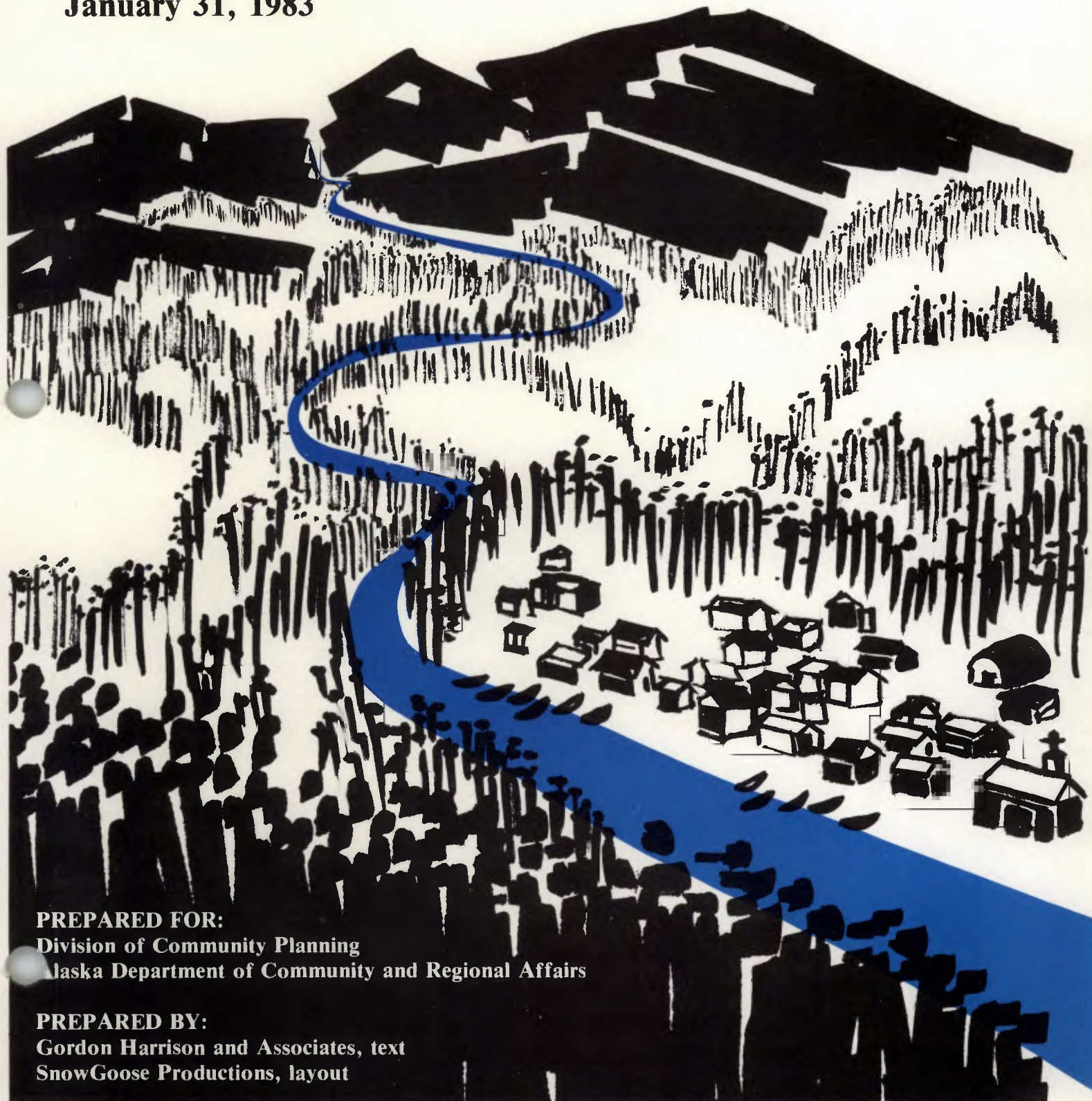


# COMMUNITY PLANNING FOR ANCSA 14(c) LAND RECONVEYANCES

January 31, 1983



**PREPARED FOR:**  
Division of Community Planning  
Alaska Department of Community and Regional Affairs

**PREPARED BY:**  
Gordon Harrison and Associates, text  
SnowGoose Productions, layout

## **CREDITS**

### *Alaska Department of Community and Regional Affairs*

Mark Lewis, Commissioner

Lawrence H. Kimball, Jr., Director, Division of Community Planning

### *Project Management*

Ike Waits, Program Supervisor

Sandra Cook, Planner IV and Project/Contract Manager

John Gliva, Planner IV

Sylvia Spearow, Planner IV

Bob Aiken, Natural Resource Officer II

Sharon Harris and Maxine Gavin, Word Processing Support

The information, process and techniques described in this guidebook were developed as part of the ANCSA 14(c) Plan of Survey Technical Assistance Program in the Division of Community Planning.

## **ACKNOWLEDGEMENTS**

In appreciation to the following individuals who made valuable contributions to this project:

Mike Collie, Bureau of Land Management

Rick Elliott, Municipal Lands Trustee Program

Tom Hawkins, Choggiung Limited

Felix Hess, Calista Land Department

Bob Juettner, City Manager of McGrath

Debbie Lee, The Kuskokwim Corporation

Sharon McClintock, Alaska Native Foundation

Annalee McConnell, formally with Alaska Native Foundation

Mary McNeil, Sealaska Heritage Foundation

James Sandberg, Department of Transportation/Public Facilities

Alison Smith, Calista Land Department

Tim Troll, City Manager of St. Mary's

A special thanks goes to Sharon McClintock with the Alaska Native Foundation who thoroughly reviewed and provided helpful comments on all working drafts.

# TABLE OF CONTENTS

<i>Alaska Native Claims Settlement Act, Section 14(c)</i> .....	4
<i>Introduction</i> .....	5
<i>Technical Assistance Programs</i> .....	6
<b>CHAPTER 1, ABOUT SECTION 14(c)</b>	
<b>Background on Section 14(c)</b> .....	7
<b>The 14(c) Process</b> .....	8
<i>The 14(c) Process (Figure 1)</i> .....	9
<i>Municipal Lands Trustee Program</i> .....	10
<b>CHAPTER 2, ABOUT SECTION 14(c)(3)</b>	
<b>What 14(c)(3) Says</b> .....	11
Who receives 14(c)(3) land? .....	11
<i>List of Municipal Trustee Villages</i> .....	12
Types of 14(c)(3) land .....	13
<i>List of Incorporated Villages</i> .....	14
Amount of 14(c)(3) land .....	15
<i>How large are Communities today?</i> .....	16
Sale of surface resources .....	19
<b>Solving Disputes</b> .....	19
<b>Additional information about 14(c)(3)</b> .....	20
Public vs. Private ownership of land .....	20
What about land for residential development? .....	22
<i>Shareholder Homesites</i> .....	23
What about land occupied after 1971? .....	24
Should the city acquire Commercial Land? .....	25
<i>Villages in BLM Townsite Program</i> .....	27
Configuration and location of 14(c)(3) lands .....	28
The cost and conditions of 14(c)(3) land .....	29
Can some 14(c)(3) reconveyances be speeded up? .....	29
Can some 14(c)(3) reconveyances be delayed? .....	30
<i>Airport reconveyances under 14(c)(4)</i> .....	32
What about airport land? .....	33
Conflict of interest .....	34
<b>CHAPTER 3, GETTING ORGANIZED</b>	
<b>Community Planning for 14(c)(3) reconveyances</b> .....	35
Who does 14(c)(3) planning? .....	36
When to begin 14(c)(3) planning .....	37
Overlay maps in 14(c)(3) planning .....	37
<i>A Closer Look at the 14(c) Process (Figure 9)</i> .....	40
<b>CHAPTER 4, PREPARING A 14(c)(3) RECONVEYANCE PROPOSAL</b>	
<b>Select base map(s)</b> .....	41
<b>Prepare land ownership map</b> .....	44
<i>Possible public uses of land</i> .....	46
<b>Prepare an existing land use map</b> .....	47
<b>Prepare a land suitability map</b> .....	48
<i>Choosing a new garbage dump site</i> .....	50
<b>Prepare a future land use map</b> .....	51
<b>Prepare a 14(c)(3) proposal</b> .....	53
<i>Minimum right-of-way requirements</i> .....	54
<b>Rights-of-way</b> .....	55
<i>Rights-of-way and utility easements</i> .....	57
<i>Rights-of-way rules to follow</i> .....	58
<b>Publicly-used land</b> .....	59
<b>Community expansion land</b> .....	59
<i>*Sample maps with acetate overlays</i> .....	inserted following pg. 60
<b>CHAPTER 5, COMPLETING THE RECONVEYANCE PROCESS</b>	
<b>Draft plan of survey</b> .....	61
<b>Final plan of survey</b> .....	63
<b>Village survey</b> .....	63
<b>Interim land management agreement</b> .....	64
<b>Issuance of deeds</b> .....	64
<i>Appendix A: Alaska Statutes 44.47.150</i> .....	65
<i>Appendix B: BLM Survey Rules</i> .....	66
<i>Appendix C: Alaska Omnibus Act</i> .....	68

# 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.

# INTRODUCTION

---

Section 14(c) of the Alaska Native Claims Settlement Act (ANCSA) requires village corporations to reconvey certain lands they receive under ANCSA. “Reconvey” means to pass title (ownership) on to others after the village corporation receives interim conveyance or patent from the federal government. Thus, reconveyance means to transfer land ownership. Section 14(c)(1) requires village corporations to reconvey to individuals title to land they occupied as of December 18, 1971 (the date ANCSA became law). Section 14(c)(2) requires the corporations to reconvey to non-profit organizations (such as churches) title to land they occupied as of December 18, 1971. Section 14(c)(3) requires the corporations to reconvey to city governments (or to the State in trust if an incorporated city does not exist) title to land used by the entire community now and land to be used in the future. Section 14(c)(4) requires the corporation to reconvey to the airport operator title to land used for airports as of December 18, 1971.

*This manual discusses section 14(c)(3) — the reconveyance of municipal (city) land.* The purpose of the manual is to help city governments and village corporations understand section 14(c)(3) and to assist them in planning for the reconveyance of community land. The manual describes a step-by-step planning process that will help corporation boards and city governments to consider all of the issues and options presented by the requirement for 14(c)(3) reconveyances. *Planning for 14(c)(3) reconveyances must be coordinated with other 14(c) activity. This manual explains how the 14(c)(3) planning process relates to the 14(c)(1), (2) and (4) process, and why coordination is necessary.*

Information in this manual provides a general introduction to the complex subject of 14(c)(3) reconveyances (Chapter 1 and 2). It also describes the steps to prepare a 14(c)(3) proposal (Chapters 3 and 4), and to complete the reconveyance process (Chapter 5). If needed by village planners, more information and assistance are available from the Alaska Department of Community and Regional Affairs, Division of Community Planning, and from the Alaska Native Foundation. Both have 14(c) technical assistance programs.\* Staff members of these programs will answer questions about 14(c) reconveyances and help with the details of the planning process described in this manual. These people can also help arrange assistance on special planning problems from other state agencies. Consulting firms and regional corporations are also a possible source of information and assistance.

*\*Discussed in more detail on page 6.*

# Technical Assistance Programs

## Department of Community and Regional Affairs

*The Division of Community Planning* ANCSA 14(c) Assistance program concentrates on providing information, training, and technical assistance to identify community land needs and to assist in the development of plans of survey for ANCSA 14(c) land reconveyances. Information and assistance available includes:

1. Oral presentations and a printed introduction covering the roles, responsibilities, requirements and options under ANCSA 14(c).
2. Training and technical assistance to prepare and evaluate ANCSA 14(c)(3) land reconveyance proposals. This assistance will cover identification of existing and foreseeable community expansion needs, rights-of-way and other community development requiring land. Consideration for the village corporation's need for land within the community is supported and encouraged. 14(c) workbooks are available from the Division of Community Planning. The workbooks

will provide information and a step-by-step process for preparing plans of survey.

3. Training and technical assistance to prepare a Plan of Survey includes:
  - a. Techniques for using maps, aerial photographs and drafting tools;
  - b. On the ground location of lot boundaries;
  - c. Plan of Survey design considerations including rights-of-way for major roads and paths, access to land parcels and lot lines that are easy to locate and which maximize the usable area of the lots.

Written requests for 14(c) assistance and/or copies of available 14(c) materials should be sent to:

Director

Department of Community & Regional Affairs  
Division of Community Planning  
225 Cordova, Building B  
Anchorage, Alaska 99501

Phone: 264-2265

## Alaska Native Foundation

The Alaska Native Foundation has a technical assistance program to help village corporations meet the reconveyance obligation of Section 14(c). A guide for 14(c)(1) and (2) planning, titled "Village Land Reconveyance Planning; a Handbook on ANCSA Section 14(c)," has been prepared by ANF as the first phase of the technical assistance program. The handbook provides an overview of the reconveyance process, legal requirements, general guidelines and board policy considerations for 14(c)(1) and (2). (Materials on 14(c)(3) and (4) will be available soon.) Sample forms are included to help reduce the time it takes to implement a reconveyance process. They include notices, an application form, an affidavit, letters, a field examination report and several record keeping forms. Corporations can adapt these materials to suit their own 14(c) process.

ANF will also provide workshops about 14(c) to boards and staff of village corporations. These can be open to the public at the corporation's request. To increase the availability of ANF assistance, priority will be given to groups

or village corporations requesting assistance. Limited follow-up assistance to village corporations will be available as time permits. ANF will not represent village corporations in negotiations, give legal opinions, or act in any similar capacity.

ANF cannot provide direct financial assistance to village corporations for 14(c) planning. There is no charge for ANF staff time for workshops or technical assistance. Staff travel expenses will be paid by the Foundation unless the corporations are willing to pay for transportation.

To arrange for a workshop, contact ANF as early as possible but at least two weeks before you would like to have it scheduled. For more information, or to schedule a 14(c) workshop, please contact:

ANCSA Land Specialist  
Alaska Native Foundation  
411 West 4th Avenue  
Anchorage, Alaska 99501

Phone: 274-2541

# CHAPTER 1

## ABOUT SECTION 14(c)

Land reconveyances under section 14(c)(3) are part of the overall 14(c) reconveyance process. It is therefore important that city councils, corporation boards, and others involved in 14(c)(3) planning understand the whole 14(c) process and where 14(c)(3) fits in. This chapter provides background information about section 14(c) and an overview of the entire 14(c) process.

## BACKGROUND ON SECTION 14(c)

At the time Congress passed ANCSA, fewer than half the Native villages in Alaska had been surveyed. This meant that many village residents did not have title to the land their homes were built on, and that many village governments did not own the land that was used for community halls and other public purposes. Congress recognized the need for all of the villages to be surveyed so that title could be issued to the occupants of village lands. To accomplish this, Congress provided in ANCSA that village corporations obtain title to all of the land in and around the village and then *reconvey* title to the parcels used for homesites, businesses, campsites, community purposes, and airports. Section 14(c) of ANCSA requires the village corporations to make these reconveyances as soon as possible after they receive interim conveyance or patent from the federal government, whichever comes first.\* Thus, individuals (homeowners and business owners), non-profit organizations, city governments (or the state in trust for unincorporated villages), and airport operators will receive title to their land from the village corporation, not directly from the federal government.\*

There are three very important points about 14(c) reconveyances.

- **Village corporations are responsible for making the reconveyances.**

The village corporation must take the initiative for organizing a 14(c) process and seeing that the job gets done. The various claimants to village land must be directly involved in the 14(c) process, but each village corporation is free to organize the reconveyance task in a way that best suits the local situation.

- **Only village corporation land can be reconveyed.**

Village corporations do not get title to private, state or certain federal lands, so these lands cannot be reconveyed. (Native allotments, for example, are not affected by section 14(c).) Also, village corporations receive title only to the *surface* of the land (the regional corporations own the subsurface rights, including gravel), so only the right to use the surface of the land is reconveyed through 14(c).

- **Village corporations reconvey title under 14(c) “upon receipt” of interim conveyance or patent to their lands.**

This means that planning for 14(c) begins as soon as possible after the village corporation receives interim conveyance or patent to its land. While there is no deadline for completion, it is important to everyone, especially the village corporation, that reconveyances occur as quickly as possible. Until the job is done no one will know for sure what land they own.\*

*\*The text of 14(c) is on page 4.*

*\*Several village corporations are not required to convey land under Section 14(c). These include the corporations at Gambell, Savoonga, Elim, Arctic Village, Venetie and Tetlin. The interim conveyance or patent document will say if a 14(c) reconveyance obligation exists.*

*\*See discussion of “uncertainty” and “unprotected interests” on pages 30 and 31.*

## THE 14(c) PROCESS

Section 14(c) requires the village corporations to reconvey title to certain village lands, but it does not tell the corporations how to go about the task. **Each corporation must establish its own 14(c) reconveyance process.** It must set general policies to deal with the many issues that are involved; establish a schedule for the work; and assign responsibility for work to staff, board members or others.

After the corporation has decided how to go about the task of reconveyance, it must work with the people and organizations that have claims under the various subsections of 14(c). These are *individuals* who are entitled to parcels of land under 14(c)(1); *non-profit organizations* that are entitled to land under 14(c)(2); *city governments* that will receive title to public land in the village under 14(c)(3); and *airport operators* that are entitled to airport land under 14(c)(4). The overall 14(c) process is summarized in Figure 1 (page 9) and discussed further in Chapters 3, 4, and 5.

Valid claims by individuals, non-profit organizations and the airport operator under sections 14(c)(1), (2) and (4) have priority over city land under 14(c)(3). People identifying land for city ownership under 14(c)(3) must know where valid claims exist. However, the size and shape of 14(c)(1), (2) and (4) parcels may be affected by the need for public rights-of-way, and by other community-wide uses. Therefore, coordination is necessary between the people identifying land for reconveyance under 14(c)(3) and the people at the village corporation who are evaluating claims under 14(c)(1), (2) and (4).\*

This manual suggests that the people who are assigned responsibility for 14(c)(3) planning prepare a 14(c)(3) proposal—that is, a map showing the tentative location of all 14(c)(3) lands. This proposal will be combined with a map prepared by the village corporation that shows its proposed settlement of 14(c)(1), (2) and (4) claims.\* This combined 14(c) proposal is a draft Plan of Survey.

Everyone in the village reviews the draft Plan of Survey. The proposed boundary lines of all the parcels may have to be adjusted several times before everyone is satisfied. When all the property lines are agreed upon, a final Plan of Survey is prepared. The Plan of Survey will be used by the Bureau of Land Management (BLM) to survey the village. When the survey is finished, BLM will prepare an official map (called a plat) of the village showing every property line. On the basis of this plat the village corporation will issue deeds to the land owners.

This overall process is described in more detail in Chapters Three, Four and Five. Before discussing the process further however, it is important to present some general information about section 14(c)(3). This is done in Chapter Two.

