he is influenced by his/her own financial gain.

How is conflict of interest handled in 14(c)(3) negotiations when the corporation board and city members are the same?

In such a case, it may be advisable to have the 14(c)(3) written agreement ratified by the voters who are residents of the city. This action will prevent any subsequent challenges based upon an alleged conflict of interest.

What other action can be taken?

If ratification is necessary, the corporation is advised to consult legal counsel for assistance to prepare appropriate language in a 14(c)(3) agreement that requires a ratification election. The agreement should be written to automatically terminate if the vote fails. This provision should only be prepared after the local ordinances for elections have been reviewed.

How should potential conflict of interest problems be handled for village corporation board members?

If a corporation board is voting to take action on 14(c)(1) or (2) claims, and a board member is a potential 14(c)(1) or (2) claimant, then the board member should disqualify himself or herself from voting on determining the validity of his/her own claim. The board member may be present to constitute a quorum, but must disqualify himself or herself at the time of voting.

How is conflict of interest handled for city council members?

The Alaska Statutes in Section 29.23.555 requires each home rule and general law municipality to adopt a conflict of interest ordinance which includes a provision that an officer or employee shall disqualify himself from participating in any official action in which he has a substantial financial interest. If a conflict of interest might exist, the council member must inform the council and ask to be disqualified from voting. After the conflict of interest is identified the council will decide whether to allow the member to vote or not.

Duties of directors and council members in 14(c)(3) decisions

The duty of corporate directors is to make the best possible decision for the corporation when engaging in transactions on its behalf. The duty of council members is to represent the public interest.

Post-71 Occupancy Options

The first and foremost obligation of the Board of Directors is to protect the assets of the corporation until it has determined what the best use for them will be. In addition to asserting its claims of ownership, the corporation has four options:

1. Bring Ejectment Action. (Trespass)

This is a legal proceeding whereby the corporation seeks the removal of the trespasser from the property. The end result is termination of occupancy and compensation to the corporation for any damage done to the property.

2. Negotiate Lease/Permit for Use.

This option is conditioned on the corporation's agreement to allow the occupant to remain on the property. This action protects the corporation's title and fixes the occupant's rights. Terms and amount of rent is subject to the corporation's wishes.

3. Direct Conveyance to Occupant.

If it is consistent with the policies of the corporation, the corporation may sell the land to the occupant at fair market value.

4. Conveyance to Municipality

If it wishes, the corporation may transfer some of its lands occupied in the village after 1971. It would then be up to the municipality or state in trust to determine the manner in which it will deal with the occupants.

Development of a Residential Land Disposal Program

- I. Is there a Public Interest to be accomplished with the disposal?
- II. Is the land no longer needed for Public purposes?
- III. Is there a reason for residents to have a preference to the land and that the land be made available for less than market value?
- III. Does the Village's land use map or plan identify this area for residential development?
- IV. Is the proposed land desirable, suitable and developable based on the Village's situation and resources?
- V. Is it in the best interest of the Village over time?

Guidelines for Encouraging Long Term Residency

- I. Applicants can be required to be residents of the village for up to 6 months prior to an offering of land if it can be demonstrated that there is a shortage of available land.
- II. In order to make the offering fair to all who wish to participate a lottery can be held to assign lots to qualified applicants. Permits to build can issued based upon lottery drawing.
- III. Permit holders can be required to build and reside in a habitable dwelling for a period of time before a deed to the land is issued.
- IV. Permit holders can be required to build and begin living in the house within a period of time or lose the lottery award.
- V. Lots not "proved up" on can be made available for later land offerings.
- VI. Restrictions can be placed in the deed or lease that require that the home be used for residential purposes only for a period of time. Other restrictions can be included to preserve certain community objectives.

Adverse possession - Obtaining of title by physical use and occupancy to the exclusion of the owner for a statutory period of time. The amending of Alaska Statute 09.45.052 on July 17, 2003 now limits assertion of adverse possession and prescriptive rights to; 1) public utilities for utility purposes, 2) the public, the State, or a political subdivision of the state for highways, streets, roads or trails and 3) some limited application where an adjacent property owner mistakenly thought that the property was his. It is likely that for the immediate future adverse possession and prescriptive rights claims that existed prior to July 17, 2003 may still be asserted by all valid claimants. The statutory period is 10 years with out "color of title" or 7 years if there is "color of title" (A.S. 09.45.052). "Color of title" is something, such as a defective deed, which gives the appearance of good title. (**Note:** Land conveyed under ANCSA is not subject to adverse possession as long as the land is not developed, leased or sold to third parties. Such land is also exempt from real property taxes and judgments. Sec. 907 of ANILCA as amended. Native allotments and restricted federal townsite deeds are also not subject to adverse possession.)

Prescriptive easement - Creation of an easement by open use of a property for a specific purpose such as a trail or roadway for a statutory period of time. The requirements are generally the same as adverse possession (see description above for new limits under AS 09.45.052 on those that may assert adverse possession and prescriptive rights claims).

