

### **Right of Way Acquisition Plat:**

A ROW Acquisition plat has been proposed for both the Kipnuk and Chefornak airports. The purpose of a ROW acquisition plat is to recognize the Department of Natural Resources as the official platting authority for the Unorganized Borough. This jurisdiction came into effect in August of 1998 under A.S. 40.15, Article 4. Prior to that time, DNR's authority was limited to replats and vacations within the Unorganized Borough. A.S. 40.15.380 applies DNR's platting jurisdiction to governmental entities that perform ROW acquisitions in the Unorganized Borough and create subdivisions of property in the process. According to 11 AAC 53.650, the DNR Platting authority only applies to fee acquisitions that divide a parcel into two or more lots and not to the acquisition of easement interests. Also, under A.S. 40.15.360(1) DNR's authority over ROW acquisition plats in the Unorganized Borough would not extend to the transfer of leasehold interests, licenses or permits. As DOT&PF airport land acquisitions from private parties are generally in fee, these types of transactions would require ROW acquisition platting with review and approval by DNR. This appears to clearly be the case for the Kipnuk Airport. The Chefornak situation may require further investigation as the acquisitions may not be subject to the DNR platting authority. The DNR statutes for ROW acquisition platting recognize that these types of subdivisions are not performed with the intent to increase land use density and so are not required to follow the general rules of residential or commercial subdivision platting. As the transfer of title has already taken place by deed, no involvement of the prior owners is required. In effect, a ROW Acquisition Plat is a Record of Survey that is based upon the executed and recorded documents that transferred fee title, except that the drawing will be titled "Right-of-Way Acquisition Plat" rather than "Record of Survey".

**Chefornak Airport:** The Chefornak Airport acquisition was based on a 55 year lease from the Chefornak Traditional Council along with associated avigation and hazard easements. These types of acquisitions would not generally be expected to trigger the DNR Platting Authority for the Unorganized Borough. It is possible that the intent of the request for a ROW Acquisition Plat is the future relinquishment of the old airport property that was conveyed to DOT&PF in 1984 as a part of ANCSA village corporation's 14(c)(4) re-conveyance obligation. A portion of the old airport property was to be retained as a part of the new airport access road. This strip has recently been defined as Tract C of the ANCSA 14(c) plat filed as Plat 2014-9 (Bethel). If DOT&PF were to retain Tract C, relinquishment of the remainder of the old airport could be considered a "subdivision", however, as the original deed to DOT&PF was subject to a reversionary clause should the old airport no longer be necessary for airport purposes, it may be that the reversion constitutes an operation of law that does not meet the criteria of a "subdivision". Alternatively, DOT, may relinquish the entire old airport property under the reversion clause back to the original grantor with the village corporation then conveying title to the City of Chefornak as a part of their 14(c)3 reconveyance obligation for roads and other public purposes. In either event, it maybe that a ROW Acquisition Plat may not be necessary for Chefornak.