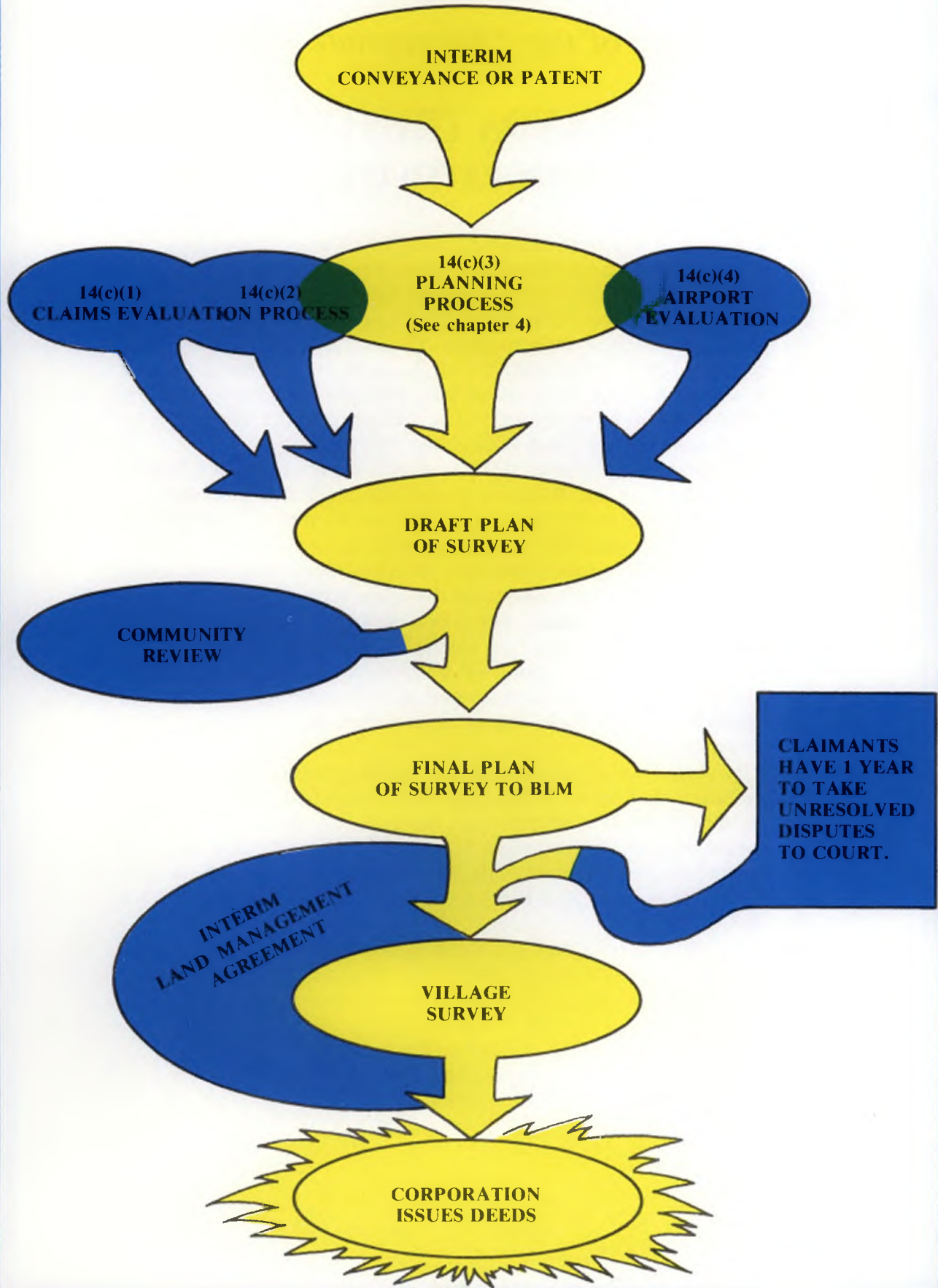
*\*For discussion on who is involved in 14(c)(3) planning see page 36.*

*\*The ANF handbook referred to on page 6 will assist village corporations with their 14(c) (1), (2) and (4) reconveyances.*



(FIGURE 1)

# THE 14(c) PROCESS



## *The importance of the “Appropriate Village Entity”*

# **MUNICIPAL LANDS TRUSTEE PROGRAM FOR UNINCORPORATED COMMUNITIES**

The State must administer Municipal Trust Lands according to the provisions of state law—Alaska Statute 44.47.150, which are reproduced in Appendix A. Section (b) of this law prohibits the trustee from selling, leasing, or disposing of any interest in Municipal Trust Land without the approval of “an appropriate village entity such as the traditional council, a village meeting, or a village referendum.” It is the intent of the trustee to work closely with each village entity on all land management matters. This will assure that decisions by the trustee will be the same as if the village were incorporated and exercised direct control over its own land.

The Municipal Land Trustee (MLT) program within the Alaska Department of Community and Regional Affairs has established procedures by which a village group or organization may be recognized as the “appropriate village entity.” It is important that this entity be acceptable to the villagers. According to MLT program procedures, an organization such as the village council may petition to be recognized as the village representative. The MLT program staff will provide legal notice that the petition has been filed and give village residents a chance to comment on the acceptability of the organization. Other organizations will be given an opportunity to petition for recognition if they consider themselves more broadly representative and better qualified. Public notice will be made before any organization is officially recognized.

It is important that an organization be selected to represent the village in matters before the trustee. If none has been recognized, a special village meeting must be called to determine the views of the residents every time an action must be taken on trust lands. Advance notice must be made before a meeting can take place. Consequently, community projects could be delayed or other problems might arise because decisions could not be made quickly enough.

For more information about the Municipal Lands Trustee Program, contact:

Municipal Lands Trustee Program  
Alaska Department of Community & Regional Affairs  
225 Cordova Street  
Building B  
Anchorage, Alaska 99501  
Telephone: (907) 264-2265

# CHAPTER 2

## ABOUT SECTION 14(c)(3)

This handbook is about section 14(c)(3). It provides information to help city councils and village corporations identify land that should be owned publicly—that is, land that should be reconveyed to the city government for use by the entire community. To accomplish the reconveyance of public land under 14(c)(3), council members, corporation board members, and their planning and land staff must understand what 14(c)(3) says and have other information about 14(c)(3) necessary to make good decisions.

### WHAT 14(c)(3) SAYS

The amended language of section 14(c)(3) is the basic guide for municipal reconveyances.\* People who will be involved in planning for these reconveyances should know what the law says. The following discussion deals with the meaning of each major provision of 14(c)(3).

*\*The text of 14(c)(3) is on page 4.*

### Who receives 14(c)(3) land?

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 . . . .”

“Municipal Corporation” means the government of a village that is incorporated as a first class, second class, or home rule city under Alaska law (Title 29 of the Alaska Statutes). Thus, *city governments* receive title to land reconveyed under section 14(c)(3). If a village is not incorporated, the *state* receives title to the land from the village corporation. When this happens, the state holds the land “in trust” for the people of the village until the time they decide to incorporate as a city. Lands conveyed to the state in trust are called “Municipal Trust Lands.”

State law designates the Commissioner of the Department of Community and Regional Affairs the trustee of Municipal Trust Lands. The commissioner has created a special office within the Department to administer the trust lands. It is the Municipal Lands Trustee (MLT) Program within the Division of Community Planning.\*

*\*This program is described on page 10. The MLT statutes are in Appendix A.*

It is an underlying principle of the MLT Program that the state should receive and manage trust lands for the benefit of the residents of the village. Thus, the state will not accept title to any municipal trust land without first consulting with the village residents through their “appropriate village entity” (AVE) or a village meeting. Nor will the state sell or lease any municipal trust land without the approval of the AVE. Because the MLT Program will give great weight to the views of the residents in the administration of municipal trust lands, a community will not find it necessary to incorporate merely to gain control over its land.

In 1982, there were 117 incorporated villages recognized by ANCSA. There were 93 unincorporated villages recognized by ANCSA. These unincorporated villages will have their municipal land held in trust by the state.

*\*Unincorporated (MLT) villages are listed on page 12. Incorporated villages are listed on page 14.*

# Villages Associated with MLT Program

As of June 30, 1982

## **Ahtna**

Cantwell  
Chistochina  
Chitina  
Copper Center  
Gakona  
Gulkana  
Mentasta Lake  
Tazlina

## **Aleut**

Atka\*  
Belkofski  
False Pass\*  
Nelson Lagoon  
Nikolski  
St. George\*  
Unga  
Pauloff Harbor

## **Arctic Slope**

Point Lay

## **Bering Straits**

Council  
King Island  
Mary's Igloo  
Solomon

## **Bristol Bay**

Chignik\*  
Chignik Lagoon  
Chignik Lake\*  
Egegik  
Ekuk\*  
Igiugig\*  
Iliamna

## **Summary**

Total number of associated villages: 93

\*Villages with recognized appropriate village entities or that have petitions pending.

NOTE: List is based on best available information. List may be reduced in the future due to municipal incorporations or annexations, and by local option ANCSA 14(c)(3) reconveyances to Boroughs per 19 AAC 90.065.

Ivanof Bay\*

Kokhanok\*  
Koliganek\*  
Levelock\*  
Naknek  
Pedro Bay\*  
Perryville\*  
Pilot Point\*  
Portage Creek\*  
South Naknek  
Twin Hills\*  
Ugashik\*

## **Calista**

Bill Moore's  
Chuloonawick  
Crooked Creek\*  
Georgetown  
Hamilton  
Kipnuk\*  
Kongiganak\*  
Kwigillingok  
Lime Village\*  
Napamiut  
Ohogamiut\*  
Oscarville  
Paimiut  
Pitkas Point\*  
Red Devil  
Sleetmute\*  
Stony River  
Tuntutuliak\*  
Umkumiute

## **Chugach**

Chenega\*  
English Bay\*  
Port Graham\*  
Tatitlek\*

## **Cook Inlet**

Chickaloon  
Knik  
Ninilchik  
Salamatof  
Tyonek

## **Doyon**

Beaver  
Birch Creek  
Chalkyitsik\*  
Circle  
Dot Lake\*  
Eagle  
Evansville  
Healy Lake  
Manley Hot Springs\*  
Minto\*  
Northway  
Rampart  
Stevens Village\*  
Takotna\*  
Tanacross  
Telida\*

## **Koniag**

Afognak  
Ayakulik  
Kaguyak  
Karluk  
Uganik  
Uyak  
Woody Island

## **Nana**

Noatak

## **Sealaska**

Klukwan

For the sake of simplicity in this handbook, the words city, municipality, city council and city government will be used to refer to first class, and second class, and home rule cities *as well as* the state as trustee for unincorporated villages recognized by ANCSA and the AVE in these villages. For example, a phrase that states “the city must decide” also means that “the Municipal Lands Trustee and appropriate village entity must decide” in reference to unincorporated villages.

## Types of 14(c)(3) land

“ . . . 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 . . . ”

By this language three general types of land will be conveyed to municipalities: current publicly-used land, community expansion land, and rights-of-way. These are discussed in more detail in Chapter Four. The following is a brief definition of each general type of 14(c)(3) land.

### ● Current publicly-used land

The words “remaining surface estate of the improved land on which the Native village is located” means that the city is entitled to the land that is left in and around the village after lots have been transferred to individuals and non-profit organizations under 14(c)(1) and (2).<sup>\*</sup> This is community land that the village as a whole uses. “Improved” land means land changed in some way from its natural condition for use by people. For example, land that has been built upon or cleared or had its surface altered to make it more useable by people is improved land.<sup>\*</sup>

Examples of improved community land are land used for public buildings such as the school, community hall, city office and health clinic; land used for utilities such as the power plant, cemetery, water storage tanks, and city dump; and land used for launching boats, the playground, and other communal activities by village residents.

### ● Community expansion land

As the village grows more land will be needed for new public buildings, new roads, perhaps a larger airport or other municipal services. The city is entitled to land for these under 14(c)(3). Land for new houses or businesses may also be included in 14(c)(3) reconveyances.<sup>\*</sup>

### ● Land for rights-of-way

Rights-of-way are routes of public access for people and utilities.<sup>\*</sup> Rights-of-way include roads, trails, and boardwalks that everyone in the village uses. These access routes should be owned publicly so that people may move freely about the village without crossing private land. Rights-of-way may also include narrow strips of land for water lines, electric lines, telephone lines and other public utilities. However, easements across private land are often used for utilities rather than publicly-owned rights-of-way. (An easement is a right to use another person’s property for a specific purpose. Easements are often used by utilities to acquire rights-of-way for utility lines across private property.)

*\*See also “What about land occupied after 1971?” on page 24.*

*\*Discussed in more detail on pages 46 and 47.*

*\*For additional discussion on when this may be appropriate see pages 20, 22 and 25.*

*\*Discussed in more detail on pages 55 through 58.*

# Incorporated Communities

(As of Jan. 1, 1983)

## Home Rule Cities

---

Cordova, Eyak

## First Class Cities

---

Barrow	Hoonah	Klawock	Sand Point
Craig	Hydaburg	Nenana	Seldovia
Dillingham	Kake	Nome	Unalaska
Galena	King Cove	St. Mary's	Yakutat

## Second Class Cities

---

Akhiok	Eek	Larsen Bay	Ruby
Akiachak	Ekwok	Lower Kalskag	Russian Mission
Akiak	Elim	Manokotak	Saint Michael
Akolmiut	Emmonak	McGrath	Saint Paul
Akutan	Fort Yukon	Mekoryuk	Savoonga
Alakanuk	Fortuna Ledge	Mountain Village	Saxman
Aleknagik	Gambell	Napakiak	Scammon Bay
Allakaket	Golovin	Napaskiak	Selawik
Ambler	Goodnews Bay	New Stuyahok	Shageluk
Anaktuvuk Pass	Grayling	Newhalen	Shaktoolik
Angoon	Holy Cross	Newtok	Sheldon Point
Aniak	Hooper Bay	Nightmute	Shishmaref
Anvik	Hughes	Nikolai	Shungnak
Atkasook	Huslia	Nondalton	Stebbins
Atmautluak	Kaktovik	Noorvik	Tanana
Bethel	Kaltag	Nuiqsut	Teller
Brevig Mission	Kasaan	Nulato	Togiak
Buckland	Kiana	Old Harbor	Toksook Bay
Chefornak	Kivalina	Ouzinkie	Tuluksak
Chevak	Kobuk	Pilot Station	Tununak
Chuathbaluk	Kotlik	Platinum	Unalakleet
Clark's Point	Kotzebue	Point Hope	Upper Kalskag
Deering	Koyuk	Port Heiden	Wainwright
Diomedes, Inalik	Koyukuk	Port Lions	Wales
Eagle	Kwethluk	Quinhagak	White Mountain

## Amount of 14(c)(3) land

“. . . 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 . . .”

Originally, section 14(c)(3) provided for a minimum of 1,280 acres to be reconveyed to every village recognized by ANCSA. But because 1,280 acres may exceed the community land needs in many villages, the language of the law was amended in 1980 to allow reconveyance of fewer than 1,280 acres *if* the city government and the village corporation agree to a lesser amount in writing.\* Now, therefore, the 1,280 acre obligation remains but an opportunity exists to decrease the amount actually reconveyed if both parties agree in writing.

Twelve hundred and eighty acres is 2 square miles.\* Compared to the developed area of most villages, this is a considerable amount of land.\* Figure 3 on page 18 shows approximately 1,280 acres around a village with an approximate population of 220.

Not all villages will require 1,280 acres to meet their present and future needs for municipal land; others may require more than 1,280 acres. To determine the amount of land that the village corporation should reconvey to the city government, it is best to consider the actual future needs of the village. Some villages may discover that they have a special need for a large amount of land (for an entirely new village site, for example, or for the protection of an entire watershed). These villages will want to be sure their 14(c)(3) reconveyance is large enough to meet these needs. Other villages may determine that they require a relatively small amount of land to meet their needs.

Many cities may reasonably consider a reconveyance of less than 1,280 acres. Land has potential value to the village corporation, and therefore the city should not own land which it will never conceivably need for community purposes. *Ideally, the size of the municipal reconveyance should be based on actual need.* Thus, the best way to determine the amount of 14(c)(3) land is to estimate present and future municipal land needs through an explicit planning process. The more detailed the planning process, the more reliable is the estimate of land needs that results from it.

*\*Section 1405 of the Alaska National Interest Lands Conservation Act of 1980.*

*\*For acre/mile comparison see figure 2 on page 18.*

*\*See examples on pages 16 and 17.*

## How large are communities today?

<u>Community</u>	<u>Population**</u>	<u>Acres of developed land* (excluding airstrips)</u>
Bethel	3,549	970 (1980 Comprehensive Plan)
Elim	228	34
Huslia	230	19
Hydaburg	356	113
Kotzebue	2,250	206 (1976 Comprehensive Plan)
Lime Village	48	9
McGrath	343	114 (1981 Comprehensive Plan)
Minto	190	92
New Stuyahok	331	50
Nikolai	88	28
Point Hope	531	91
Port Lions	215	153
St. Mary's	432	126 (Includes Andreafsky)
Stevens Village	96	26
Unalakleet	672	153

\*Except where noted, acreages were obtained by measurement on community profile or aerial photos. Totals are only approximate.

\*\*Population figures for cities are from Department of Community and Regional Affairs Revenue Sharing figures. Stevens Village and Lime Village figures came from 1980 census.