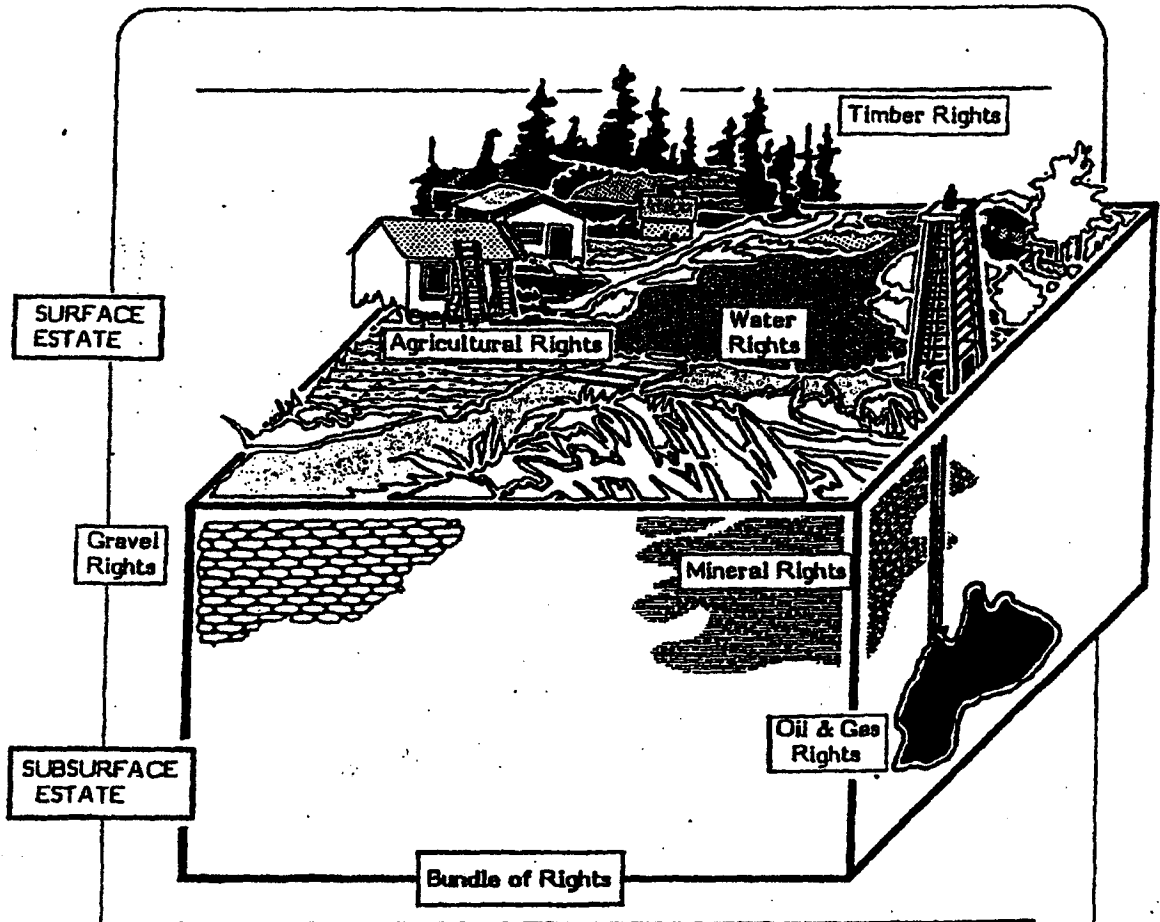


Figure 1

Surface and Subsurface Rights on ANCSA Lands-
 Congress set out that Village Corporations would be conveyed the surface estate of land in and around their villages and that Regional Corporations would be conveyed the subsurface rights. In *Tyonek Native Corporation vs. Cook Inlet Region, Inc.* the court held that rock, sand and gravel are part of the subsurface estate in dually owned ANCSA lands.

In *Koniag, Inc. vs. Koncor Forest Resources* (39 F.3d 991), the 9th Circuit Court of Appeals ruled that the surface owner may not be unreasonably denied access to subsurface resources needed for development and that the surface owner is entitled to limited "cut and fill" movement of material for development so long as the material is relatively low value or the use is incidental to the surface operation. The decision used an example of a cut and fill that moved material 500 feet. For valuable subsurface materials the subsurface owner is entitled compensation.

Alaska Local Government Handbook, 3rd Edition, August 1987, State of Alaska, Dept. of Community and Regional Affairs



The Kuskokwim Corporation is now accepting applications for reconveyances of land under the provisions of sections 14(c) (1) and (2) of the Alaska Claims Settlement Act (ANCSA). These sections provide that the village corporation reconvey land it receives under ANCSA to those individuals or organizations who used or occupied the land on December 18, 1971 as:

- ★ Primary Place of Residence
- ★ Subsistence Campsite
- ★ Primary Place of Business
- ★ Reindeer Herding Headquarters
- ★ Site of a Non-Profit Organization

TKC is receiving interim conveyances to approximately 750,000 acres in the mid-Kuskokwim area. These lands include the villages of Lower Kalsag, Upper Kalsag, Aniak, Chuathbaluk, Napamute, Crooked Creek, Georgetown, Red Devil, Saemute, and Story River. The lands lie on either side of the Kuskokwim River, and include parts of the drainages of Israhofak Creek, Mud Creek, Crooked Creek, Aniak Slough, Aniak River, Doosook Creek, Owhat River, Holokuk River, Kolmakof River, Oozawalk River, George River, Barge Slough, Johnny Slough, Inowak Creek, Stony River, Swit River, Tuluwitsuk River, Moose Creek, and the lands around Wutsfish Lake. Complete legal descriptions can be obtained from the TKC office listed below. Lands conveyed are in the following townships:

- T14N, R's 60, 61, 62, 64W, 3.M.
- T20N, R's 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74W, 3.M.
- T16N, R's 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74W, 3.M.
- T17N, R's 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63W, 3.M.
- T18N, R's 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62W, 3.M.
- T19N, R's 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62W, 3.M.
- T20N, R's 39, 40, 41, 42, 44, 45, 46, 48, 49W, 3.M.
- T21N, R's 38, 43, 44, 45, 46, 47, 48, 49, 50W, 3.M.
- T22N, R's 38, 44, 45, 46, 47, 48, 49, 50W, 3.M.
- T23N, R's 44, 45, 46, 47, 48, 49W, 3.M.

Please note - those persons or organizations who previously applied for 14(c) (1) or (2) lands with TKC need not contact the Corporation. This notice provides an opportunity for those who believe they have a claim, and have not yet applied.

For more information, and/or an application, contact Ed McNamara, TKC Resources Manager, 429 D Street, Suite 307, Anchorage, AK 99501, phone (907) 276-2101, or Debbie Lee, TKC Land Operations Office, Aniak, AK 99557, phone 875-4475. **The deadline for applications is April 30, 1983.**

NOTICE

WERE YOU LIVING ON OR USING LAND IN THE AREA OF AKHIOK OR KAGUYAK, ALASKA IN 1971?

AKHIOK/KAGUYAK, INC. IS NOW TAKING APPLICATIONS FOR LAND UNDER 14(c)(1)(2) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT WHICH IS OWNED BY AKHIOK/KAGUYAK, INC.

SECTION 14(c)(1) and (2) REQUIRES AKHIOK/KAGUYAK INC. TO GIVE TITLE TO LAND TO PEOPLE OR ORGANIZATIONS WHO LIVED ON OR USED LAND IN 1971 FOR:

1. HOMES (PRIMARY OR MAIN PLACE OF RESIDENCE) — You must show that you lived on a piece of land as of December 18, 1971, that you have no other main home, and that there was a house on the land.
2. BUSINESS (PRIMARY OR MAIN PLACE OF BUSINESS) — You must show that you ran a business for profit as of December 18, 1971 on the piece of land, and that the land was used for your most important place of business.
3. SUBSISTENCE CAMPSITES — You must show that you used a campsite as of December 18, 1971 for subsistence activities, that only you or your family used the land, that there were improvements such as fish racks, tent frames, etc. on the land and that you needed subsistence activities for a large portion of your food and other livelihood. (THIS IS NOT A NATIVE ALLOTMENT.)
4. LANDS FOR NON-PROFIT ORGANIZATIONS — Organizations must show that they are nonprofit organizations, that they used the lands as of December 18, 1971 and that there were improvements or buildings on the land.

LANDS GIVEN TO APPLICANTS FOR USES DESCRIBED IN NUMBER 1,2,3,4 WILL BE THE SIZE OF AN AVERAGE VILLAGE LOT, OR 80 X 100 FEET WHICHEVER IS SMALLER IN SIZE. SUBSISTENCE CAMPSITES WILL BE NO LARGER THAN 206' X 208'.

FOR 14(c) APPLICATIONS AND INFORMATION ON THIS PROGRAM, PLEASE CONTACT:

Ralph Eluska, Manager
AKHIOK/KAGUYAK, INC.
5028 Mills Drive
Anchorage, Alaska 99508

DEADLINE OF APPLICATIONS IS DECEMBER 31, 1986.

Publish: 7/28 8/4, 11/86 (10150)

PUBLIC NOTICE

NOTICE

WERE YOU OCCUPYING LAND ON DECEMBER 18, 1971 WHICH WAS LATER SELECTED BY THE VILLAGE CORPORATION?

THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (SECTION 14(c)) REQUIRES THE VILLAGE CORPORATION TO GIVE LEGAL TITLE TO PEOPLE WHO OCCUPIED LANDS ON DECEMBER 18, 1971 FOR:

- 1) HOMES (PRIMARY PLACE OF RESIDENCE)
- 2) BUSINESSES (PRIMARY PLACE OF BUSINESS)
- 3) SUBSISTENCE CAMPSITES
- 4) REINDEER FACILITIES
- 5) NONPROFIT ORGANIZATIONS

PLEASE LOOK OVER THE MAP LOCATED IN THE CORPORATION OFFICES IN NUIQSUT. IF YOU USED LAND NOW OWNED BY THE CORPORATION AND YOU OCCUPIED THE LAND ON DECEMBER 18, 1971, THEN YOU MAY HAVE A VALID 14(c) CLAIM.

FOR 14(c) APPLICATIONS AND INFORMATION ON THE RECONVEYANCE PROCESS, PLEASE CONTACT:

ROXY OYAGAK, JR.
KUKUPIK CORPORATION
GENERAL DELIVERY
NUIQSUT, ALASKA 99273
(907) 480-6220

APPLICATIONS WILL BE ACCEPTED UNTIL: 5:00 P.M. ADT, October 1, 1985.

Publish: 6/10, 17, 24 7/1/85 (10013)

14(c) NOTICE

QUINHAGAK NATIVE CORPORATION, QANIRTUUG, INCORPORATED IS PREPARING ITS RECONVEYANCE PROGRAMS AS REQUIRED UNDER 14(c) (1) and (2) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA). RECONVEYANCE WILL BE FOR THE LAND WITHIN THE QUINHAGAK NATIVE CORPORATION, QANIRTUUG, INC. LAND HOLDING IN THE VICINITY OF VILLAGE OF QUINHAGAK, ALASKA TO INDIVIDUALS AND/OR ORGANIZATIONS WHICH USED OR OCCUPIED LAND AS:

1. Primary place or residence
2. Primary place of business
3. Subsistence campsite
4. Reindeer Husbandry
5. Site of Non-profit Organization

TO BE ELIGIBLE THE LAND HAS TO HAVE BEEN USED AND OCCUPIED BEFORE OR ON DECEMBER 18, 1971.

QANIRTUUG, INC. HAS ESTABLISHED A PERIOD OF 90 DAYS NOTICE EFFECTIVE JULY 20, 1986. YOU MAY APPLY FOR ANY OF THE ABOVE WITHIN THIS TIME. APPLICATIONS MAY BE FILED BY MIDNIGHT OCTOBER 20, 1986 IN QANIRTUUG, INC. OFFICE.

APPLICATIONS FORMS AND ADDITIONAL INFORMATION ARE AVAILABLE AT THE:

QANIRTUUG, INCORPORATED
RD DEPT.
P.O. BOX 47
QUINHAGAK, ALASKA 99635
PHONE (907) 554-8711

PUB: August 27, 28, 29, 30, 31;
September 1, 2, 3, 4, 5, 6, 7,
8, 9, 10, 11, 12, 13, 14, 15, 16,
17, 18, 19, 20, 21, 22, 23, 24,
25, 26, 27, 28, 29, 30; Octo-
ber 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, 13, 14, 15, 16, 17, 18,
19, 20, 1986

Bering Straits AGLUKTUK, November 1983:

LEGAL NOTICE

SOLOMON NATIVE CORPORATION has begun its reconveyance program under section 14(c) of the Alaska Native Claims Settlement Act. The reconveyances will be for land around Solomon which was occupied by individuals/organizations on December 18, 1971 as either (1) a primary place of residence (2) primary place of business, (3) subsistence campsite, (4) headquarters for reindeer husbandry or (5) site of a nonprofit organization.