**NIKOLAI**

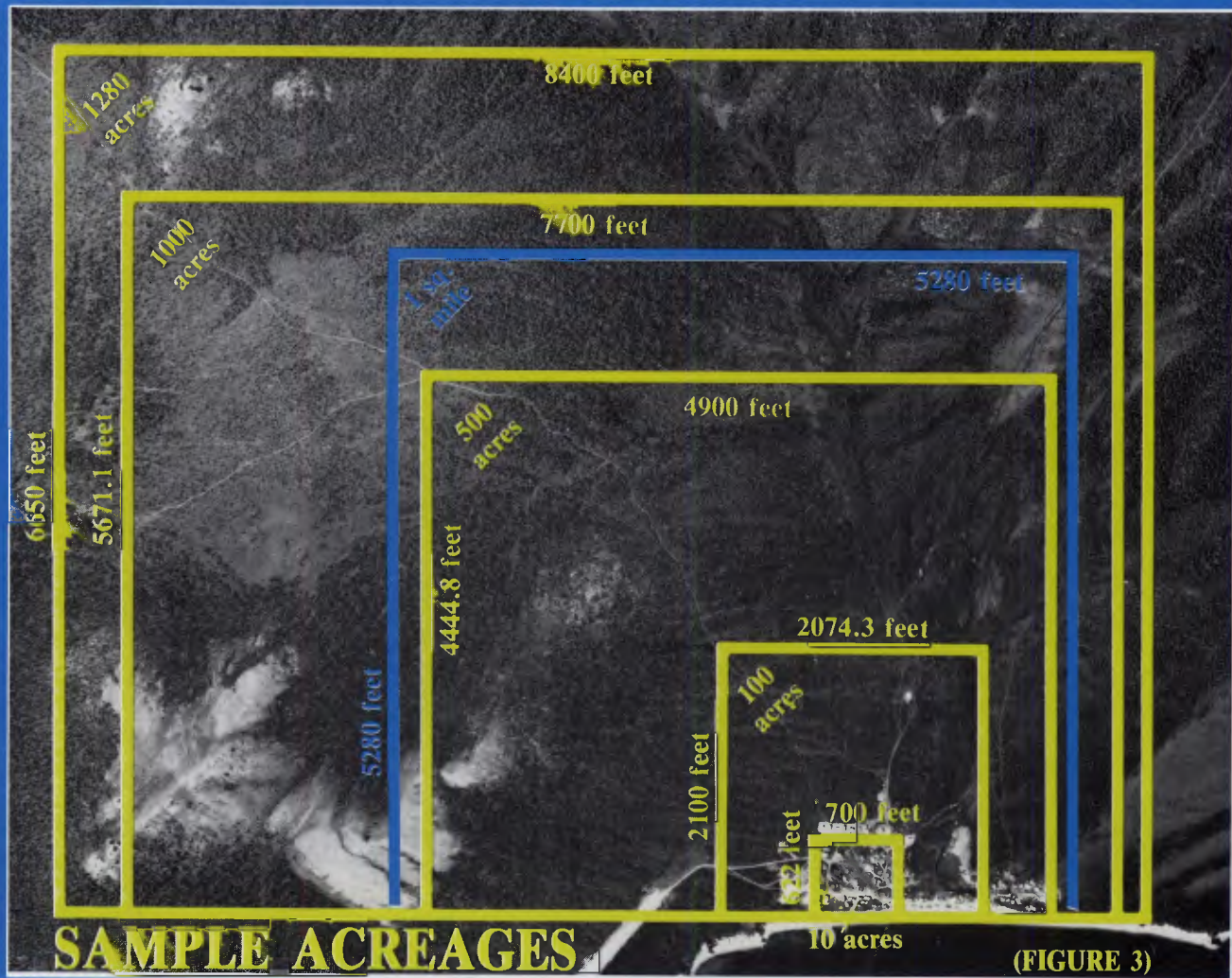
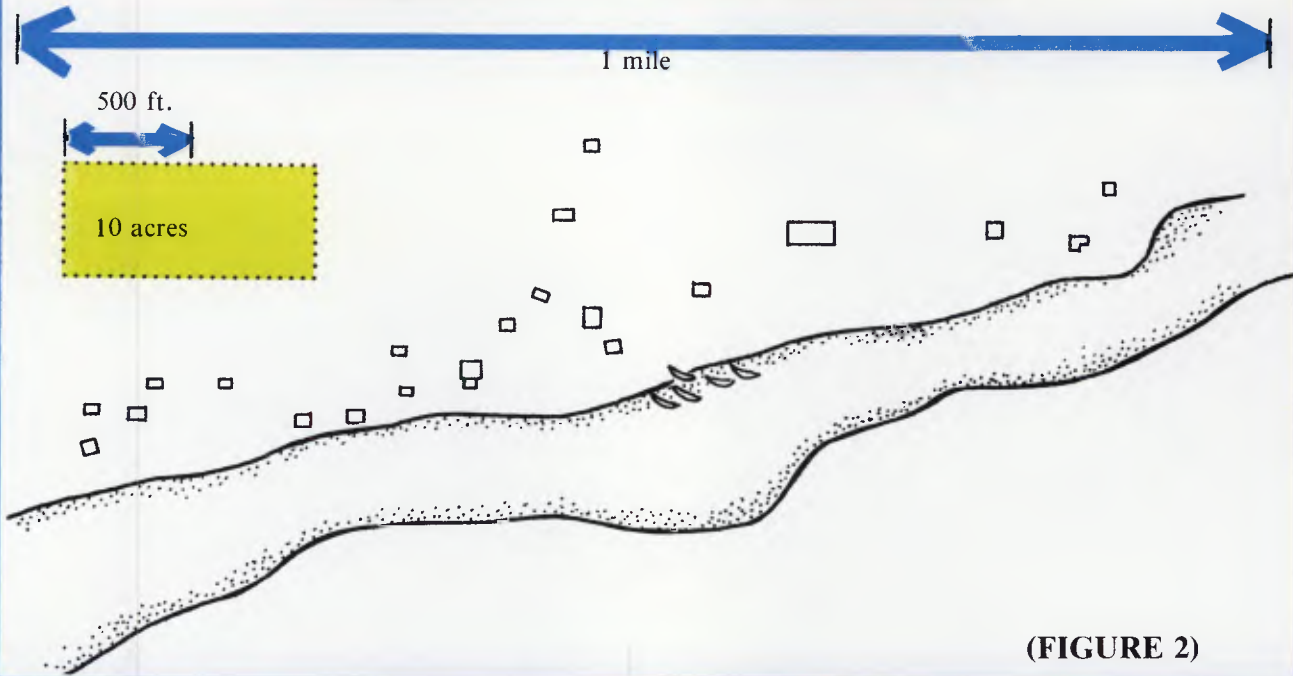


**STEVENS VILLAGE**



**UNALAKLEET**

# Comparison of acres and miles



## Sale of surface resources

“. . . 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;”

This provision was added to section 14(c)(3) by section 1405 of the Alaska National Interest Lands Conservation Act of 1980. It means that if the city council sells the timber or other surface resources from 14(c)(3) land, it must give the profit from the sale to the village corporation. However, timber or other surface resources may be used for public purposes (to build a community hall, for example) without payment to the village corporation. (Remember that the regional corporation owns the subsurface rights, which includes gravel.)

The purpose of this provision is to discourage city governments from choosing 14(c)(3) land with the intention of making money from the sale of timber or other surface resources. The purpose of section 14(c)(3) is to provide for community land needs. If land has commercial value, is not used by the community, and is not needed for future community use, it should probably not be sought for 14(c)(3) reconveyance.

## SOLVING DISPUTES

“Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of filing of the map of boundaries as provided for in regulations promulgated by the Secretary.”

This language appears in Section 902(b) of the Alaska National Interest Lands Conservation Act of 1980. It gives all 14(c) claimants one year from the time the Plan of Survey is filed with BLM to file a lawsuit to settle unresolved disputes.

When considering the exact size, shape, and boundary lines of particular 14(c)(3) lands, the council and corporation might easily find things to disagree about. Is this particular piece of land really “improved?” Is it land “upon which the village is built?” Would it not be possible for community expansion to occur in another location? Disputes of this type should be avoided because they will delay all reconveyances under 14(c). Cooperation between the council and corporation is needed to avoid disputes. The key to successful cooperation—and to timely reconveyances—is recognition by the council and the corporation of the needs and interests of each other.

To help solve a dispute, the corporation and council may try mediation if they cannot reach agreement themselves. Mediation is a way of resolving conflict with the help of a neutral person who has no interest in the matter. The mediator discusses the problem with both parties and seeks a solution that they can agree on. Perhaps a village elder could serve as a mediator, or someone from the regional corporation. Also, there are professional mediators. If necessary, the technical assistance program of the Department of Community and Regional Affairs or the Alaska Native Foundation can help establish a mediation process and find a suitable mediator. The council should take its case to court only if the dispute cannot be solved by other means.

## ADDITIONAL INFORMATION ABOUT 14(c)(3)

---

Section 14(c)(3) provides only part of the information necessary for villages to begin planning municipal reconveyances. Much is left unsaid in the law. The remainder of this chapter discusses additional issues and ideas important for 14(c)(3) planning.

### Public vs. Private ownership of land

Land acquired by the city under 14(c)(3) will be *public* land. As a consequence, the city is legally restricted in the way it may control access to and dispose of (sell or lease) public land. These restrictions do not apply to private land, such as land owned by the village corporation. When deciding whether or not to designate land for certain uses as public land under 14(c)(3), the council and corporation should decide if these restrictions are important. The main uses which raise this issue are community subsistence activities, future residential uses, and private uses begun after 1971.

Generally speaking, the city should own land that is currently used for a public building or for providing a vital public service, and land that is intended for such use in the future. If public ownership of this land is not

possible for some reason, a long-term lease or easement is necessary in order to protect the right of the city to use the land for its municipal purpose. A lease should run for the life of the building or other improvements that the city makes. This is a common sense precaution; without it the city could lose its investment and the public service could be interrupted. Many state and federal programs require that the city own or have a suitable long term lease on a site before state or federal money can be used to build a public facility. Sometimes federal law requires public (city or state) ownership as a prerequisite to the use of federal funds, as in the case of airports.\*

*\*Airports are also discussed on pages 32 and 33.*

However, there are certain categories of land use that the city may or may not want to acquire under section 14(c)(3) because of legal restrictions on controlling access to them and disposing of (selling or leasing) them. These lands, which are not intended for a public building or project, include community subsistence land, community expansion land for residential purposes (and perhaps local business uses as well), and land where people built after 1971. The purpose of the discussion here is to emphasize the advantages and disadvantages of public ownership of these lands.

Federal and state law make it difficult for a city to deny equal access to public land. Thus, if a city-owned recreation or subsistence area is open to villagers, it is also open to non-villagers. A city might be able to charge a fee for non-residents of the city to use the area, but this fee may not be excessive (it must reasonably relate to the extra costs caused by non-resident use).

Thus, if a village wishes to restrict access by non-local people to subsistence areas or other lands, it may be best to leave these areas in private ownership (provided that residents have assurance of continued access).

State law also restricts a city from selling public property directly to someone.\* City-owned property must be appraised, advertised, and sold at public auction or through sealed bids. This means that anyone can purchase the property being sold, including non-residents of the village. It also means that a person has no guarantee that he or she will be able to acquire a specific parcel of city-owned land. Suppose, for example, that the owner of a local store needs to expand the business onto adjoining land that is owned by the city. Assuming the city has no plans to use the land for a public project and is willing to sell, it cannot simply sell the land to the store owner who needs it. The city must have the land appraised (its fair market value determined) and then it must be sold by auction or sealed bid. The highest bidder will get the land.

*\*A.S.29.48.260(b), (c) and (e). This law may be changed in the future. Current information about the law is available from the DCRA or ANF 14(c) technical assistance programs.*

It is very important to note that unincorporated villages are *not* bound by state law requiring the auction of city property. These villages, acting through the Municipal Land Trustee, may arrange the sale of public land to specific people at negotiated prices.

A private land owner is not affected by the restrictions that affect an incorporated city. A private owner can sell to whomever he or she chooses, at whatever price. This matter of restrictions in selling public property is an important issue in deciding what to do about community expansion land for future residential use, and about land that local people built on after 1971. These problems are discussed in the two sections that follow.

## What about land for residential development?

Restrictions on the sale of public property should be considered when deciding what to do about land for people to build homes on in the future.

Most villages will want to set aside land for new houses to be built in the future. Should the city acquire this land under 14(c)(3) or should it remain in village corporation ownership? An advantage of the city owning land for future residential use is that the city can control this future development. However, it cannot be selective in the matter of sales: the lots must be sold by auction.\* An advantage of corporation ownership of future residential land is that the corporation is not affected by the restrictions on selling land that apply to incorporated cities. A village corporation may sell or lease the land only to local residents if it chooses to do so, and it may make land available under a shareholder homesite program.\*

There is an important exception to the law restricting the disposal of publicly-owned property. Land for a public housing project can be transferred directly from a city to a public housing authority without public auction (AS 29.48.260(b)). In this case, the housing authority would have its own rules and procedures for selling completed housing units.

If a village corporation is going to subdivide and sell or lease land, it needs to involve the city in decisions about the size, layout, timing, and other details of the subdivision. The city will someday be responsible for services to these subdivisions, such as road maintenance. Even if the city does not own the land, it can still control important aspects of the subdivision project through subdivision regulations. At a minimum the city will want to be sure that the subdivision conforms with the long-term development plan of the community, has appropriate lot sizes and spacing, provides for utility extensions, and provides adequate rights-of-way for roads.

In the case of unincorporated villages, MLT regulations permit the Municipal Land Trustee to transfer to a specific, private person without charge, land to be used for residential purposes if both the Trustee and appropriate village entity agree. (The land must be used *only* for residential purposes for ten years or it will go back to MLT status.) Also, if the Trustee and appropriate village entity agree, the Trustee is allowed to give a person who already lives on a parcel of land the first chance to get title to that land.

*\*Law may be changed, see page 21.*

*\*Shareholder Homesites are described on page 23.*

## SHAREHOLDER HOMESITES

Section 1407 of the Alaska National Interest Lands Conservation Act (ANILCA) makes it possible for a village corporation to transfer land to its shareholders for homesites. The village corporation is *not required* to have a shareholder homesite program. It is up to the village corporation board to decide if there should be a shareholder homesite program.

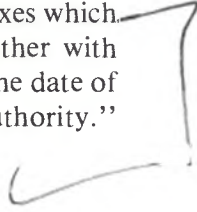
If a village corporation is considering a shareholder homesite program, a good time to choose the land for shareholder homesites is while plans are being made for 14(c) land reconveyances. This is because:

1. The village corporation needs to make sure there are no 14(c) claims on land it is considering for shareholder homesites.
2. The location of shareholder homesites needs to be considered while community plans are being made to identify 14(c)(3) lands. The community plan will show where the council wants future houses to be located. These plans will also show how roads and utilities can be extended to serve shareholder homesites. Land may be included in the 14(c)(3) land reconveyances for the roads, trails and other public services which the shareholder homesites will need.
3. It may be possible to locate 14(c) land reconveyance boundaries which BLM will survey so that the future cost to survey the boundaries of the shareholder homesites will be reduced.

Section 1407 of ANILCA reads as follows:

“SEC. 1407. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows:

(j) A real property interest distributed prior to December 18, 1991, by a Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: Provided, that the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: Provided further, that the land conveyed does not exceed one and one-half acres: Provided further, that the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.”



## What about land occupied after 1971?

Section 14(c)(1) and (2) of ANCSA require the village corporation to reconvey title to individuals and non-profit organizations that occupied land *prior to December 18, 1971*. What about people who occupied land after 1971? Should they also get title to the land they use? If so, how? Examples of those who might not have a valid claim to their land under 14(c)(1) and (2) are families who moved to new houses because of erosion of a nearby river bank; new families that have recently established themselves in the village; people who started a new business in the village; people who moved their permanent summer fish camp; or a congregation that built a new church, *all on unoccupied village corporation land after 1971*.

If it is decided that these people should get title to the land they have occupied, one way is for the village corporation to sell or lease the land directly to them, or otherwise provide a means for them to remain on the land. An alternative is for the village corporation and city council to agree that land occupied after 1971 should be conveyed to the city under section 14(c)(3). If the land is conveyed to the city it would be up to the city council to decide what to do about the people who occupied the land after 1971. The city could sell the land at public auction or by sealed bid, but current state law prohibits an incorporated city from negotiating a sale directly with an individual.

It is possible that state law will be changed in the future to allow cities to sell land directly to the occupants of it. Therefore a village should contact the Department of Community and Regional Affairs or Alaska Native Foundation for current information and advice on the matter. Under the existing law, there are ways for the city to lessen the chance of someone other than the occupant acquiring the land. If it decided to put the land up for auction, it could adopt a *preference right* which would give the occupant of the land a chance to match the highest bid and therefore get the land (if the occupant can afford to do so). If a city acquires land through 14(c)(3) that has post-1971 occupants and wants to transfer title to the occupants, it should consult the city attorney about how to adopt a preference right and use other techniques to help assure that the post-1971 occupants have the best chance to acquire title to these parcels. The Department of Community and Regional Affairs will help obtain legal assistance and provide examples of city ordinances.

Unincorporated villages are not prevented by state law from negotiating sales of 14(c)(3) land to specific individuals through the MLT program. If the Municipal Lands Trustee and appropriate village entity agree, a person who already lives on a parcel of land may get first chance to obtain title to it.\*

\*Also mentioned on page 22.



## Should the city acquire commercial land?

Suppose there is a piece of improved land in the village that has potential commercial value for resource development, such as a waterfront site for a cannery, for example. If the site has no public uses that are critically important, should the city acquire this land under section 14(c)(3)?

State law permits municipalities to own and make land available to businesses for “beneficial new industries” (Alaska Statutes 29.48.260(e)). However, **ordinarily the village corporations should retain this land.** Many village residents are shareholders in the village corporation, and they have a direct interest in the success of its commercial ventures. In a sense, **the village corporation is the business arm of the community.** In thinking about the question of village land with commercial value related to resource development, the council should consider the interests of the village corporation (just as the corporation should consider the interests of the city government when thinking about land for public uses). Remember that section 14(c) prohibits a city from profiting from the sale of surface resources of 14(c)(3) land, such as timber.\*

*\*See “Sale of Surface Resources” on page 19.*

## Townsite Villages

It was stated earlier that at the time ANCSA was enacted, only some villages had been surveyed and deeds issued to residents. These villages are *townsite villages*. Most were surveyed under the Alaska Native Townsite Act of 1926. There are 105 townsite villages.\* Even though a village has been surveyed, deeds for the lots cannot be issued until the townsite has been patented. There are twenty-eight villages that have surveyed but unpatented townsites. At this time patents for these townsites have been delayed until a lawsuit—the Aleknagik case\*—is settled.

*\*Townsite Villages are listed on page 27.*

**How does townsite status affect 14(c) land reconveyances? At this time land within a townsite is not eligible for conveyance to a village corporation under ANCSA. Thus, there are no 14(c) land reconveyances inside the townsite. This situation could change, depending upon the outcome of the Aleknagik case.** In the Aleknagik case, it is argued that all land inside a townsite that was vacant on December 18, 1971 should be available for selection by the village corporation. Until this case is settled the final effect of townsite status on 14(c) land reconveyances within the townsite boundaries is not clear.

*\*Aleknagik vs. Andrus, 78-2986.*

How the Aleknagik case could affect a village depends on several factors and is best determined for each community separately. In general, under the townsite program, the city is entitled to receive the land remaining in the townsite after other valid claims under the townsite program have been settled. (In the case of unincorporated villages, land remaining after the valid claims have been settled stays under the management of the BLM Townsite Trustee.) If the Aleknagik case is decided in favor of the village corporation, the corporations may get vacant land in the townsite which will be subject to 14(c)(3) land reconveyances.

The corporations must reconvey land *outside* the townsite to individuals, non-profit organizations, the city government, and the airport operator which have valid claims under section 14(c). Subsistence campsites, community expansion land, and the airport are likely to be located outside the townsite boundaries, and the corporation will have to deal with these reconveyances.

*\*This subject is discussed further in the ANF handbook referred to on page 6.*

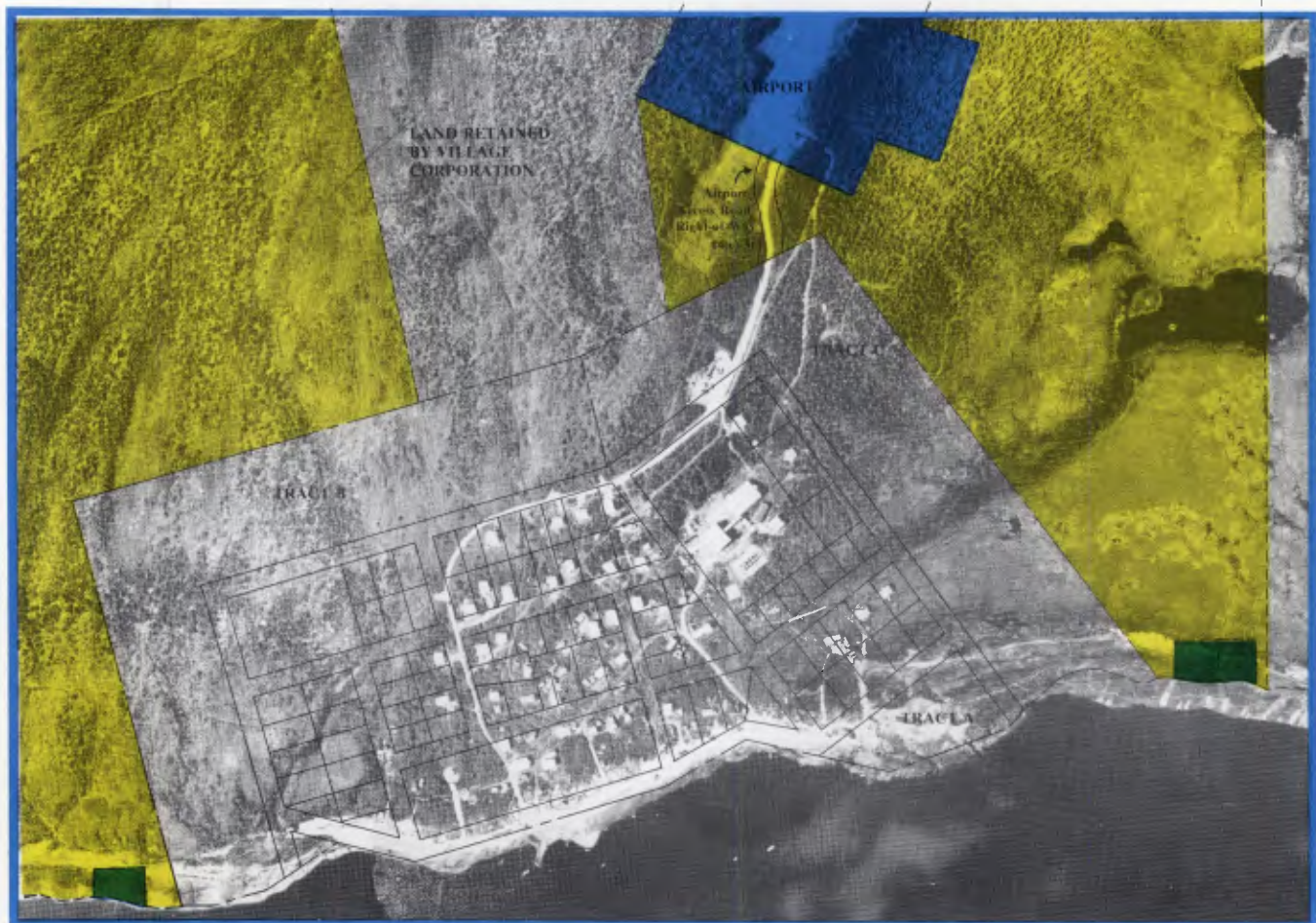
*\*The address of the BLM Townsite Trustee is:  
Bureau of Land Management  
Department of the Interior  
Townsite Trustee  
701 "C" St.  
Box 13  
Anchorage, Alaska 99513*

The twenty-eight villages with unpatented townsites may have the option of withdrawing their townsite petitions.\* In practice withdrawing the petition for the entire townsite is difficult because BLM requires people who are entitled to lots under the townsite program to also agree to withdrawing the townsite petition. Petitions to withdraw only vacant land from the townsite petition have been accepted by BLM.

Before making 14(c) decisions or filing a petition to withdraw land from the townsite each village should determine exactly what these actions will mean to the city, village corporation and residents. Information is available from the Department of Community and Regional Affairs, Alaska Native Foundation, the BLM Townsite Trustee\* or the regional corporation.

## COMMUNITY WITH A FEDERAL TOWNSITE

(FIGURE 4)



COMPLETED PLAN OF SURVEY WORK

LEGEND:

—— Townsite Boundary Line  
—— Townsite Lots

14(c)(3) Lands  
Airport Lands 14(c)(4)

14(c)(1) Lots

# VILLAGES IN BLM TOWNSITE PROGRAM

(Status as of August 31, 1982)

## VILLAGES WITH PATENTED TOWNSITES

Akhiok	Hoonah	Ninilchik*
Akiachak	Hooper Bay	Noatak*
Alakanuk	Hope	Nondalton
Aleknagik (1/2 patented)	Hydaburg	Noorvik
Ambler	Hyder	Northway*
Anaktuvuk	Kake	Nulato
Andreafsky	Kaktovik	Old Harbor
Barrow	Kaltag	Ouzinkie
Beaver*	Kasaan	Port Alexander
Birch Creek*	Kiana	Port Graham*
Birch Lake	King Cove	Rampart*
Canyon Village	Kivalina	Ruby
Chalkyitsik*	Klawock	Salchaket
Chefornak	Kodiak	Seldovia
Chevak	Kotlik	Shageluk
Chignik Lagoon*	Kotzebue	Shaktoolik
Chignik Lake*	Koyukuk	Stevens Village*
Circle*	Kwethluk	Stony River*
Eagle Village*	Larsen Bay	Tanacross*
Ekwok	Levelock*	Tenakee
Emmonak	Lower Kalskag	Togiak
English Bay*	Manokotak	Tununak
Galena	Marshall	Twin Hills*
Golovin	Mentasta*	Unalaska
Grayling	Nenana (St. Mark's Add.)	Wainwright
Gulkana*	New Stuyahok	Yakutat

## VILLAGES WITH SURVEYED BUT UNPATENTED TOWNSITES

Akiak	Egegik*	Point Hope
Alatna	Kalskag	Saint Michael
Aleknagik Lake (1/2 patented)	Koyuk	Scammon Bay
Allakaket	Meshik	Selawick
Brevig Mission	Mountain Village	Shungnak
Buckland	Nightmute	South Naknek*
Chignik*	Nikolski*	Stebbins
Clark's Point	Perryville*	Toksook Bay
Eek	Pilot Station	Tuntutuliak*
		Ugashik*

\*Unincorporated ANCSA Villages

Prepared by the Municipal Lands Trustee Program, September, 1982.

# Configuration and location of 14(c)(3) lands

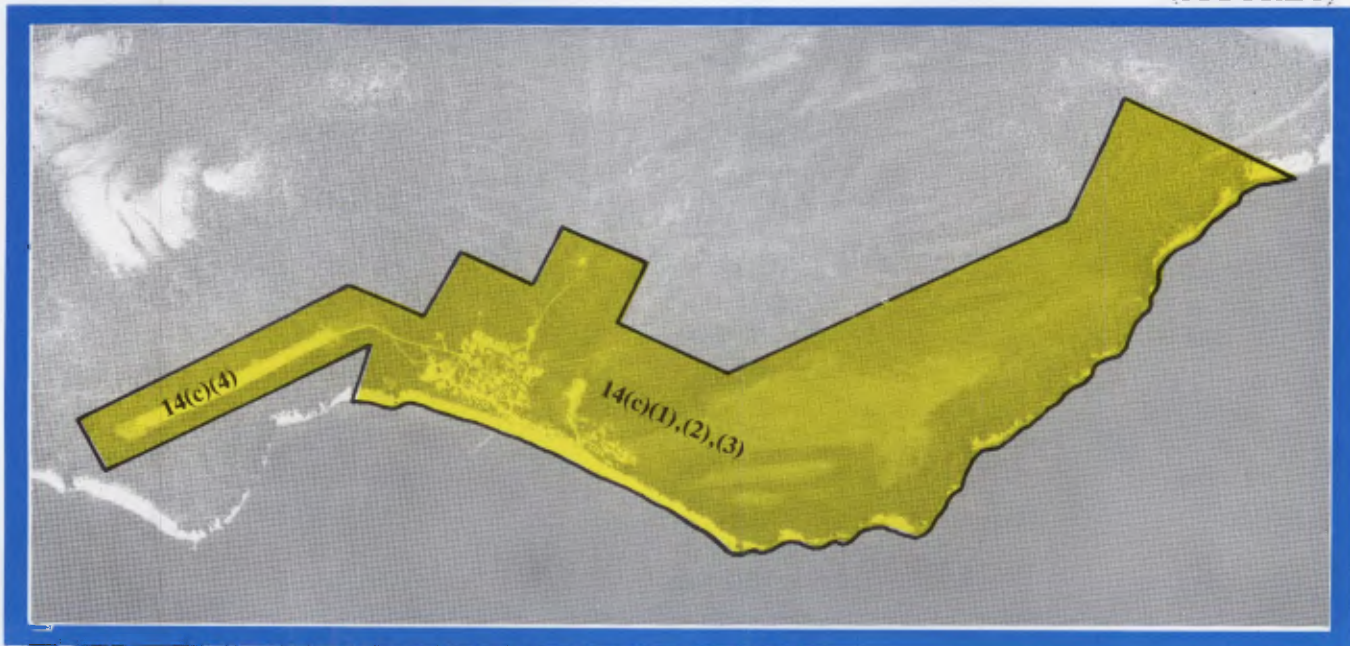
Municipal land reconveyed to cities under 14(c)(3) does not have to be in a single parcel. Municipal lands may be “non-contiguous”—that is, in two or more parcels that do not touch each other. A city dump, for example, may be a separate parcel located away from other 14(c)(3) land.

Also, a city can own 14(c)(3) land outside its municipal boundaries.\* Thus, reconveyances under section 14(c)(3) do not all have to be within the city limits. (The city limits are the boundaries of the incorporated area; they may be a separate set of boundaries from the townsite boundaries in an incorporated townsite village.)

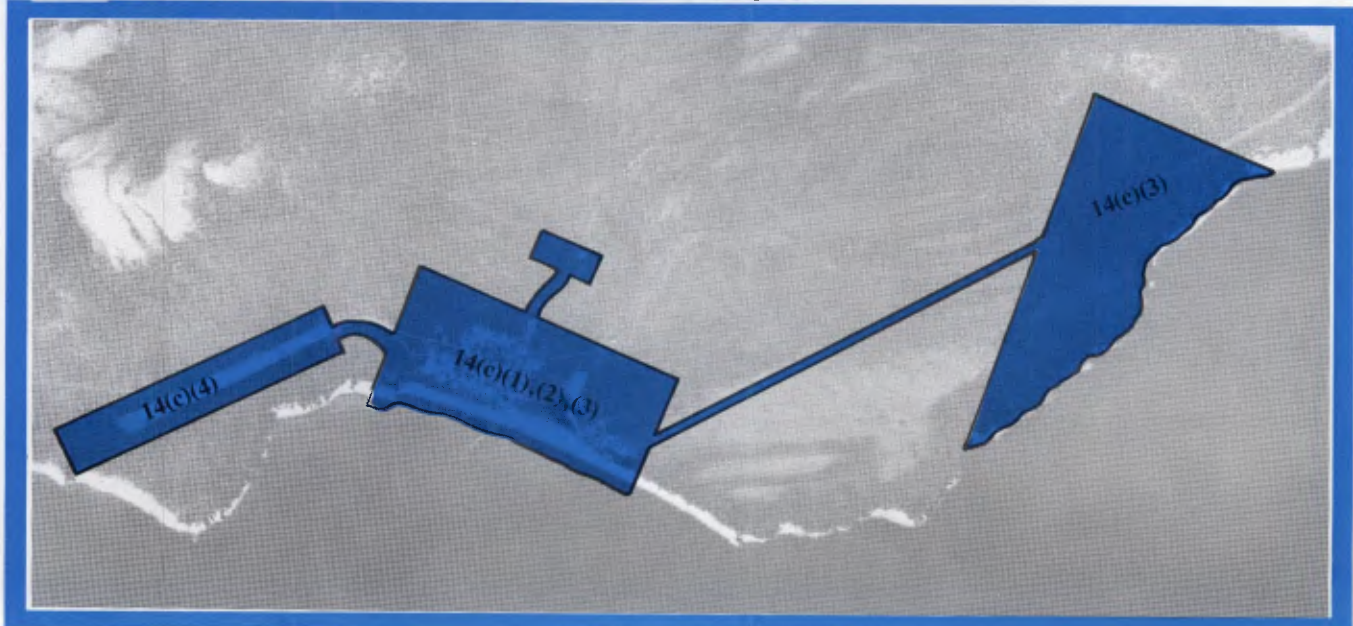
\*See A.S.2948.010(9);  
A.S.29.48.037; A.S.29.48.  
040; and A.S.29.48.290(e).

## CONTIGUOUS LAND SELECTION

(FIGURE 5)



## NON-CONTIGUOUS LAND SELECTION



## The cost and conditions of 14(c)(3) land

Although section 14(c)(3) does not say whether cities must pay for the land they receive from the village corporation, it is commonly interpreted to mean that they do not. Furthermore, the law is interpreted to mean that the corporations may not impose conditions on the title they convey unless the city agrees. An example of a condition is a “reversionary clause,” which says that the land will go back to the village corporation if it is no longer used by the city for the purpose intended. A reversionary clause or other condition may be attached to the title of 14(c)(3) land *only if* the city agrees to accept it.

The Municipal Lands Trustee Program regulations (19 AAC 90.040), say that the trustee will *not* accept conditions on land reconveyed under section 14(c)(3) unless the conditions were attached to the land by the federal government when it was conveyed to the village corporation. That is, the MLT will not accept conditions created by the village corporation.

## Can some 14(c)(3) reconveyances be speeded up?

Suppose that a village has received money from the state for a new community hall, and the state requires the city to own or lease the site before construction may begin. What should the city do if it plans to get the land under 14(c)(3) but has not yet received its 14(c)(3) reconveyances?

It is possible to reconvey some parcels while other 14(c)(3) reconveyances are pending. If the village corporation has already received interim conveyance to the land, it can simply deed the parcel to the city if a good legal description of the land can be made. If the village corporation has not yet received interim conveyance to its lands, the corporation can sign an “agreement to reconvey” the parcel. This is a promise to reconvey the piece of land needed for the project to the city when the corporation finally receives title to it. (The Department of Community and Regional Affairs and the Alaska Native Foundation can provide examples of documents and agreements that have been used for this purpose.)

A complicating factor in the reconveyance of a single piece of land prior to the rest of the municipal reconveyances is surveying the property to provide an adequate legal description for the deed. BLM will not send a crew to the village to survey 14(c)(3) land one parcel at a time. Therefore if a survey is required (rather than a general description of the parcel which can be replaced with a complete legal description when the final 14(c) reconveyance survey has been made), the city, corporation, or funding agency would have to hire a private surveyor.

*A village that needs to secure title to a piece of municipal land before 14(c)(3) reconveyances are finished should seek advice on the matter because many legal technicalities may be involved.* Also, it is important that the land does not have any claims to it under 14(c)(1), (2), and (4).

## Can some 14(c)(3) reconveyances be delayed?

Suppose the residents of a village foresee the need to move the village to another place because of problems with erosion or flooding, but they have not agreed upon the new site or even the time in the future when they should move. The city wants to acquire a new site from village corporation lands as part of its 14(c)(3) reconveyance, but it needs plenty of time to choose the right spot. Is it possible to go ahead with the reconveyance of land in the existing village under section 14(c)(3) and delay the decision about land outside the village that will be needed for future expansion?

It is possible to postpone the reconveyance of outlying 14(c)(3) land by taking advantage of BLM procedures that allow the Plan of Survey to be submitted in two parts (in certain cases, three parts). As a general rule, villages should attempt to complete all of their 14(c) reconveyances as quickly as possible. Only in very special circumstances, such as those described above, may it be desirable to postpone reconveyance decisions on outlying areas.

\*See Appendix B: BLM Survey Rules.

BLM allows the Plan of Survey to be submitted in segments.\* Plan One includes tracts in the developed part of the village. Plan Two includes tracts away from the village such as campsites and municipal lands needed for long-term community expansion, protection of water supply, and other public purposes. (Plan Three may be used for remaining 14(c) tracts *only* if these tracts were not included in Plan One or Plan Two because of disputes over ownership at the time previous plans were submitted. For example, the village corporation may not have known whether it was going to receive certain parcels that had Native Allotment applications pending.) Plan One and Plan Two do not have to be submitted at the same time. Thus, Plan Two for the outlying areas may be postponed until after Plan One has been surveyed.

However, there are several *disadvantages* to the city and village corporation of postponing 14(c) reconveyances by waiting to submit Plan Two of the Plan of Survey to BLM. A village that is thinking about postponement should consider the disadvantages carefully. The potential disadvantages are delay, uncertainty, and unprotected city interest.

### ● Delay

In many cases, BLM surveyors will make one trip to every village that has submitted a Plan of Survey before they will make a second trip to any village (this depends on other BLM survey work being done in the area). If a village has Plan One surveyed before it submits Plan Two, the village might have to wait several years before BLM returns to survey the land in Plan Two. A private survey could be done if the village could wait no longer for BLM, but it may be expensive.

### ● Uncertainty

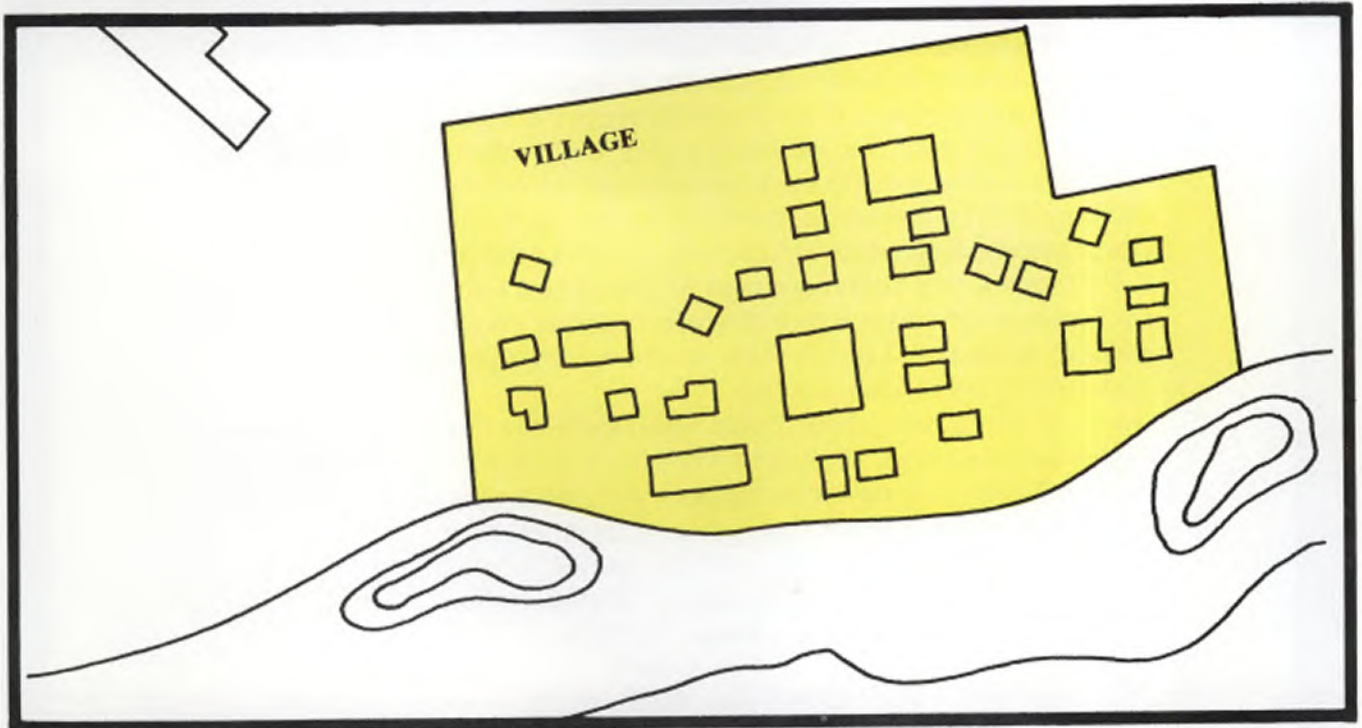
Until all 14(c) reconveyances are completed, neither the city nor the village corporation will know for sure which lands belong to them. This is a special problem for the village corporation, because the title to all their land may be “clouded” because the city (and perhaps other 14(c) claimants as well) still have claims against it. Thus, a corporate project may be delayed because title to the land involved is not “clear” (that is, not free of other claims).