Application forms and further information are available from:

Joe Curran
P.O. Box 243
Nome, Alaska 99762

Applications will be accepted until December 31, 1983.

Rose Ann Timbers, President
Solomon Native Corporation

LEGAL NOTICE

COUNCIL NATIVE CORPORATION has begun its reconveyance program under section 14(c) of the Alaska Native Claims Settlement Act. The reconveyances will be for land around Council which was occupied by individuals/organizations on December 18, 1971 as either (1) primary place of business, (3) subsistence campsite, (4) headquarters for reindeer husbandry or (5) site of a non-profit organization.

Application forms and further information are available from:

Barb Gray
P.O. Box 665
Nome, Alaska 99762
Telephone: 443-2370

Applications will be accepted until December 31, 1983.

Karen Dickson, President
Council Native Corporation
P.O. Box 665
Nome, Alaska 99762

"CABIN SITES"

Golovin Native Corporation, Village Corporation of Golovin Bay, Alaska 99762.

Established pursuant to Alaska Native Claims Settlement Act, is now accepting 14(C), (1), and/or (2) Applications.

If you have used a Parcel of Land on or before December 18, 1971 for any of the following purposes, you may be eligible.

1. Primary place of Residence.
2. Primary place of Business.
3. Subsistence campsite, Fishing camp, Fall or Winter Camp, Berry Camp, Trapping Camp, etc.
4. Reindeer Headquarters.
5. Non-Profit organizations, (Church, or Social organizations).

Names of Persons, interested should leave their names and locations and purpose at the office of the Golovin Bay Corporation.

All applications must be received, or if mailed Postmarked no later than December 31, 1983.

Additional information can be obtained from Golovin Native Corporation, Land Manager, Albert Jackson at 907-779-3251.

Kathy Fagerstrom
Secretary

PUBLIC NOTICE 14 (c) NOTICE

The Atzun Corporation of Alaska, Alaska is now accepting applications for reconveyance of land under provision of Section 14 (c) (1) and (2) of Alaska Native Claims Settlement Act (ANCSA). Three sections provided that the Village Corporation reconvey land it receives under ANCSA to those individuals or organizations who used or occupied land on December 18, 1971 in Alaska, Alaska as is:

- (1) PRIMARY PLACE OF RESIDENCE
- (2) PRIMARY PLACE OF BUSINESS
- (3) SUBSISTENCE CAMPSITE
- (4) SITE OF A NON-PROFIT ORGANIZATION

Application forms and further information are available from Atzun Corporation, Alaska Rural Branch, Alaska, Alaska 99502, (907) 838-2237. Application must be received by the Corporation no later than November 29, 1985

Public: 10/7,14,21 11/4,11/85

Tundra Times

September 23,

KLAWOCK HEENYA CORPORATION NOTICE

All persons, corporations, villages and organizations with a valid claim in accordance with the Alaska Native Claims Settlement Act (ANCSA), Public Law 92-203, 85 Statute 686, December 18, 1971, as amended, to the surface estate of land within the boundaries of those lands selected pursuant to ANCSA by the Klawock Heenya Corporation of Klawock, Alaska, within Township 73 South Ranges 80, 81, and 82, E., C.R.M., are hereby given notice that the Klawock Heenya Corporation has established October 25, 1985 as the FINAL DEADLINE for filing an application for ANCSA sections 14 (c) (1) and (2) claims. These lands are located along the Klawock River, Klawock Lake, Klawock Island, Klawock Inlet, and five miles from the City of Klawock, Alaska. This notice does not include Native Allotments, Townsite lots, or other privately owned lands.

If you were using a parcel of land as of December 18, 1971 for any of the following purposes, you may be entitled to the surface estate of that land parcel:

- (1) Primary Place of Residence;
- (2) Primary Place of Business;
- (3) Subsistence Campsite;
- (4) Headquarters for Reindeer Husbandry; or
- (5) Site of a Nonprofit Organization.

For additional information and a claim application, contact

The 14 (c) Committee
Klawock Heenya Corporation,
P.O. Box 25
Klawock, Alaska 99925
Phone: (907) 755-2270

All applications must be received or postmarked no later than midnight, October 25, 1985.

Please note - those persons or organizations who have already applied for 14(c) (1) and (2) claims need not respond to this notice. This notice provides one final opportunity for those who believe they have a claim and have not yet applied.

Thursday, November 4, 1982, The Anchorage Times H-11

NOTICE

Anyone wishing to file a Section 14(c)(1) claim under P.L. 92-203 (ANCSA) for parcels within portions of Township 6 South, Range 12 West, and Range 14 West, Seward Meridian; or Township 7 South, Range 12 West S.A.; or Township 8 South, Ranges 12, 13, and 14 W. S.A.; or Township 9 South, Ranges 13, 14, or 15 W.S.A., or Township 10 South, Range 14 West, Seward Meridian should notify Seldovia Native Association, Inc. at P.O. Drawer L, Seldovia, Alaska 99643 within seven months from date of first publication, in no case later than June 15, 1983.