● **Unprotected interests**

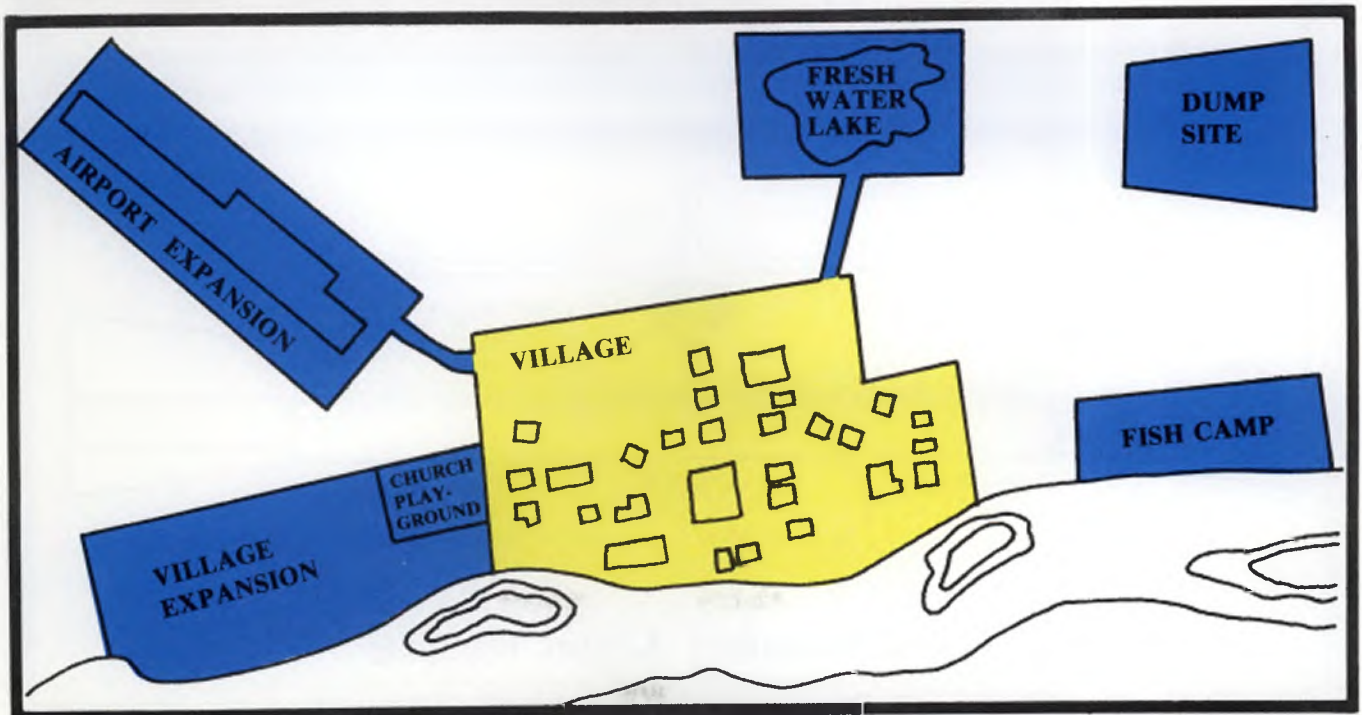
If the city postpones its receipt of 14(c) land too long, it might discover that the best land for its purposes was committed to another use by the village corporation. For example, the land that was best suited for a new airport had been used by the corporation for a shareholder homesite program.

**PLAN ONE - DEVELOPED PART OF THE VILLAGE**

(FIGURE 6)



**PLAN TWO - LAND AWAY FROM THE VILLAGE**



## Airport reconveyances under 14 (c) (4)\*

The village corporation should discuss the reconveyance of airport lands with the city council and the Alaska Department of Transportation and Public Facilities (DOT/PF). Land reconveyed for the airport may not have to include all of the land that is currently set aside for the airport. Approach and clear zones may be granted as easements.

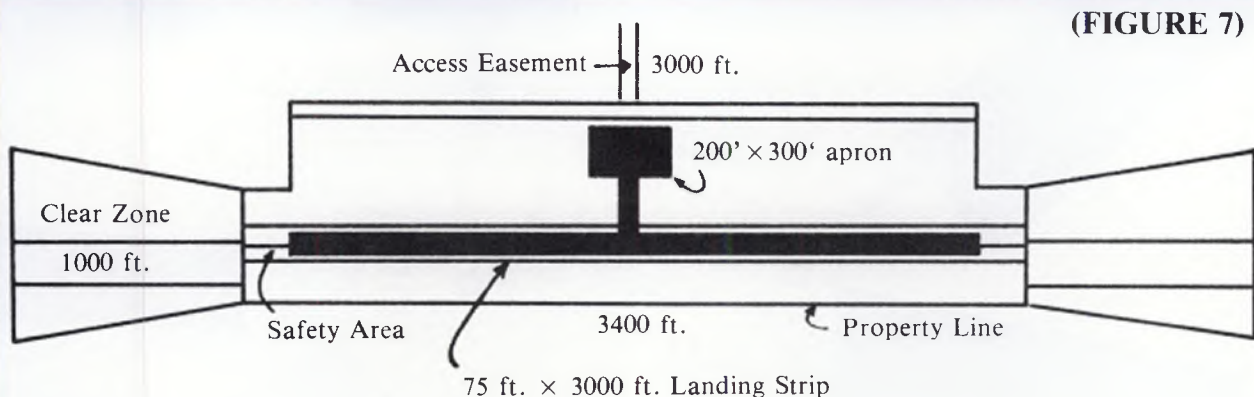
The Alaska Federation of Native Land Managers Association and DOT/PF have established guidelines for the amount of land needed for the safe operation of four types of airports. These guidelines are in the form of templates (maps) showing specifications for the landing area, clear zone, approach zone, and the airport service area for each airport type. An example is shown below.

Section 14 (c) (4) entitles the appropriate public agency (Federal Government, State or municipal corporation) title to land used for the airport as of December 18, 1971 even if that land is not used for the airport today. If the airport has been relocated, the village corporation may negotiate with the appropriate public agency to waive the 14 (c) (4) claim in return for a deed or lease to the land where the airport is located today.

Most airports have a property plan which shows the runway and boundaries of other surveyed land. A copy of this plan is available to help village land planners. To obtain a copy of the property plan, the agreement with AFN-LMA or other information about a particular airport, contact:

Right-of-Way Section  
Alaska Department of Transportation  
and Public Facilities  
Pouch 6900  
Anchorage, Alaska 99502

\* Refer to language of ANCSA inside the front cover.



**Typical Secondary Airport Template**



# What about airport land?

Section 14 (c) (4) of ANCSA requires village corporations to reconvey land used for airport purposes as of December 18, 1971\* to the federal government, State or appropriate municipal corporation. DOT/PF\* is responsible for the operation and maintenance of most village airports. This responsibility led DOT/PF to establish a policy of requesting village corporations to reconvey 14 (c) (4) airports to them. DOT/PF deeds include a reverter clause which requires the land to be returned to the corporation (or city) when the airport land is no longer needed. Some village corporations and cities are exploring the possibility and effects of conveying the airport lands to the city which would then lease the lands to DOT/PF.

*\*This is discussed in more detail on page 32*

*\*DOT/PF - The Department of Transportation and Public Facilities*

City councils may want to be involved in the reconveyance of airport lands if one or more of the following conditions exist: the city expects to take over the operation of the airport; land is used for airport purposes today that was not being used at the end of 1971; or expansion and/or relocation of the airport is necessary.

- **If the city expects to operate the airport.**

If the city expects to become the airport operator, DOT/PF may agree to let the city acquire the airport land and lease it back to DOT/PF until the city is ready to take over. It is important to discuss this approach with DOT/PF, because they must agree to drop their 14 (c) (4) claim and they can explain the cost and liabilities associated with operating an airport.

- **If land is used for an airport today that was not used in 1971.**

Section 14 (c) (4) applies only to land used for airport operations and airport safety as of December 18, 1971. It does not apply to land used for these purposes since 1971 (for example, the airport might have been expanded, moved, or built since 1971). If the village corporation receives interim conveyance to this new airport land, the corporation and city may agree that this land should be deeded to DOT/PF even though the state agency has no claim to it. However, this land may be obtained by the city under 14 (c) (3) and then leased back to DOT/PF. In most cases there will already be a lease agreement between BLM and DOT/PF, and the city would have to honor the terms of the existing lease when it acquired the land.

A potential advantage of municipal ownership of airport land is that the land could be readily available for other purposes if the airport were moved to another site. Also, the city might be able to use the clear zone at the ends of the runway for limited uses which are compatible with the zone. (Federal airport safety regulations limit the height of trees and buildings in the clear zone. However, the zone might be used for a cemetery, community garden plot, or other purpose that does not interfere with airport operations.) When these advantages are not significant to a village, the city and village corporation board may simply prefer that DOT/PF own the land.

Another possible option is for the land to remain in corporation ownership. The corporation would lease it to DOT/PF. The disadvantage to this option is that federal funds can not be used for construction or improvement of airports on privately-owned land. While state policy may change, at the present time state funds may be used for public airports on private land if DOT/PF has a suitable long-term lease.

- **If land is needed for airport expansion or relocation.**

If a village needs a larger airport, or a new airport in a different location, the city council should probably seek the land for it under 14 (c) (3). This is a good idea because the land must be protected from other uses. When the time comes to build the new airport, the city can transfer it or lease it to DOT/PF. The Department of Community and Regional Affairs will help the city contact state and federal agencies for assistance with discussions about airports.

## Conflict of interest

Planning 14(c)(3) reconveyances will require council members and corporation board members to make many important decisions. These decision-makers should be aware of the possibility of a conflict of interest. “Conflict of interest” refers to a situation in which a person must make a decision in the best interest of one group when the outcome will affect him or her personally, or it will affect another group which he or she also represents. In this situation there is a danger that the person’s decision will be influenced by the other interests, and that it will not necessarily be best for the group on whose behalf the decision is being made.

Conflicts of interest could occur when decisions about 14(c) land reconveyances are made. They could occur when:

- 1) a person is a member of both the city council and the village corporation board; and when
- 2) a person on either the city council or corporation board must make decisions about land that he or she has a claim to or some financial interest in.

There is an important distinction between the city council and the corporation board: the council represents the *public* interest and the board represents the *private* interest of the shareholders. This distinction is not clear to many people because the residents of the village and the corporate shareholders often appear to be the same group. Although it may appear that the council and the board represent the same people, this is usually not the case. Most village corporations have shareholders who live outside the village, and most villages have residents who are not shareholders of the local village corporation. When a person is a member of both the city council and village corporation board, the person must clearly understand the difference between the interests served by each organization.

If a council member is also a corporation board member, that person should not be influenced by the interest of the corporation when he or she casts a vote on the issue as a council member (and vice versa when the person votes on the matter as a board member). A person in this situation may want to be excused from voting when the corporation and council have a sharp dispute over a 14(c)(3) issue. (This may not be possible when several council members are also board members and a quorum would not exist if all were excused.)

Another situation that may create a conflict of interest for a board member or a council member is a decision that will have a direct effect on land the member claims or has an interest in. This situation is most likely to occur for a corporation board member who will make decisions about reconveyances under 14(c)(1), because he or she will probably have a 14(c)(1) claim. However, a city council member could also have a conflict of interest of this type. (Suppose, for example, a decision about the width and location of a right-of-way would directly affect the size and relative value of a council member’s lot.)

Whenever a city council member has a “substantial financial interest” in a council decision, state law requires that the member disqualify himself or herself from voting. If a council member decides that he or she has a significant financial interest in a matter before the council, the person must tell the council and ask to be allowed to disqualify himself from voting. After the conflict of interest has been identified, the council may require the person to vote anyway (see A.S. 29.23.555 and 29.23.210).

Each city government may have additional conflict of interest laws. Council members should check to see if there is a local conflict of interest ordinance.

# CHAPTER 3

## GETTING ORGANIZED

This chapter is to help villages get ready for the task of identifying lands that should be acquired by the city under section 14(c)(3). The next chapter presents a step-by-step process for preparing a 14(c)(3) proposal. Is it necessary to follow each step of the process in order to prepare a 14(c)(3) proposal? When should a village begin working on a proposal? Who should do the work? These and related questions are answered here.

## COMMUNITY PLANNING FOR 14(c)(3) RECONVEYANCES

Section 14(c)(3) decisions will have an important effect on the future of the community. Through 14(c)(3) selections, a city can have some control over the ways change will affect the community, and how future development is located on land in and around the village.

The village leaders who prepare a 14(c)(3) proposal must consider the future of the community and select land for city ownership to help achieve the long term goals of the community. This requires them to take a broad view of the patterns of change that are currently underway, and to identify present and future land needs. This is community planning.

Examples of questions that may need answering while planning 14(c)(3) reconveiances include the following: Will the village need a new garbage dump, and if so, when? Should land be set aside now for that future use? If so, which land? Is there a possibility that mining, timber cutting or other development may occur near the village and harm the local water supply? If so, should the city acquire now the land needed to protect the water supply? New housing for future village residents should be on level, dry land. Which land near the village is best suited for this purpose? Should the city acquire land for housing under 14(c)(3) so it may be reserved for that purpose? Are new roads or rights-of-way needed to provide public access to a public use area?

Answers to these questions require community planning. Thus, the 14(c)(3) process is a type of community planning process.

The steps presented in the next chapter for preparing a 14(c)(3) proposal are similar to those used in the preparation of a community land use plan.\* These steps are suggested because they will help the village 14(c)(3) planners deal in a structured, systematic way with all of the issues that are raised by 14(c)(3). Each village can decide how much time and detail is appropriate for each step. Villages should designate land for reconveyance under section 14(c)(3) in a manner that best suits its situation. A large, growing village will have more things to consider than a small village that has been the same size for many years. Thus, the 14(c)(3) planning process in the large village

*\*Figure 9, page 40 shows the 14(c)(3) community planning process in more detail.*

may be more complex, more formal and involve many public meetings. The land needs of the smaller village may be quite modest and uncomplicated, in which case the leaders may shorten the planning process outlined in Chapter Four by combining steps. Indeed, the village may want to simplify matters by designating a block of land around the village core as 14(c)(3) land without preparing detailed plans. After reading Chapter Four, village planners can decide what will work best for them.

Whatever process is used, planning for 14(c)(3) decisions requires villagers to consider their present and future land needs so that good land will be available to meet these needs.

## Who does 14(c)(3) planning?

Both the village corporation and city council must be involved in 14(c)(3) planning. The village corporation must be involved in the 14(c)(3) decisions because it is responsible for the overall 14(c) reconveyance: it must deal with all 14(c) claimants and with the technical details of preparing the Plan of Survey. The city council must be involved in the 14(c)(3) work because it must ultimately agree to the designation of municipal land that will be made by the corporation in the Plan of Survey. (In unincorporated villages the Municipal Land Trustee and an appropriate village entity will represent the village in negotiations with the corporation over 14(c)(3) land. See page 10. Since community planning is normally the responsibility of city government the city council should play an active role in the planning of 14(c)(3) reconveyances (A.S. 29.33.070 - 29.33.245). However, the corporation and council may structure the process and actually go about the day-to-day task of planning 14(c)(3) land designations in any way they want to.

In most cases a staff person of either the council or corporation will do the day-to-day work and meet regularly with a policy-making group. The policy-making group may be the entire council and/or board, a special joint committee of the two bodies, or a committee of one of them, for example.

Thus, the answer to the question of who does the 14(c)(3) planning work is largely up to each community. In one village the day-to-day work may be carried out by a city council staff person and a corporation staff person who both report to a joint committee of the city council and corporation. In another village the entire city council may meet in special work sessions to prepare a 14(c)(3) proposal that will be submitted to the corporation. Many other workable approaches are possible.

Whatever approach is used, village residents should be involved in the planning process. In some villages the entire population may want to meet to discuss 14(c)(3) decisions. In other villages the people may be willing to leave 14(c)(3) decisions up to the elected council and corporation leadership. In any case, the council should provide an opportunity for village residents to contribute their ideas to and comment on 14(c)(3) proposals.

## When to begin 14(c)(3) planning

Planning 14(c)(3) reconveyances must be coordinated with other 14(c) work conducted by the village corporation. Coordination is required because the people evaluating 14(c)(1), (2) and (4) claims must balance these claims with possible public uses of the land, and 14(c)(3) planners must have a good idea of where valid private claims exist (because only land owned by the village corporation that is *not* subject to a valid 14(c)(1), (2) or (4) claim is eligible for 14(c)(3) designation). Therefore, planning for municipal land reconveyances should begin when the overall 14(c) process begins. As already discussed, the 14(c) process begins as soon as the village corporation receives interim conveyance or patent to its land (whichever comes first).

Occasionally it may be a good idea to begin long-term community planning for 14(c)(3) reconveyances *before* the overall 14(c) process has begun. For example, a village may have special planning problems, such as the need to relocate the entire village or large parts of it; or the need to relocate the airport or dump. These problems may require considerable advance planning, technical assistance from various governmental agencies, and perhaps even engineering work.

Also, some communities may be required to do some 14(c)(3) planning before the overall 14(c) process has begun if a location must be chosen and an early reconveyance made for a community project. Choosing the best location for the project may require the council and corporation to consider larger questions about the location of future growth generally, the layout of roads, and other 14(c)(3) matters. For example, if the project were a new generator the council would want to locate the generator and fuel tanks where future houses can be served easily but far enough away from houses and public buildings so noise and the danger of fire will not be problems. The community will need to identify the best areas for new houses and public buildings before making a decision about where to put the generator.

## Overlay maps in 14(c)(3) planning

Planning 14(c)(3) reconveyances requires the use of maps. Maps enable planners to visualize all of the land in and around the village, to compare the relative size of different areas, and to determine the distance between places. Maps can also be used to show areas that are wet or steep, or that have other characteristics that should be considered when planning community expansion.