Pub: Nov. 4, 11, 18, 25, 1982

202

ANCSA 14(c)(1) and (2) Policies and Procedures Outline

A Handbook on ANCSA 14(c) 1991

Prepared by The Alaska Native Foundation

Policies

- Provide the Corporation with a set of rules to follow
- Language of law provides few legal requirements

Procedures

- steps in the reconveyance process after the policies have been created by the Corp

Policies examined

- acreage (p. 12) based on valid uses as of Dec 18, 1971, spacing of buildings, guidelines set by Corp, the law (curtilage) tradition and community views
- access (p. 17) must exist in some form, 14(c)(3) road, trail, permit or easement, 17(b) easement, RS 2477 or some other claim by state, natural access such as a river or beach
- dates of occupancy and abandonment spelled out (p. 20)
- rights of successors (p. 21), inheritance, sale or gift
- joint claims (p. 22), more than one person may receive the same parcel; husband and wife, divorce, many people using same property
- tenants by the entirety
- tenants in common
- joint ownership vs. split ownership
- vesting date (p.32)
- definitions of various types of claims (p. 33); make sure they are in compliance with existing court cases
- sizes of parcels (p. 38)
- 14(c)(2) policies (p.42); vesting date, valid organizations, when payment is required, size of parcel
- BOARD POLICY CHECKLIST (p. 48)

Procedures examined

- Steps in the reconveyance process
- assign staff (p. 49) to create application form, keep records, publicize the program, help people to fill out applications, gather information, conduct field exams, handle correspondence and make initial decisions
- notice (p.50)
- applications (p.51); assistance, tracking, filing
- gathering information (p. 52), land status (Corporate lands ?), aerial photo assistance if available
- conduct field examinations (p. 54) with applicant present if possible and prepare a report (interviews with adjacent landowners) about what was found
- who makes the preliminary decision ? (p. 55) staff, land committee or 14(c) committee, full board or committee of board and general shareholders

- different group to hear appeals of initial decision but full board should either make the final decision or adopt decision of appeals entity
- notify applicant of initial decision (p. 56) by certified mail, return receipt (to be kept in the applicants file to prove receipt of decision) and if denied, give reasons why and appeal procedures with reasonable amount of time to respond (at least 30 days)
- Hearing appeals (p. 57) – burden of proof on applicant (separate committee from original decision making entity)
- Final Decision (p. 57) – by Board or adopted by Board; applicant can still appeal to courts

TKC Policies and Procedures (p. 192)

- defines occupancy (not casual or intermittent)
- Subsistence (p. 195) – only land used for campsite
- Reindeer (p. 196) – must have valid grazing lease
- Non-profit org (p.197) – must have had certificate of incorporation as non-profit as of Dec 18, 1971
- Guidelines for tract size (p. 197)
- Allowable circumstances for non-use (p. 197)
- Payment for 14(c)(2) (p.198)
- Non-qualifying uses defined (p. 198) mining claims protected under another section of ANCSA
- Burden on claimant to show unbroken chain of ownership (p. 200)
- How to handle competing applications (p. 200)
- Shared use tracts (p. 201)
- Processing claims (p. 203)
- Committee established (p. 205) – 5 members of board of directors
- Appeal decisions to full board (p. 207)
- Deeds (p. 208)
- Non-discrimination clause (p. 208)
- Corp can waive P&P in the interest of resolving unforeseen circumstances

Akiachak Policies and Procedures (p. 210)

- non-discrimination clause (p. 210) - differently stated from above cite
- Notice requirements for advertising 14(c) (p. 211)
- Process (p. 212)
- Claimants need to stake their claims (p. 212) – may not define extent of final claim but shows area claimant was using as of 12/18/71
- Processed by land staff and preliminary decision for or against approval is forwarded to Board for final decision or 30 days given to applicant to submit additional information
- Appeal period (p. 213) of 45 days
- Applicant has burden of proof (p. 214)
- Deeds in form of Statutory QCD (corrective deed after survey to conform to new legal description) (p. 214)

- Rights of successors in interest (p. 215) – inheritance, purchase, assignment (burden of applicant to prove initial occupancy and each chain of ownership)
- Joint claims (p. 216) – husband and wife receive a deed with rights of survivorship (tenants by the entirety), divorced – tenants in common with no rights of survivorship and if married after '71 only occupant gets a deed
- Abandonment (p. 216) – if before '71 applicant has burden of proof to prove it did not occur and if after '71 Corp. has burden of proof to show it occurred
- Conflicting claims (p. 216) – factors used to evaluate who gets title include who used first, manner and frequency of use, extent of use after '71, whether permission from someone else was sought and the perception of the community
- Native Allotments (p. 217) – if pending wait for BLM to adjudicate, if rejected may be eligible for claim but need to file during open window
- Adjustment of Boundaries (p. 217) adjoining tracts where claimants agree on division of claims – Corp. can use or reject
- Non-discrimination clause (p. 217) - cannot discriminate based on race, sex, religion or shareholder status
- Primary place of residence defined and criteria established to evaluate claims (p. 218) – limit 1.5A
- Primary place of business defined and criteria established to evaluate claims (p. 219) – limit 1.5 A
- Subsistence campsite and Reindeer husbandry site defined and criteria established to evaluate claims (p. 220) – limit 10,000 square feet
- Non-profit organizations (p.221) – limit 1A



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

9600 (925)

Minor revisions: October 16, 1987
 April 18, 1990
 May 8, 1998

Amended
Policy Statement
for
Preparation and Processing of the Map of Boundaries under ANCSA 14(c)

The purpose of this policy statement is to provide guidelines for the preparation of a Map of Boundaries as required by 43 CFR 2650.5-4. The submission of a uniform Map of Boundaries will enable the Bureau of Land Management's (BLM) Division of Cadastral Survey and Geomatics to execute an efficient survey program for the 14(c) lands which will meet the applicants requirements in a more timely manner.

If at all possible, the Map Boundaries should be submitted in total. In accordance with 43 CFR Section 2650.5-4(c)(2) "(l)ands shown by the records of the Bureau of Land Management as not having been conveyed to the village corporation will be excluded by adjustments on the map."