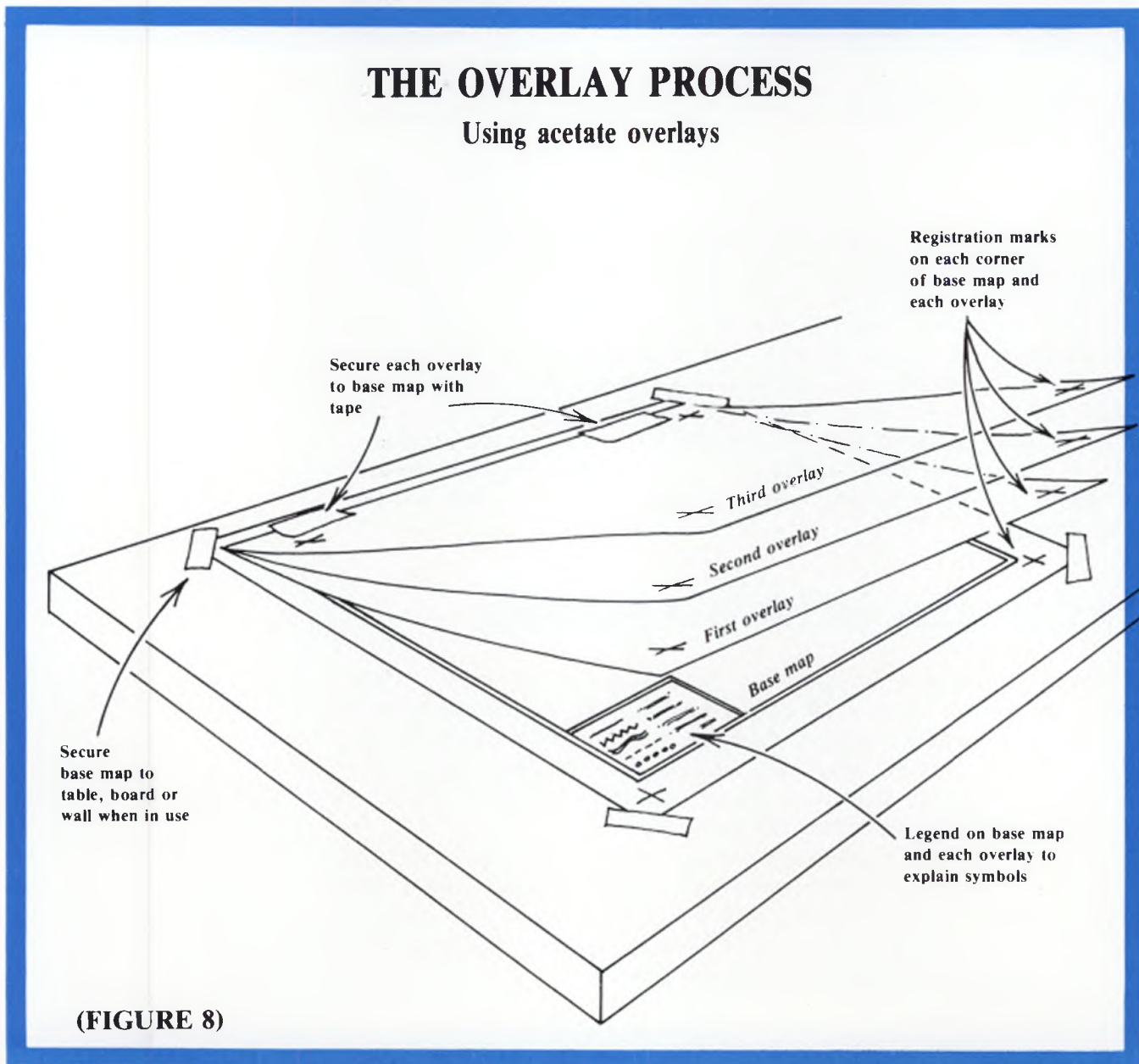
Each step of the 14(c)(3) planning process described in this publication involves the preparation of a map. These maps are easiest to make and use if they are *overlay* maps. While it is certainly possible to do 14(c)(3) planning by drawing on base maps, overlay maps have important advantages, as discussed below.

Overlay mapping involves the use of transparent plastic sheets that fit over a base map. Information can be drawn on the transparent overlays without marking the base map. Several overlays can be used at once to show different sets of information at one glance. The alternative to the overlay method is to draw all the information on one base map, or to draw different types of information on separate base maps. The advantage of the overlay method is that only one base map is needed, and any combination of overlay maps can be viewed together by putting them on the base map. (When information is available on separate base maps, these maps are hard to read since they must be viewed side by side.) Also, lines drawn on the overlays can be changed easily. Pens are available with ink that can be wiped off with a damp cloth. When property lines are finally agreed on, pens with permanent ink can be used to draw the final map overlay. Transparent overlays make good quality copies in large copy machines, and they can be traced quickly if a copy machine is not available.\*

*\*Information about how to make overlay maps is presented in Chapter 4 on pages 41 through 44. Examples of overlays follow page 60.*

## THE OVERLAY PROCESS

### Using acetate overlays



(FIGURE 8)



For many villages, two different sets of overlay maps will be required, each with a different base map. One base map will show the main village area in detail. This base map will normally be an enlarged aerial photograph. It will show individual houses, outbuildings, fish racks, and other details of land use in the village. It will normally cover only about 100 to 300 acres of land. The other base map will show a much larger area surrounding the village. This base map is necessary if land is being considered for 14(c)(3) reconveyance that is not shown on the detailed base map. There will not be nearly as much detail in this map, but it may cover several thousand acres. A set of the five overlays described in Chapter Four may be necessary for each of these two base maps.\*

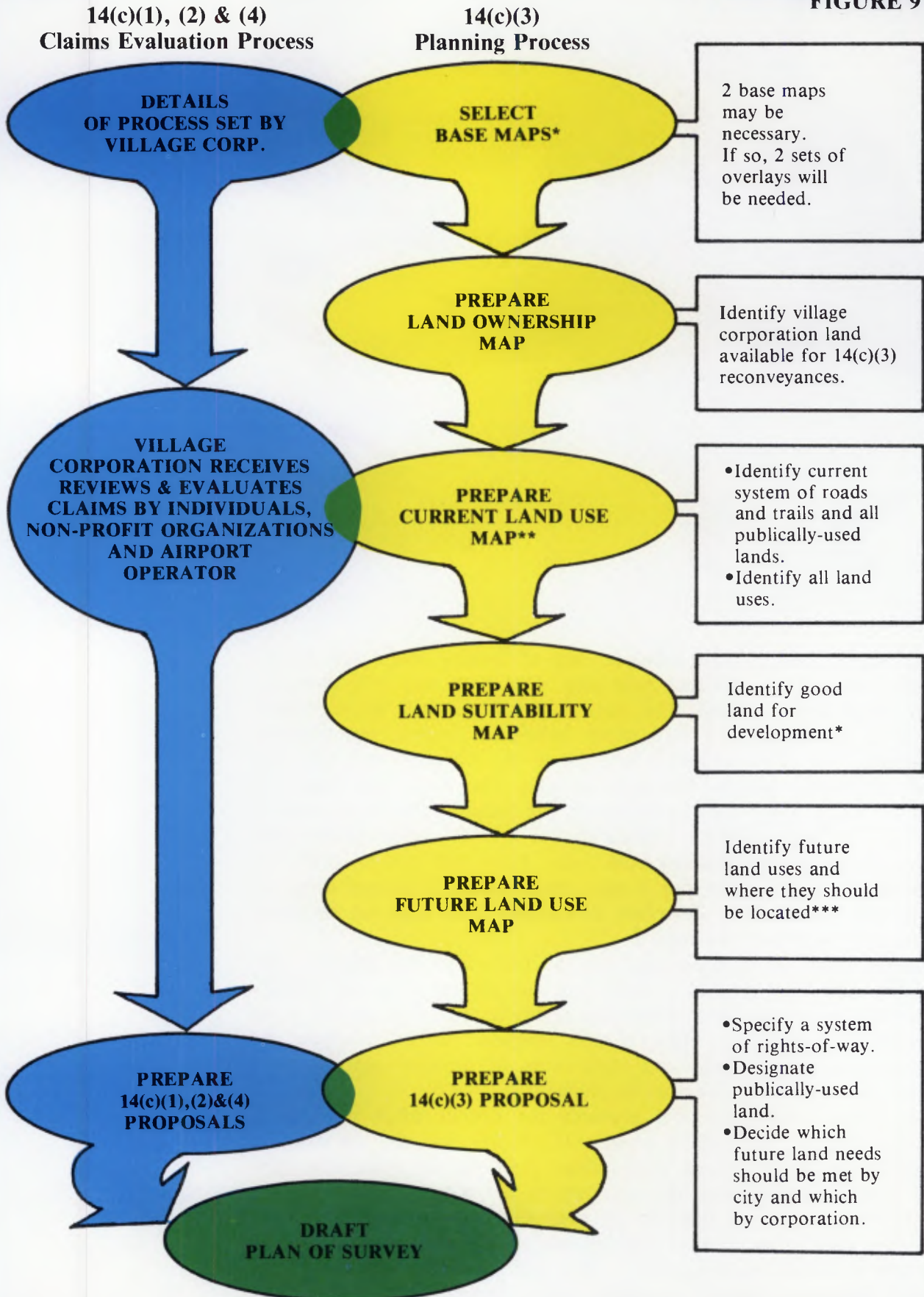
Several drafts of each overlay may be necessary. For example, the planning staff may prepare a draft map and present it to the 14(c)(3) policy-making group. This group may revise it, and then present it to a community meeting. Villagers may suggest further changes. As disagreements about facts and differences of opinion are resolved, a final version of the overlay can be prepared.

The village corporation will probably use overlay maps when dealing with 14(c)(1), (2) and (4) claims. If 14(c)(3) planners are working separately from the village corporation, they should coordinate their map making efforts with the corporation so that everyone is using the same base map if possible. If both the council and corporation use the same base maps with identical registration marks, their overlays will be interchangeable. This will make the work of the 14(c)(3) planners easier, especially when identifying existing land uses and preparing the 14(c)(3) proposal. It will also make it easier to combine the 14(c)(3) proposal with maps of 14(c)(1) and (2) land to prepare the draft Plan of Survey.

*\*Examples of the base maps and overlays follows page 60.*

# A CLOSER LOOK AT THE 14(c) PROCESS

FIGURE 9



\*Coordinate map making.

\*\*Coordination with 14(c)(1),(2) and (4) claims evaluation process is critical because 1) 14(c)(1),(2) and (4) planners must allow for rights-of-way and evaluate private claims to land which may also have public uses, and 2) 14(c)(3) planners must have a good idea where valid private claims exist (only land owned by the village corporation that is not subject to a valid 14(c)(1),(2), or (4) claim is available for 14(c)(3) reconveyance.)

\*\*\*Identifying specialized sites for projects will require planners to know future needs of the village.



# CHAPTER 4

---

## PREPARING A 14(c)(3) RECONVEYANCE PROPOSAL

---

This chapter describes a step-by-step process for preparing a 14(c)(3) land reconveyance proposal. It is a proposal because it may be changed after the village corporation and the community as a whole review it. The final review process begins with preparing a draft Plan of Survey, which is described in the next chapter.

Preparing a 14(c)(3) proposal is the fifth step in a series of preliminary steps, each of which involves the preparation of an overlay map. The overlay maps are a land ownership map; an existing land use map; a land suitability map; and a future land use map. These maps will provide information useful for preparing the actual 14(c)(3) proposal, which is the fifth overlay map.

Figure 1 on page 9 showed the 14(c)(3) planning process in the context of the overall 14(c) process. Figure 9 on page 40 shows the 14(c)(3) planning process in more detail, and the relationship of 14(c)(3) to 14(c)(1), (2) and (4) activity. This figure summarizes the key element of each overlay map and the key elements of a 14(c)(3) proposal. It may be helpful for the reader to refer to these figures from time to time during the following explanation of the planning process.

### SELECT BASE MAP(S)

A base map must be used under the overlay maps. Therefore the first task for 14(c)(3) planners is to select a base map.

Two base maps will be necessary for some villages. One base map will show in detail the developed area of the village; the second will show the village and more of the surrounding land in less detail. The second base map is needed when land not shown on the first base map is also being considered for 14(c)(3) reconveyance. (Townsite villages will probably need two base maps because the land available for 14(c)(3) reconveyance at this time is outside the townsite and less detail may be required within the townsite.)

An enlarged aerial photograph of the village makes the best base map for the developed area of the village. The enlargement should be at a scale of 1" = 50' or 1" = 100' but sometimes 1" = 200' will do. (A scale of 1" = 50' means that one inch on the photograph represents 50 feet on the ground.) BLM can provide suitable enlargements of aerial photographs from their files. They can also provide a copy of the entire aerial photograph (called a contact print) from which the enlargement is made. This contact print helps locate the village in the surrounding territory, and it can be used to help decide which area should be enlarged.



**OBLIQUE PHOTO**

Request an enlargement of the most recent aerial photograph available for the village. BLM has already made an enlargement for most communities, but it is usually from a photograph taken close to 1971. If there have been many changes in the village since 1971, it will be easier to do your planning on a base map made from an aerial photograph that shows these changes. If new buildings have been built and other changes have occurred in the village since the photograph was taken, they will have to be drawn on the photo so they become part of the base map. Therefore it is easier to use a base map made from a recent aerial photograph.

If BLM has not already made an enlargement of the most recent aerial photograph, it will cost between \$30 and \$100 to get BLM to make the enlargement. When ordering a base map from a recent aerial photograph, request that the map be printed on mylar which is a plastic sheet. This mylar sheet can then be run through a copy machine to produce as many paper copies of the enlargement as you want. These paper copies are often called

**CONTACT PRINT**



**ENLARGED PORTION OF CONTACT PRINT**



“bluelines” because they are blue when they come out of the machine. BLM can make these blueline copies. There are businesses in larger cities that have the equipment to make blueline copies if you provide them with the mylar.

The series of community profiles published by the Department of Community and Regional Affairs uses an enlarged aerial photograph for the base map of each village.\* These illustrate nicely the use of aerial photos for base maps as well as the use of legends.

Requests for enlargements of aerial photos and contact prints for 14(c)(3) purposes can be ordered from:

Bureau of Land Management  
Branch of Photogrammetry  
701 C Street  
Anchorage, Alaska 99513

*\*See “Community profiles” below.*

The U.S.G.S. topographic map at the scale of 1” = 1 mile will probably make an adequate base map for the area around the village.\* It can be enlarged to make it easier to work with. Enlarging will change the scale, which will allow smaller parcels to be identified. (A scale of 1” = 1,000 feet permits parcels of about 1 acre to be shown.) U.S.G.S. topographic maps can be ordered from the address below. If the map number or township and range are not known, requesting a “quadrangle” map for the name of the village will probably work.

*\*See figure 10, page 44.*

U.S. Geological Survey  
Public Inquiries Office  
508 West 2nd Avenue  
Anchorage, Alaska 99501

## TOPOGRAPHIC MAP



## Community profiles

Community Profiles have been prepared for villages in the regions of Alaska listed below. However, many are out-of-print and no longer available. Enquire about Community Profiles to the Department of Community and Regional Affairs, Division of Community Planning, 225 Cordova St; Bldg. B; Anchorage, Alaska 99501; (907) 264-2217 (or Juneau (907) 465-4750).

Northwest Alaska (1976)  
Ahtna/Copper River (1977)  
Aleutian/Pribilof Islands (1978)  
North Slope (1978)  
Middle Kuskokwim (1979)  
Lower Yukon (1979)  
Gas Pipeline Corridor (1980)  
Bering Straits (1981)  
Prince of Wales Island (1981)  
Kodiak (1981)  
Upper Bristol Bay (1982)  
Bristol Bay Borough/Alaska Peninsula/  
Lake Iliamna (1982)  
Lower Kuskokwim will be ready in the  
summer, 1982.

Assistance with selecting, obtaining, and using aerial photographs, contact prints, and U.S.G.S. topographic maps for 14(c) purposes is available from the Department of Community and Regional Affairs and the Alaska Native Foundation technical assistance programs.

*\*See "Material for making overlay maps" below.*

After a base map is selected, overlay maps can be prepared. Each overlay is made on transparent plastic.\* The transparent plastic, called acetate, comes in a roll. It is cut to fit the base map being used. A piece is required for each overlay map. Each overlay must fit the base map exactly. This fit is accomplished by registration marks. Registration marks (+) are first made in the four corners of the base map. When each transparent overlay is placed on top of the base map, these marks are traced onto it before any other drawing is done. All of the overlays can then be easily lined up on the base map.

Each overlay map will have its own legend. A legend explains the symbols on the map. For example, a map may show different categories of land in different colors, and different types of rights-of-way as different types of lines on the map. The legend tells which color represents which type of land, and which type of line represents which type of right-of-way.

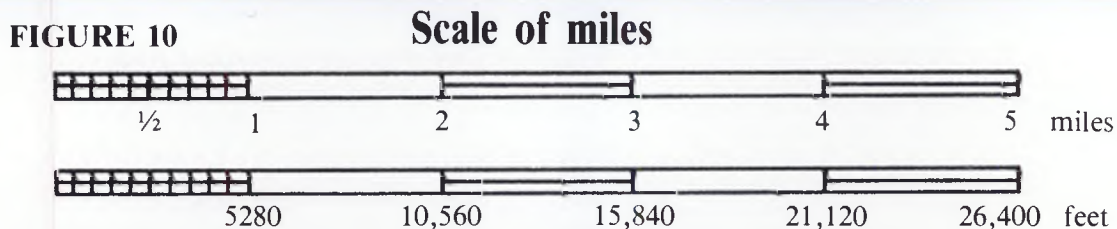
## PREPARE LAND OWNERSHIP MAP

The purpose of the first overlay map is to show village corporation land that is eligible for 14(c) reconveyances. (Land which the village corporation has received from the federal government under sections 12 or 16 of ANCSA is eligible; any land which the village corporation has purchased is not eligible).

### Material for making overlay maps

Pens to draw on acetate overlays are available from stores that sell office and school supplies. Usually the pens are packages in sets of six or eight pens, each of a different color. The packages range in price from \$5 to \$7. It is important that erasable pens be purchased to do the draft maps. Pens with permanent ink may be purchased to draw the final maps.

Acetate may be purchased from stores that sell drafting supplies. A roll of 3 mil. (thickness) acetate 36 inches wide by 20 yards long will cost about \$30. Rolls of acetate come in various widths so it is possible to match the acetate to the width of the aerial photograph used for a base map. An additional source of overlay material may be your local store. Many stores carry rolls of clear plastic for covering windows. This material can also be used to make overlays instead of acetate.



Every map has a scale of miles that explains how many miles or feet one inch represents. These scales show that 1 inch = 1 mile, and also that 1 inch = 5280 feet. (There are 5280 feet in 1 mile.)

There may be several parcels of public and private land around the village that do not belong to the village corporation, and therefore not available for reconveyance. The village corporation will know where these lands are, because they have either been explicitly excluded from the interim conveyance (or patent) or, in the case of certain state rights-of-way, identified through discussions between the state of Alaska and the village corporation.\* These should be noted on the map. They include:

- native allotments
- private homesteads and homesites
- trade and manufacturing (T&M) sites
- mining claims
- state land
- townsite land
- federal land not conveyed to the village corporation (FAA sites, national parks, wildlife refuges, military communication sites, etc.)

If the corporation has already conveyed title of a parcel to the city or an individual, or has signed an agreement to reconvey a parcel\* this land should also be noted on the overlay.

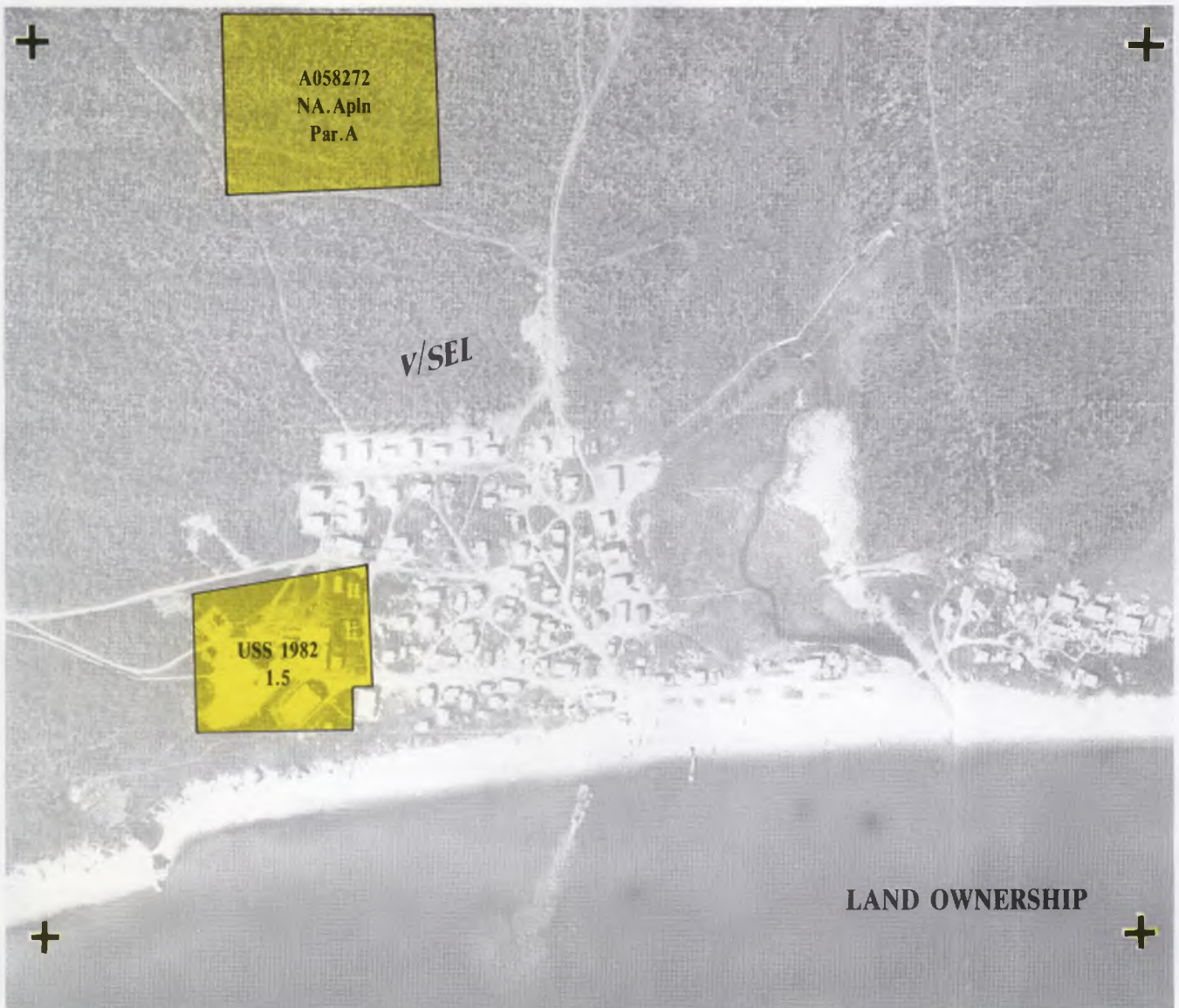
BLM status plats and Townsite Trustee records will also provide information on land ownership.

*\*See discussion on Alaska Omnibus Act in Appendix C.*

*\*Discussed on page 29, "Can some 14(c)(3) reconveyances be speeded up?"*

## OVERLAY ONE

(FIGURE 11)



# 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

## PREPARE AN EXISTING LAND USE MAP

The purpose of this map is to show how land in the village is used today. By showing *all* land uses in the village, this map will help 14(c)(3) planners develop a good proposal that considers all public land needs.

It is helpful to begin making this map by drawing the existing system of roads and trails. These roads and trails, perhaps with some modification, will become city-owned rights-of-way under 14(c)(3). When 14(c) land reconveyances are finished, it is important that all parcels have access to a right-of-way.\* When the time comes to prepare a 14(c)(3) proposal, this village system of rights-of-way for roads and trails will be shown in final form. An existing road may need to be extended to provide access to a parcel that has not recently been used but which is subject to a valid 14(c)(1) claim. Also, an existing shortcut may be abandoned because it is not essential and interferes with a 14(c)(1) claim. At the present time, however, it is important only for the existing system of roads and trails to be shown on the land use map so that potential conflicts with claims under section 14(c)(1) and (2) can be identified and discussed.

When the existing system of roads and trails has been drawn on the map, other public and private uses should be added. Private uses include homes, businesses, subsistence campsites, and churches or other uses by non-profit organizations. Public uses may be many and varied.

Lands used for all of these purposes are eligible for reconveyance under 14(c)(3). It is useful to itemize publicly-used land on the map for several reasons. This land will become municipal land by reconveyance under section 14(c)(3).\* Therefore, it is important that no public uses are overlooked, especially those outside the village (a community recreation area, for example).

Showing all publicly-used areas on the existing land use map will help identify conflicts with 14(c)(1) and (2) claims. That is, a person may claim a parcel of land for private ownership when part of that land is also used by all the villagers from time to time. Suppose, for example, a person claims that a riverfront site in the village is his primary place of business because he buys fish there during the summer, but the site is also one which villagers have used for years to tie up their boats. Perhaps that parcel of land, or part of it, should become municipal land under 14(c)(3) rather than private land under 14(c)(1).

Village planners should determine if the land for existing public uses is adequate, or if more land or a new site is necessary because the use needs to

*\*Rights-of-way are discussed in more detail on pages 55-58.*

*\*Some land might remain in village corporation ownership. See discussion of "Public vs. Private Ownership of Land," pages 20 and 21.*

be expanded or relocated. Specifying all the public uses of land on the existing land use map helps assure that the planners will not overlook some of these uses in their evaluation.

The existing land use map should show vacant land within the community. This land, if it is not subject to a valid claim under section 14(c)(1) or (2), may be available for reconveyance to the city for future community expansion.

## PREPARE A LAND SUITABILITY MAP

Growth of the village will require land with certain characteristics, such as dry, level ground for new houses. Therefore, 14(c)(3) planners want to set aside suitable land for future community development. The purpose of the land suitability map is to show what land is good and what land is poor for various future uses.

### OVERLAY TWO

(FIGURE 12)





Areas subject to flooding and erosion should be clearly shown on this overlay map. Wet, swampy, poorly-drained areas should also be marked as unsuitable for most purposes. Other undesirable characteristics should be noted, such as steep slopes, north-facing slopes without sun exposure, particularly windy areas, etc.

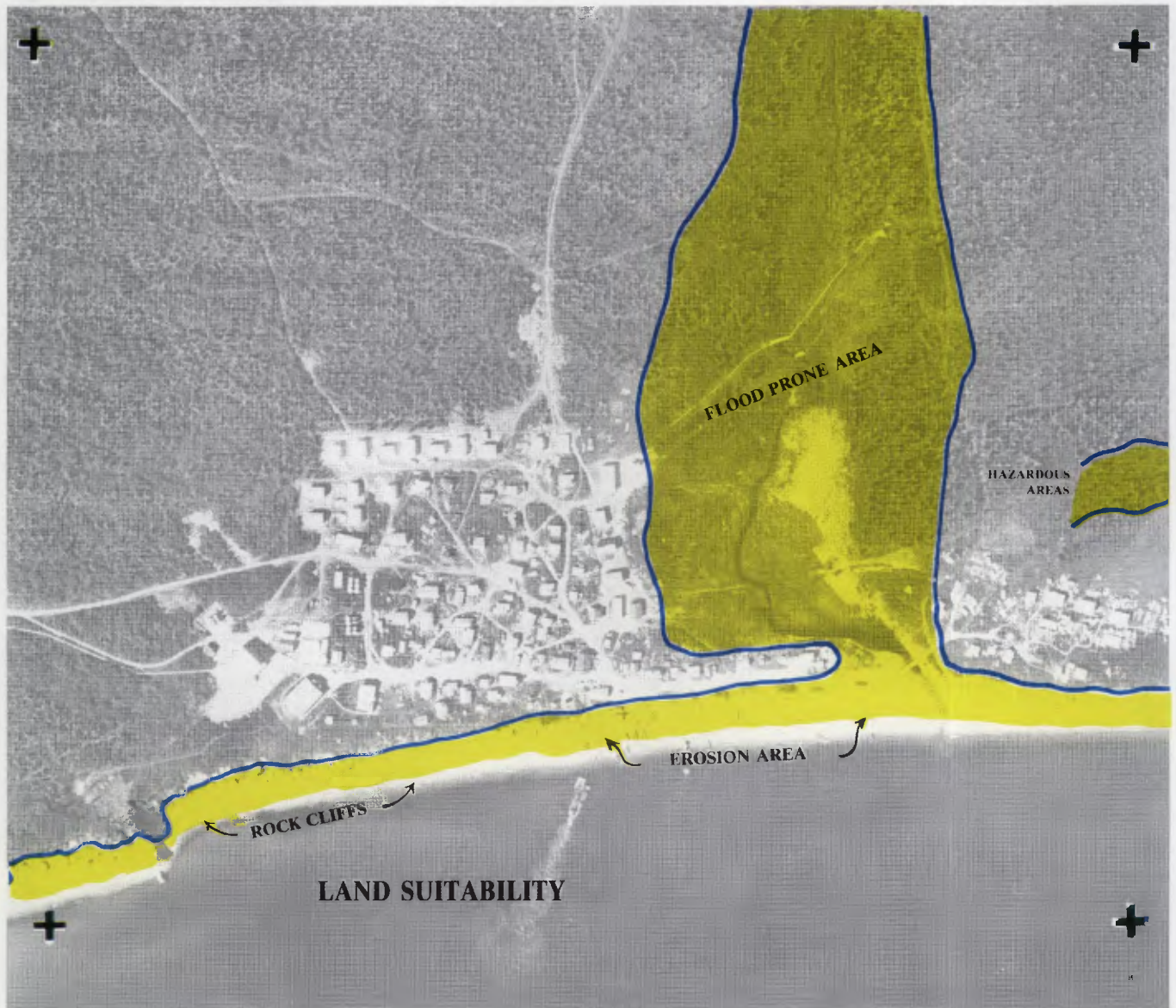
Some future village projects may have very special land requirements, and technical assistance may be necessary to select the best site for them. Examples of these projects are a new community dock, garbage dump,\* sewer system, water system, airport, hydroelectric plant, and a wind generator. State and federal regulations may impose certain site requirements, and preliminary engineering may be necessary to pick the best location. A village that foresees any of these projects should discuss them with the Department of Community and Regional Affairs, which can help arrange technical assistance from the appropriate state or federal agency.

To the extent it is possible for them to do so, 14(c)(3) planners should indicate on this map the area or areas that are best suited for projects with special requirements (such as a garbage dump, for example). Other land uses can then be planned around these special sites in the next map—the future land use map.

*\*Locating a new garbage dump is discussed in more detail on page 50.*

### OVERLAY THREE

(FIGURE 13)





## 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.

## PREPARE A FUTURE LAND USE MAP

The purpose of this map is to show the future land needs of the community and to identify areas to meet these needs. The completed map is a land use plan for the village, as it shows where different types of development should occur.\* This map should show all future land needs, not merely those that should be provided by the city with 14(c)(3) land. The future land use map will show where the community plans to locate new houses, local businesses, commercial activities, community projects and roads and trails. Planning the land needs of the village for the next five to ten years is a good way to start.

To foresee future land needs created by growth of the community, it is necessary to estimate the number of people who will live in the village in coming years, and to imagine what new community services they will need. How has the village population changed in the last ten years? Twenty years? Is there a clear growth trend? Is a major change expected in the future from new development such as mining, logging, fish processing, or government activity? Answers to these questions will help forecast future population growth.

Village residents should also ask themselves what kind of a community they want their village to be in the future. Do they have certain goals that should be considered when they are planning for future land needs and setting aside areas for specific purposes? Also to help foresee the future needs of the community, planners should discuss with the major land owners in the area their future plans. In all cases this means discussing with the village corporation its development plans. In some cases there may be other important nearby land owners or federal land managers whose activities could influence the village, such as the U.S. Fish and Wildlife Service or the U.S. Park Service.

When drawing the future land use map—that is, when deciding where future public projects should be built, where new houses should be built,\* where new local businesses should be located, and where other future facilities and activities should occur—village planners should refer to the existing land use map and the land suitability map. The land use map will suggest logical future locations based on closeness to other similar uses, and the ease of extending roads, trails, and utility lines. The land suitability map will delineate good land and poor land for various purposes.

The amount of land that needs to be set aside for future residential and business development depends upon the population growth of the village. The maximum future projected population can be compared with the current population and the number of acres currently used for houses and local businesses to give a rough idea of how much land should be set aside for these purposes in the future. (A decision on which of these lands to reconvey to the city and which to leave in corporation ownership will be made when the 14(c)(3) proposal is prepared.)

*\*These planning decisions are never final, a land use plan can always be revised.*

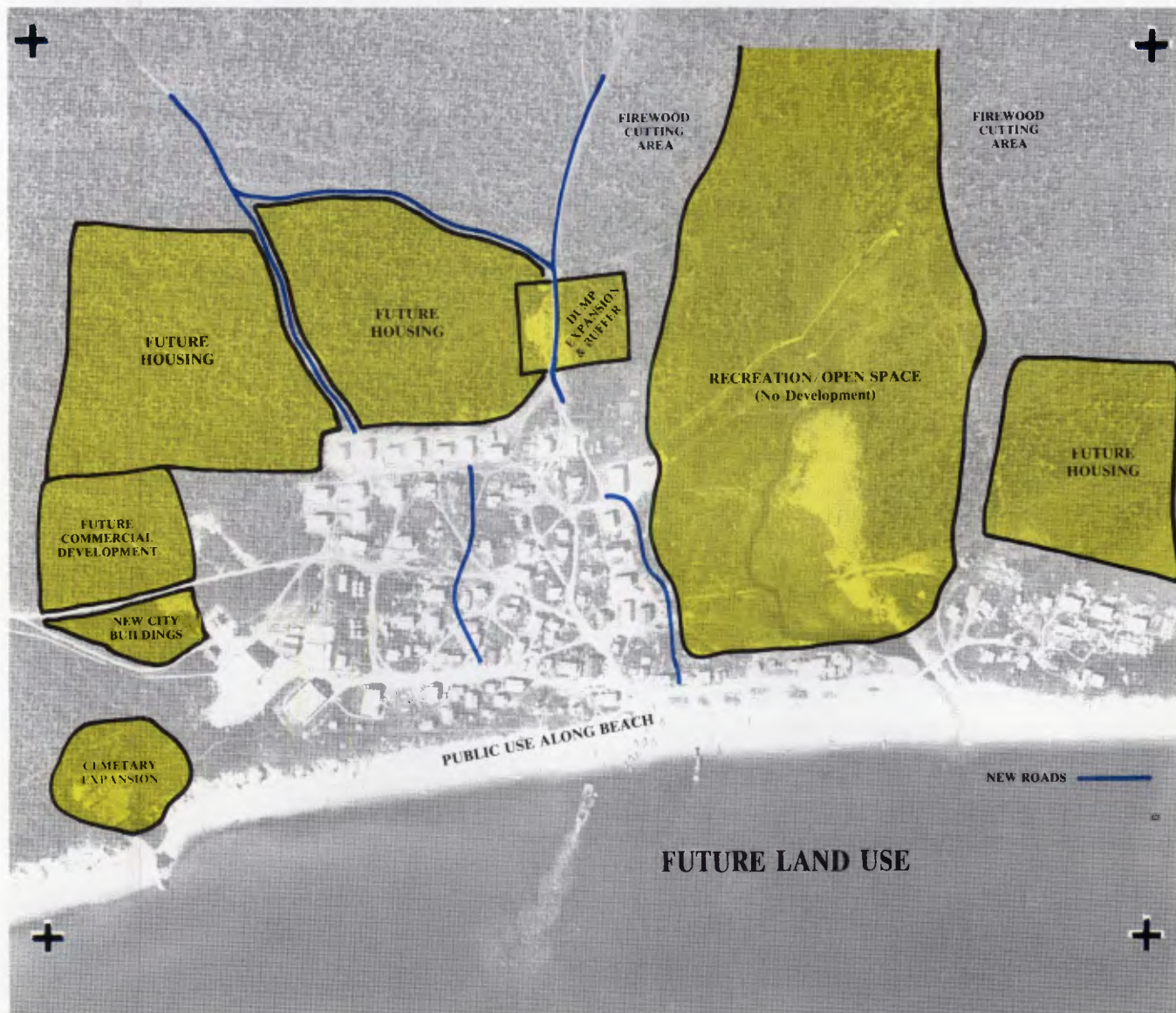
*\*This could be private or public subdivisions, a public housing project, or corporation shareholder homesites.*

Future public land needs must also be considered. Do existing public uses need to be expanded or relocated? What new public facilities will be needed as the population grows? Some community projects may already be planned. Community planners should identify specific projects that are needed and likely to be built in the next five to ten years. Specific sites for these projects should be identified. Help to determine the amount of land required by these projects can be obtained from the technical assistance program of the Department of Community and Regional Affairs, the Alaska Native Foundation, or from the governmental agency involved with the project. Also, village planners might be able to estimate the land requirements of a new project by comparing it to a project of similar size in a nearby village.

It is not possible, of course, to foresee all of the community's long-term expansion needs. Future generations may need land for purposes which cannot even be imagined now. For example, villagers twenty-five years ago could not have foreseen the need for a TV satellite receiver. Therefore, the future land needs of a community should include land for unspecified purposes which are unknown at the present time.