1. The map is intended to include all 14(c) tracts which are to be surveyed. The map should be prepared on an enlargement of the best and latest aerial photography available or on a reproducible media such as a mylar or acetate photo overlay at the same scale. A scale of 1 inch = 50 feet or 1 inch = 100 feet is best for 14(c) (1) and (2) lots in a crowded village situation. A scale of 1 inch=200 feet or larger is usually adequate for 14(c) (3) grants or outlying subsistence tracts. In some cases, BLM's Branch of Mapping Science may have the best photography available; in other cases, the photography may have to be purchased from another government agency or a private aerial photo contractor. In either case, BLM is usually able to refer one to the best available source for aerial photographs. If the available photographs do not encompass all the tracts involved, a supplemental sheet of the same scale as the photo may be added to cover the immediate surrounding area. Delineated thereon will be the majority of:
 - a. 14(c)(1): Tracts occupied as a primary place of residence.
 - b. 14(c)(1): Tracts occupied as a primary place of business.
 - c. 14(c)(2): Tracts occupied by nonprofit organizations.
 - d. 14(c)(3): The boundaries of municipal lands for community expansion and/or city maintained lots or rights-of-ways.
 - e. 14(c)(4): Tracts utilized for airport sites, airways beacons, and other navigation aids.

2. The tracts which cannot feasibly be shown on the photo because of their remote locations from the village proper can be shown on U.S. Geological Survey (USGS) quadrangle (1:63,360) maps.

14(c) tracts shown on the USGS quadrangle map will generally include:

- a. 14(c)(1) remote claims: Subsistence campsites and headquarters for reindeer husbandry.
- b. 14(c)(3): That portion of the municipal lands not included in the village photo.
- c. Any other tracts identified under ANCSA Section 14(c) not included in the village photo.

Any enlarged drawing and written description for each individual tract or group of tracts will be shown on a separate sheet. These supplemental drawings will include the scale, date, north arrow, topographic features (lakes, rivers, swamps, ridges, etc), any improvements to include, description of corner markings, bearings (or approximate directions such as northwesterly, southeasterly, etc.), and distances of boundary lines, applicant's name, and a reference (number or name) corresponding to the site location as shown on the USGS quadrangle maps. Examples of the preceding requirement may be obtained from the BLM (AK-925).

3. In accordance with 43 CFR Section 2650.5-4(b), BLM will survey the exterior boundaries of all "... tracts required by law to be conveyed by the village corporations pursuant to section 14(c) of the Act." For the convenience of the village corporations and the surveyors, the Map of Boundaries may include vacant lots, lots occupied after December 18, 1971, and other non-14(c) lots. However, non-14(c) lots must be clearly identified as such and will not be surveyed by BLM.
4. Federal Regulation 43 CFR 2650.5-4(c)(1) states that the boundaries of all Section 14(c) reconveyances shall be identified (staked or marked) on the ground, as well as shown on the Map of Boundaries. The location of the individual corners should be marked on the ground with durable materials to eliminate the possibility of boundary conflicts with adjacent tracts and to assure the actual location of the tract. Each tract should also be identified as to location by one of the following means:
 - a. A tie to an existing survey monument of record.
 - b. Natural features (river frontage, etc.).
 - c. Occupancy (ties to improvement thereon).
 - d. A tie to an adjacent (located) 14(c) tracts.
 - e. Written metes-and-bounds description.

5. Roads, trails and/or reconveyance easement which are proposed but not constructed must be staked or marked on the ground. Existing rights-of-ways will be surveyed along an apparent centerline. Street names and/or label distinctions for rights-of-ways must be designated on the Map of Boundaries and will be noted by name on the final ANCSA 14(c) plat(s).
6. It is essential that conflicts among potential claimants identified under the ANCSA 14(c) reconveyances or between transferees and the village corporation be resolved before submission of the Map of Boundaries. Alaska National Interest Lands Conservation Act (ANILCA), Section 902(b) provides a one (1) year "statute of limitations" for such actions that may require judicial review. (See Appendix)
7. Any Map of Boundaries will have a title block identifying the municipality (or unincorporated village) and the village corporation. Also shown within the title block will be the following certification statement: "To the best of our knowledge, all conflicts concerning property lines shown on this Map of Boundaries have been resolved." In addition, the Map of Boundaries will contain the statement: "This Map of Boundaries represents the final discharge of all the Corporation's obligations under ANCSA 14(c)."

Separate signature lines shall be included in the title block which state: "The Map of Boundaries shown hereon has been received and reviewed by the Division of Cadastral Survey and Geomatics, Bureau of Land Management, Alaska State Office, and is 'accepted' for filing according to Section 902(b) of ANILCA". This statement is to be signed and dated by the Special Instructions Team Leader. Another line should state: "This Map of Boundaries is hereby 'approved' to be used as the Plan of Survey for the ANCSA 14(c) parcels shown hereon", to be signed and dated by Chief, Branch of Survey Preparation and Policy Interpretation.

The Map of Boundaries will be accompanied by a corporate resolution authorizing the Map of Boundaries and designating the corporate officer to sign and submit the map. Written agreements must be included when 14(c)(3) selections total less than 1280 acres, per Section 1405 of ANILCA.

8. The Bureau of Land Management will examine and review each submitted map for conformance with laws, regulations and policies, ensuring that the map and descriptions are complete enough to warrant an ANCSA 14(c) survey. This review and examination should be completed within 30 calendar days and the Map of Boundaries will either be accepted by Bureau of Land Management or returned to the Village Corporation for additional information.
9. If the Map of Boundaries is accepted, the start of the one-year statute of limitations for challenging each corporation's ANCSA 14(c) decisions, as identified in Section 902(b) of ANILCA, will date back to the "official filing date" of the Map. The "official filing date", as defined in 43 CFR Section 2650.0-5(m), is the date of postmark of the final accepted version of the Map. If the postmark cannot be ascertained or was hand delivered, the official filing date becomes the date of receipt by BLM.

If the Map is returned one or more times for additional information or completely rejected by BLM, the "official filing date" which will commence the Section 902(b) statute of limitations will be the date of postmark of the submitted additional information which completes the Map. If the Map had been rejected in total, the "official filing date" will be the date of postmark of the final accepted version of the Map.

The BLM will notify village residents of the acceptance of the Map and the commencement of the period for challenging the corporation's decisions by publishing a Public Notice in local and statewide newspapers and requesting that the local Postmaster post a Notice in the local Post Office. The BLM will also inform the Village Corporation of the acceptance in writing and circulate such notification through ANCSA 14(c) support agencies.

10. A village corporation which has no 14(c)(1), (2) and/or (4) obligations should submit a letter to the Bureau of Land Management certifying that fact. This letter will serve as a "Final Map of Boundaries", and should be signed by the appropriate designated corporate officer and accompanied by a corporate resolution authorizing the submission. The postmark date of this letter will be considered the "official filing date", which will formally start the one-year statute of limitations.
11. Some villages may elect to hire a private surveyor to survey all or a portion of their land for reconveyance purposes. In such cases, that village corporation must pay the entire cost of such contract survey with no present or future reimbursement by BLM's ANCSA 14(c) survey program.

Those ANCSA 14(c) surveys done under private contract with a village corporation will be documented with BLM prior to the actual survey. Assignment Instructions will be issued and the final ANCSA 14(c) plats will be reviewed by BLM, to insure their sufficiency as "federally mandated" 14(c) surveys. A letter of compliance from the Deputy State Director of Cadastral Survey and Geomatics will be required to accompany the plat(s) before they will be accepted for recording at the local Recording District. See: ANCSA 14(c) Private Survey Policy of February 7, 1990.

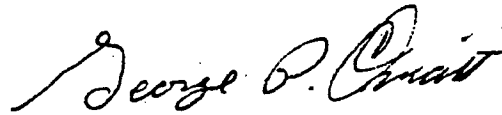
12. All ANCSA 14(c) reconveyances are the responsibility of each village corporation. BLM does not have any authority to adjudicate transfer decisions. Any dispute over 14(c) reconveyances must be resolved between the village corporation, each city (or the Municipal Trustee on behalf of an unincorporated community), individuals or any other claimant(s). The only certain method by which a village corporation can receive protection under ANILCA Section 902(b) is to file a Map of Boundaries.
13. Survey of the 14(c) parcels will not be scheduled until the Final Map of Boundaries has been received and approved by BLM.

BLM will not normally approve a Map of Boundaries until after the one year statute of limitations expires. However, when funding is available, BLM will approve a Map of Boundaries earlier and proceed to survey if a village corporation is willing to sign a "waiver" stating that it will bear the responsibility for any additional survey required because of post-approval changes or amendments. This would include the entire cost of the additional surveying and/or platting and would require the services of a private surveyor.

14. Any changes or amendments to the final Map of Boundaries, after it has been submitted to the BLM and accepted, but not surveyed, will be handled as follows:

Changes or amendments which clarify or alter a description on the accepted Map of Boundaries will be incorporated into the Plan of Survey by the BLM prior to the actual field survey. These changes or amendments will be submitted as amended Maps of Boundaries and will not require any posting of Public Notice by the BLM or any changes in the one-year statute of limitations, unless the affected parties do not agree with the changes.

If any parties whose rights are affected by the changes or alterations do not consent to them, then a new statute of limitations period will begin. This new limitations period runs for only those changes to which the affected parties did not consent. This new challenge period will begin with the "date of filing" of the amended Map of Boundaries. The village corporation shall be responsible for notifying the parties affected by any amendment to a map of boundaries. If any affected parties cannot be personally notified, the village corporation shall be responsible for posting and publishing notice of the proposed changes.



George P. Oviatt
Deputy State Director for Cadastral
Survey and Geomatics, Alaska

APPENDIX - Amended Policy Statement
ANCSA 14(c) - May 8, 1998

Definition of Terms

Map of Boundaries: The initial map submitted by Village Corporation of the BLM describing boundaries of tracts to be reconveyed pursuant to ANCSA Section 14(c).

Date of Filing: The date of postmark of the accepted version of the Map of Boundaries. If the postmark cannot be ascertained or was hand delivered, the official filing date becomes the date of receipt by BLM. This is the "official filing date" and commences the one-year statute of limitations contained in ANILCA Section 902(b).

Date of Acceptance: The date of the BLM accepts a Map of Boundaries as complying with the requirements of the Policy Statement.

Date of Public Notice: The date upon which BLM gives public notice that a Map of Boundaries has been filed and that the ANILCA Section 902(b) statute of Limitations is running.

Partial Map of Boundaries: A Map of Boundaries for a partial reconveyance of ANCSA Section 14(c) selections.

Final Map of Boundaries: A Map of Boundaries submitted by a Village Corporation that contains all known obligations to reconvey and pursuant to ANCSA Section 14(c).

Date of Approval: The date of BLM approves the final map of boundaries.

Plan of Survey: The approved final Map of Boundaries becomes the Plan of Survey used to guide the survey of the ANCSA Section 14(c) reconveyances.

Amended Map of Boundaries: A Map of Boundaries that amends the boundaries contained in a previously submitted and accepted Map of Boundaries.

ANCSA 14(c) References

Alaska Native Claims Settlement Act (ANCSA), December 18, 1971, Public Law 92-203, (85 Stat. 703), Section 14(c)(1), (2), (3), (4).

Code of Federal Regulations: Dept. Of the Interior, Bureau of Land Management, 43 CFR 2650.5-4, "Village Surveys" and 43 CFR 2650.0-5(m) defining 'official filing date'.

Alaska National Interest Lands Conservation Act (ANILCA), December 2, 1980, Public Law 96-487.

Section 902(b), "Statute of Limitations"

Section 1404(a), (b), (c), "Vesting Date for Reconveyances"

Section 1405, "Reconveyance to Municipal Corporations"

Section 1437, "Reconveyance; Disputes"

ANCSA
Public Law 92-203 (85 Stat. 703)
December 18, 1971

and

ANILCA
PL 96-487 (Sec. 1404 & 1405)
December 2, 1980

Sec. 14(c) Each patent issued pursuant to subsections (s) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:

(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation) as a primary place of residence or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied, as of December 18, 1971, by a non-profit organization:

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native Village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: (Provided), that the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State In Trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: (Provided further), That any net revenues derived from the sale of surface resources harvested or extracted from land reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State In Trust: (Provided, however), That the word "sale" as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State In Trust, nor shall it include the issuance of free use permits or other authorization for such purposes;

(4) the Village Corporation shall convey to the Federal Government, State or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

SECTION 14(C)

(c) Patent requirements; order of conveyance; vesting date; advisory and appellate functions of Regional Corporations on sales, leases, or other transactions prior to final commitment

Each patent issued pursuant to subsections (a) and (b) of this section shall be subject to the requirements of this subsection. Upon receipt of a patent or patents¹:

(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation) as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied as of December 18, 1971 by a nonprofit organization;

¹ Or interim conveyance, whichever is earlier. See Section 1437(d) of the Alaska National Interest Lands Conservation Act (amending Section 14(c) of ANCSA as follows: "A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (c) of this section or under such Act. For purposes of the Alaska Native Claims Settlement Act, legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued.").

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;

(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971; and

(5) for a period of ten years after December 18, 1971, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Corporations on all land sales, leases or other transactions prior to any final commitment.

There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this chapter in order that they may fulfill the reconveyance requirements of this subsection. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

**AS 10.06.450. Board of Directors; Duty of Care;
Right of Inspection; Failure to Dissent.**

- (a) All corporate powers shall be exercised by or under the authority of, and the business and affairs of a corporation shall be managed under the direction of, a board of directors except as may be otherwise provided in this chapter. If a provision is made under AS 10.06.468 or in the articles, the powers, duties, privileges, and liabilities conferred or imposed upon the board by this chapter shall be exercised, performed, extended and assumed to the extent and by the person or persons to whom they are delegated as provided in AS 10.06.468 or in the articles. Directors need not be residents of this state or shareholders of the corporation unless required by the articles or bylaws. The articles or bylaws may prescribe other qualifications for directors. The board may fix the compensation of directors unless otherwise provided in the articles.
- (b) A director shall perform the duties of a director, including duties as a member of a committee of the board on which the director may serve, in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with the care, including reasonable inquiry, that an ordinarily prudent person in a like position would use under similar circumstances. Except as provided in (c) of this section, a director is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by
- (1) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
 - (2) counsel, public accountants, or other persons as to matters that the director reasonably believes to be within the person's professional or expert competence; or
 - (3) a committee of the board upon which the director does not serve, designated in accordance with a provision of the articles or the bylaws, as to matters within the authority of the committee if the director reasonably believes the committee to merit confidence.

- (c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by (b) of this section unwarranted.

- (d) A director has the absolute right at a reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the corporation or a domestic or foreign subsidiary of the corporation. Inspection by a director may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts. This section applies to a director of a foreign corporation having its principal executive office in this state or customarily holding meetings of its board in this state.

- (e) A director of a corporation who is present at a meeting of its board at which action on a corporate matter is taken is presumed to have assented to the action taken unless the director's dissent is entered in the minutes of the meeting or unless the director files a written dissent to the action with the secretary of the meeting before adjournment or forwards the dissent by certified mail to the secretary of the corporation immediately after adjournment. The right to dissent does not apply to a director who voted in favor of the action.

AS 10.06.478. Director Conflicts of Interest.

(a) A contract or other transaction between a corporation and one or more of the directors of the corporation, or between a corporation and a corporation, firm, or association in which one or more of the directors of the corporation has a material financial interest, is neither void nor voidable because the director or directors or the other corporation, firm, or association are parties or because the director or directors are present at the meeting of the board that authorizes, approves, or ratifies the contract or transaction, if the material facts as to the transaction and as to the director's interest are fully disclosed or known to the

(1) shareholders and the contract or transaction is approved by the shareholders in good faith, with the shares owned by the interested director or directors not being entitled to vote; or

(2) board, and the board authorizes, approves, or ratifies the contract or transaction in good faith by a sufficient vote without counting the vote of the interested director or directors, and the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the corporation at the time it was authorized, approved, or ratified.

(b) A common directorship does not alone constitute a material financial interest within the meaning of this section. A director is not interested within the meaning of this section in a resolution fixing the compensation of another director as a director, officer, or employee of the corporation, notwithstanding the fact that the first director is also receiving compensation from the corporation.

(c) A contract or other transaction between a corporation and a corporation or association of which one or more directors of the corporation are directors is neither void nor voidable because the director or directors are present at the meeting of the board that authorizes, approves, or ratifies the contract or transaction, if the material facts of the transaction and the director's other directorship are fully disclosed or known to the board and the board authorizes, approves, or ratifies the contract or transaction in good faith by a sufficient vote without counting the vote of the common director or directors or the

contract or transaction is approved by the shareholders in good faith. This subsection does not apply to contracts or transactions covered by (a) of this section.

(d) Interested or common directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes, approves, or ratifies a contract or transaction.

(e) Nothing in this section affects the prohibitions or restraints imposed by AS 45.50.

AS 10.06.485. Loans to Directors, Officers, and Employees.

- (a) A loan may not be extended to an officer or employee without authorization by the board. A loan may not be extended to a director without the approval of two-thirds of the voting shares. An employee or officer who is also a director is considered a director for purposes of this section. A shareholder is not disqualified from voting on a loan to a shareholder as a director because of personal interest.
- (b) A loan to a director, officer, or employee and a loan secured by the shares of the corporation may not be made unless the loan would be permissible as a distribution under AS 10.06.358 – 10.06.365. A loan under this subsection impairs the retained earnings or paid-in capital accounts to the extent of the loan.
- (c) For purposes of this section, a loan may consist of cash, securities, or personal or real property.
- (d) If a corporation acts as a guarantor on a loan to a director, officer, or employee, the guarantee is treated as a loan under this section.
- (e) A director, officer, or employee of an affiliate corporation is a director, officer, or employee of the lending corporation for purposes of this section.
- (f) A loan is to be judged by the duties of directors and officers to act in good faith in a manner reasonably believed to be in the best interests of the corporation and with the care, including reasonable inquiry, that an ordinarily prudent person in a like position would use under similar circumstances.