## OVERLAY FOUR

(FIGURE 14)



# PREPARE A 14(c)(3) PROPOSAL

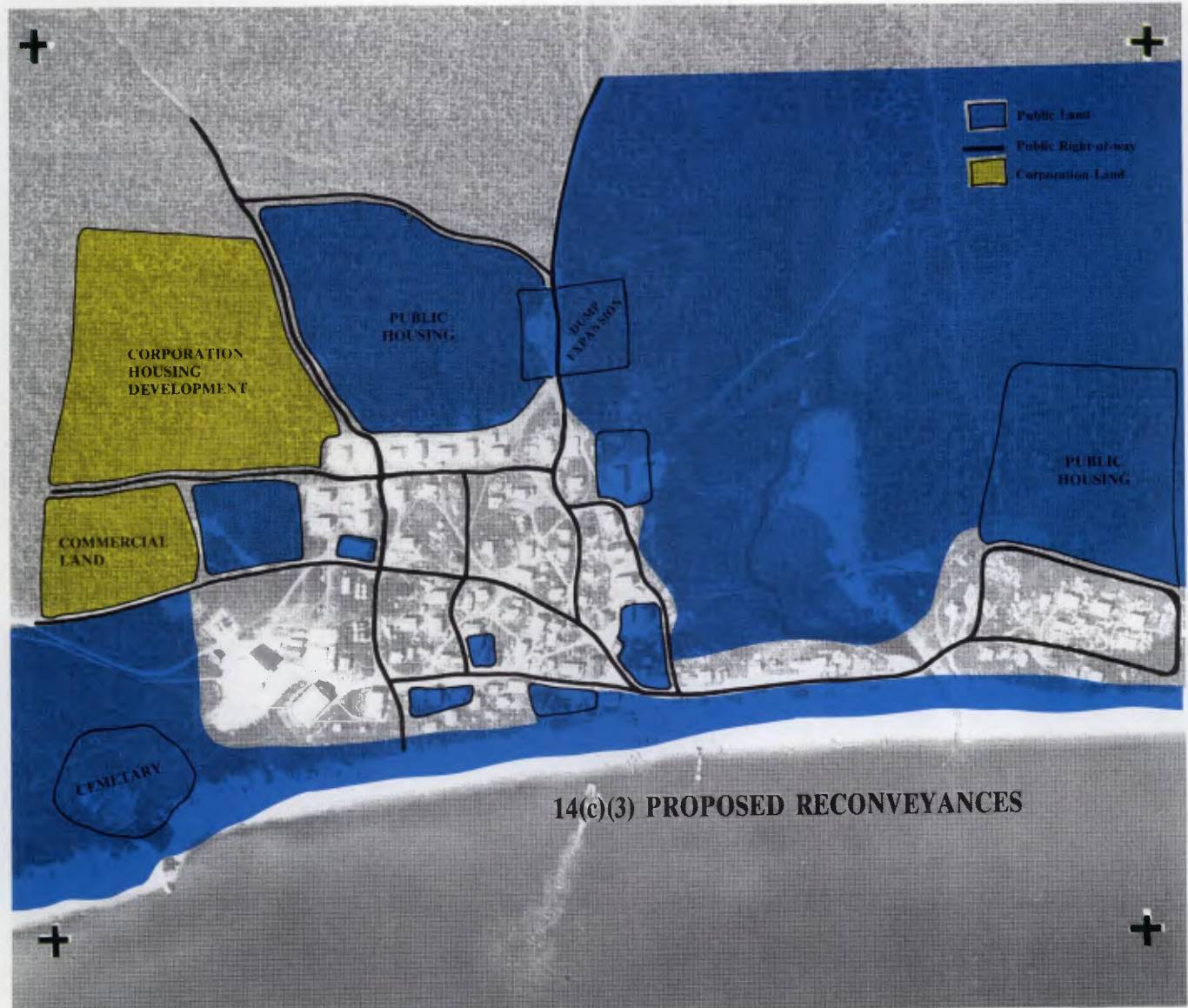
It is now time for the community planners to propose specific land for reconveyance to the city under section 14(c)(3). However, they cannot proceed with this task until the village corporation is well along with the process of evaluating claims under 14(c)(1), (2) and (4). The people preparing the 14(c)(3) proposal must have a good idea of which 14(c)(1), (2) and (4) claims are valid and how the property lines of these parcels will be drawn. This is important because the 14(c)(3) proposal must contain a right-of-way system that provides access to every parcel. Also 14(c)(3) planners will want to know what land is *not* subject to a valid 14(c)(1), (2) or (4) claim so they can evaluate it for possible inclusion in their 14(c)(3) proposal.

The introductory discussion of section 14(c)(3) explained that three general types of land will be reconveyed to the city: rights-of-way, current publicly-used land, and land for community expansion.\* The 14(c)(3) proposal must identify these three types of land.

*\*These types of land are discussed on page 13.*

## OVERLAY FIVE

(FIGURE 15)



# 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.

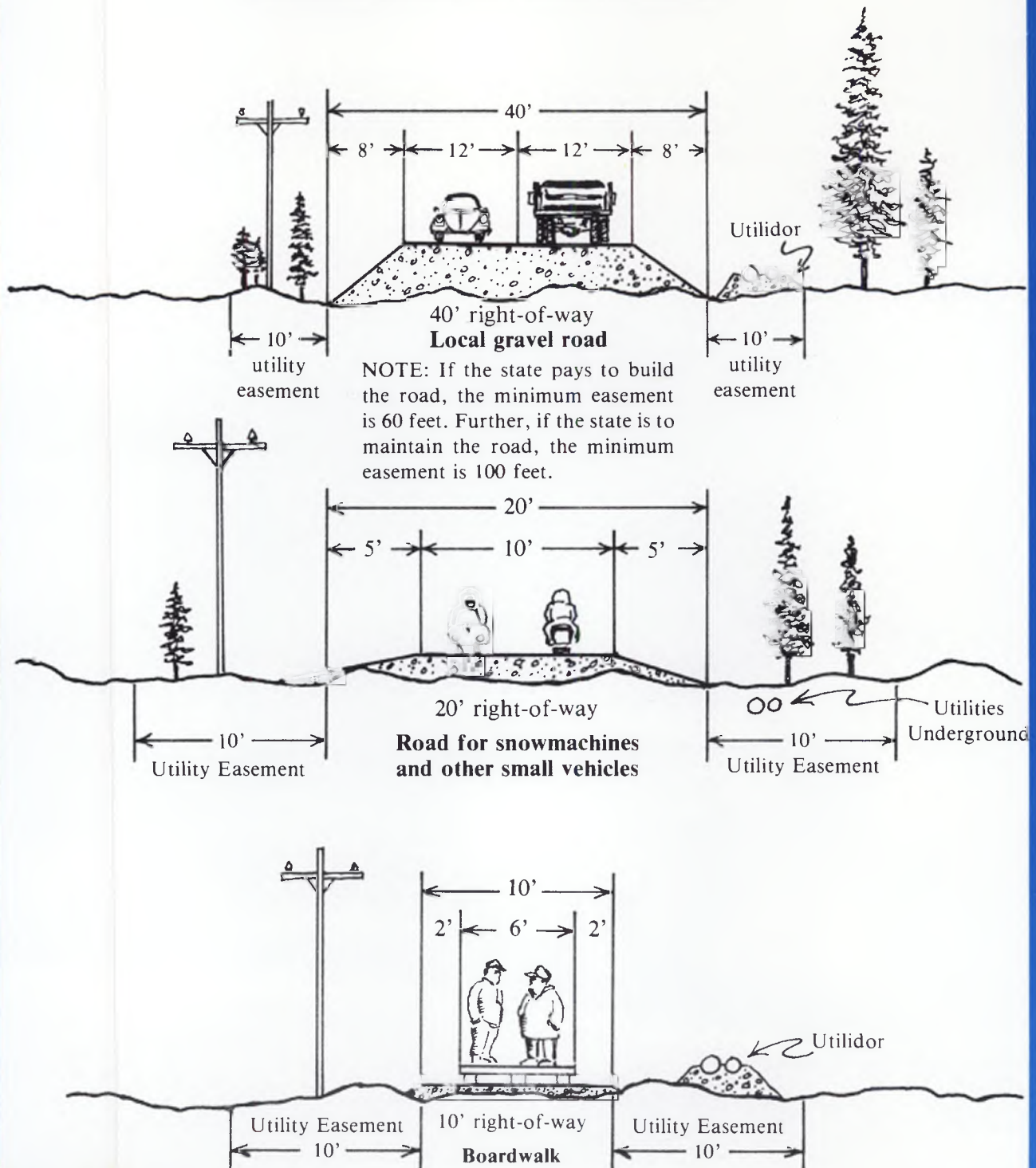


FIGURE 16

# RIGHTS-OF-WAY

The 14(c)(3) proposal must specify a complete system of rights-of-way for all the public and private land in the village that is currently used and occupied. This right-of-way system will be based on the existing roads and trails in the village. However, some modification of the present village transportation routes may be necessary to accommodate 14(c)(1), (2) and (4) claims, and to improve the efficiency or safety of the existing routes.

A right-of-way must be provided to non-contiguous parcels if people normally travel overland to these parcels (a right-of-way may not be needed if people normally go to and from these parcels by boat).

Rights-of-way must be wide enough for their intended use. Roads must be wide enough for two vehicles to pass each other safely. If the State of Alaska pays for building a road, it usually requires a right-of-way of sixty feet. If the state is also going to maintain the road, it normally requires a right-of-way width of one hundred feet. Exceptions to these standards are possible under some conditions. Rights-of-way for unimproved roads used only by dog teams, snow machines and three wheelers should be at least twenty feet.

Rights-of-way for trails on board walks used only by people walking should be at least ten feet. Rights-of-way for utilities\* should also be at least ten feet (however, short term construction easements of greater width may also be necessary for laying new utility lines).

These standards may not be achievable in the developed part of many villages, where houses have been built close together. In this situation the rights-of-way should be made as wide as possible.

It is possible that an existing village road or trail may be subject to an easement under section 17(b) of ANCSA. Also, a parcel that the city wishes to acquire under 14(c)(3) for future community use may have a 17(b) easement.

*\*Rights-of-way and utility easements are discussed in more detail on page 57.*

## MINIMUM RIGHT-OF-WAY WIDTHS

### Roads

State operated road .....	100 feet
State-funded road .....	60 feet
Local gravel road .....	40 feet
Road for snow machines, 3-wheelers, foot .....	20 feet
Foot trail, boardwalk .....	10 feet



### Utility

Water, sewer and buried electrical lines .....	10 feet
Overhead electric lines .....	10 feet

These 17(b) easements were included in the interim conveyance or patent received by the village corporation from the federal government. They provide access across corporation land to state or federal land. The holder of the easement (the United States on behalf of the public) has the right to use the easement for the purpose for which it was reserved, and the right to prevent interference with the allowable uses of the easement. If the city acquires land under section 14(c)(3) that is subject to a 17(b) easement, the easement remains valid. The city could upgrade the transportation route by obtaining a right-of-way that is wider than the 17(b) easement (for example, designate a 60 foot right-of-way over an existing 25 foot easement for winter travel and make it an all-weather road.) This upgrading must be done in a manner that will not interfere with the use protected by the easement. BLM has procedures under which the city may petition to have the 17(b) easement removed. To be successful, the city will need to show that the use allowed by the easement would still be protected and allowed if the easement were removed.



## EASEMENTS AND RIGHTS-OF-WAY

-  Right-of-way: Public land, Part of 14(c)(3) Reconveyance.
-  Easement: Land remains in private ownership, utility company only has the right to use the land.

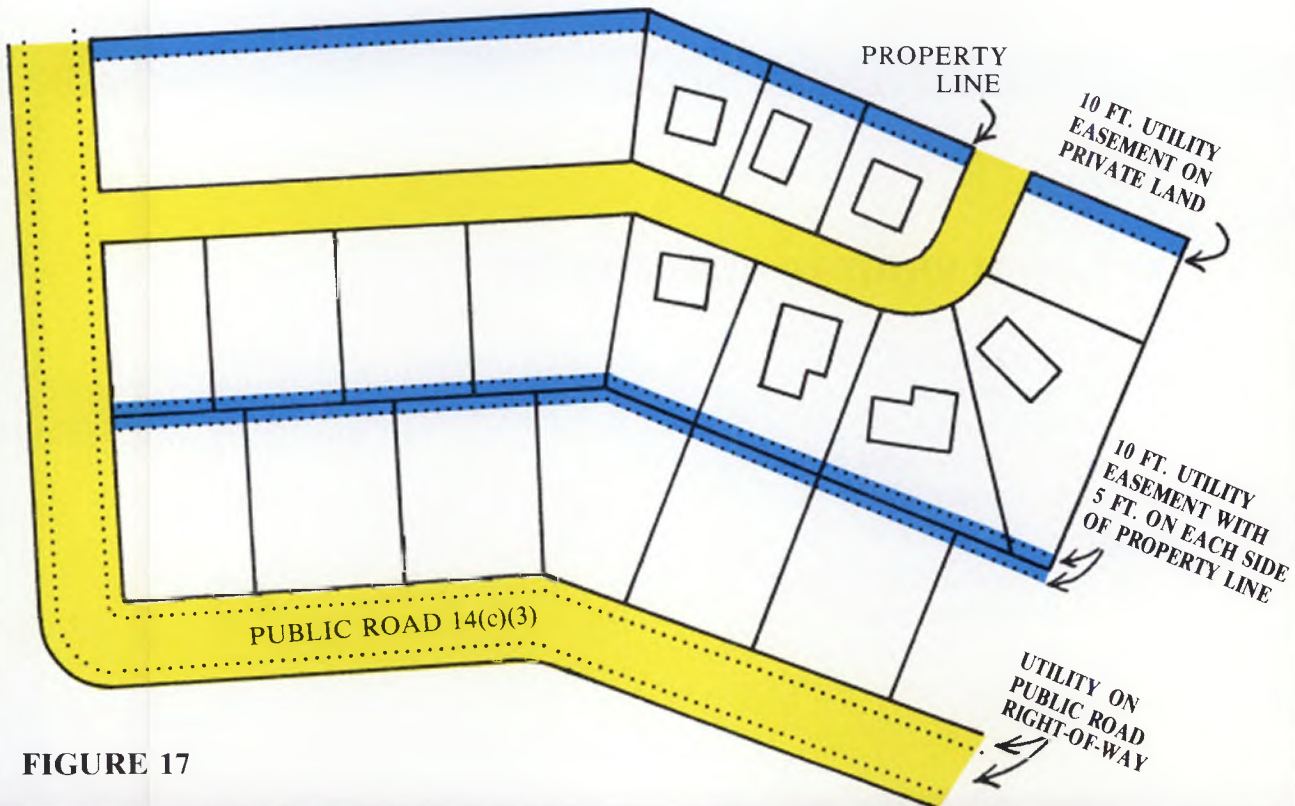


FIGURE 17



## **Rights-of-way and utility easements**

An issue that may need consideration when a 14(c)(3) proposal is being prepared is what to do about the existing utility lines. The Public Health Service, Alaska Village Electric Cooperative, and other utilities need to have access to their lines and equipment. Access can be assured by either the city owning the land used by the utility or by obtaining easements. Communities may obtain ownership under the right-of-way provision contained in Section 14(c)(3). But whenever utility lines cross private land, utility easements should be used. When a land owner grants a utility easement that person continues to own the land; the utility company only has permission to use the land within the easement for the purpose of providing a specific service.

The width of most utility easements is ten feet. When an easement is located along a property line that is not shared by another owner the entire ten feet will be within the single lot. When two lots share a common property line, the ten foot easement may be split between them, requiring a five foot easement on each side of the property line.

When utility lines are to be extended, communities should work with the utility company to determine the best route for running the new lines. One method of running utility lines is to take advantage of existing road rights-of-way if they are wide enough. By using rights-of-way it is possible to reduce the need for utility easements on private property. Reducing the need for easements will make it easier for individuals to determine what land they own and how they can use it.

# RIGHT-OF-WAY RULES TO FOLLOW

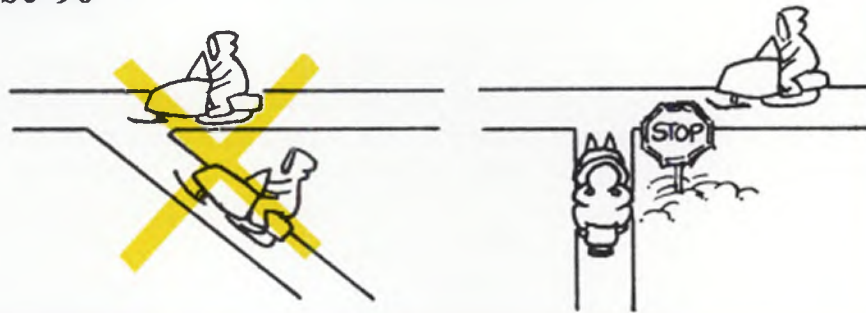
## Avoid steep grades

Roads should not run straight up steep hills. Locate roads so the grade is gradual. This makes the road safer and usable when it is wet and icy.



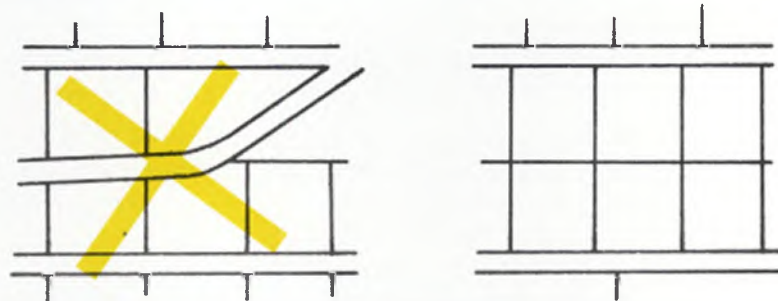
## Intersections should be 90°

Intersections with sharp angles are dangerous because vehicles tend not to stop at them.



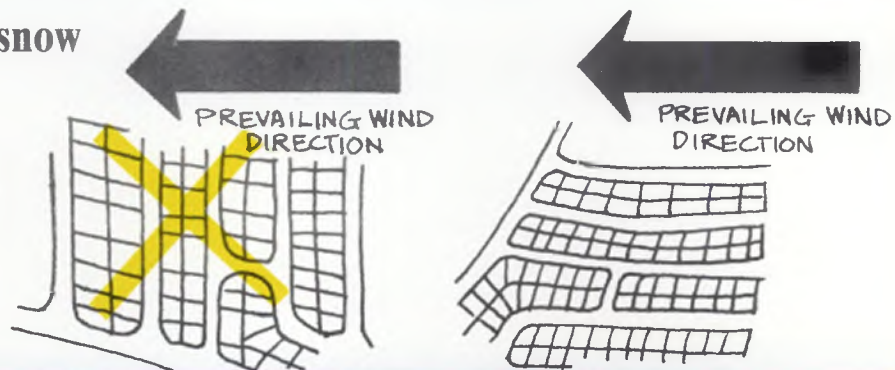
## Avoid unnecessary roads & trails

Usually, only one side of a lot needs to be next to a public road or trail. Also, short cuts that people use can often be abandoned without causing serious inconvenience to villagers.



## Minimize drifting snow

In flat, windy country, new roads and trails can be lined up so the wind blows the snow from the streets.



## **PUBLICLY-USED LAND**

The 14(c)(3) proposal should identify that land currently used by the entire community which should be owned by the city. *Ordinarily, all land that is used for public buildings and for vital public purposes should be owned by the city.* Public uses were identified on the existing land use map. A review of that map will help identify land which should become part of the 14(c)(3) proposal. A review of Chapter Two of this handbook will also help, especially the discussions under the headings “Public v. Private Ownership of Land”, “Should the City Acquire Commercial Land?”, and “What About Airport Land?”\*

*\*See pages 20, 25 and 33.*

## **COMMUNITY EXPANSION LAND**

The 14(c)(3) proposal must designate the land for community expansion which should be owned by the city. Future land needs of the community were identified and drawn on the future land use map. Now 14(c)(3) planners must decide which of these needs are best met by city-owned land and which by corporation-owned (private) land.

Land required by the community for future public buildings, facilities, and services should be owned by the city, and therefore designated as 14(c)(3) land in the proposal. Land needed by the community for future houses, local businesses and other private uses may be owned by the city or the corporation. Thus, it is important to decide if the city or the corporation should provide land for future local business and residential development. It is also important to decide what to do about land where people built after 1971. These issues are discussed in Chapter Two under the headings “What About Land for Residential Development?” and “What About Land Occupied After 1971?”, “Should the City Acquire Commercial Land?”, and “Amount of 14(c)(3) Land”.\*

*\*See pages 15, 22, 24 and 25.*



**RIGHT-OF-WAY PLAN WITH ADEQUATE ROAD ACCESS**

**RIGHT-OF-WAY PLAN THAT INCLUDES DESIGN PROBLEMS**






 Lots without road access

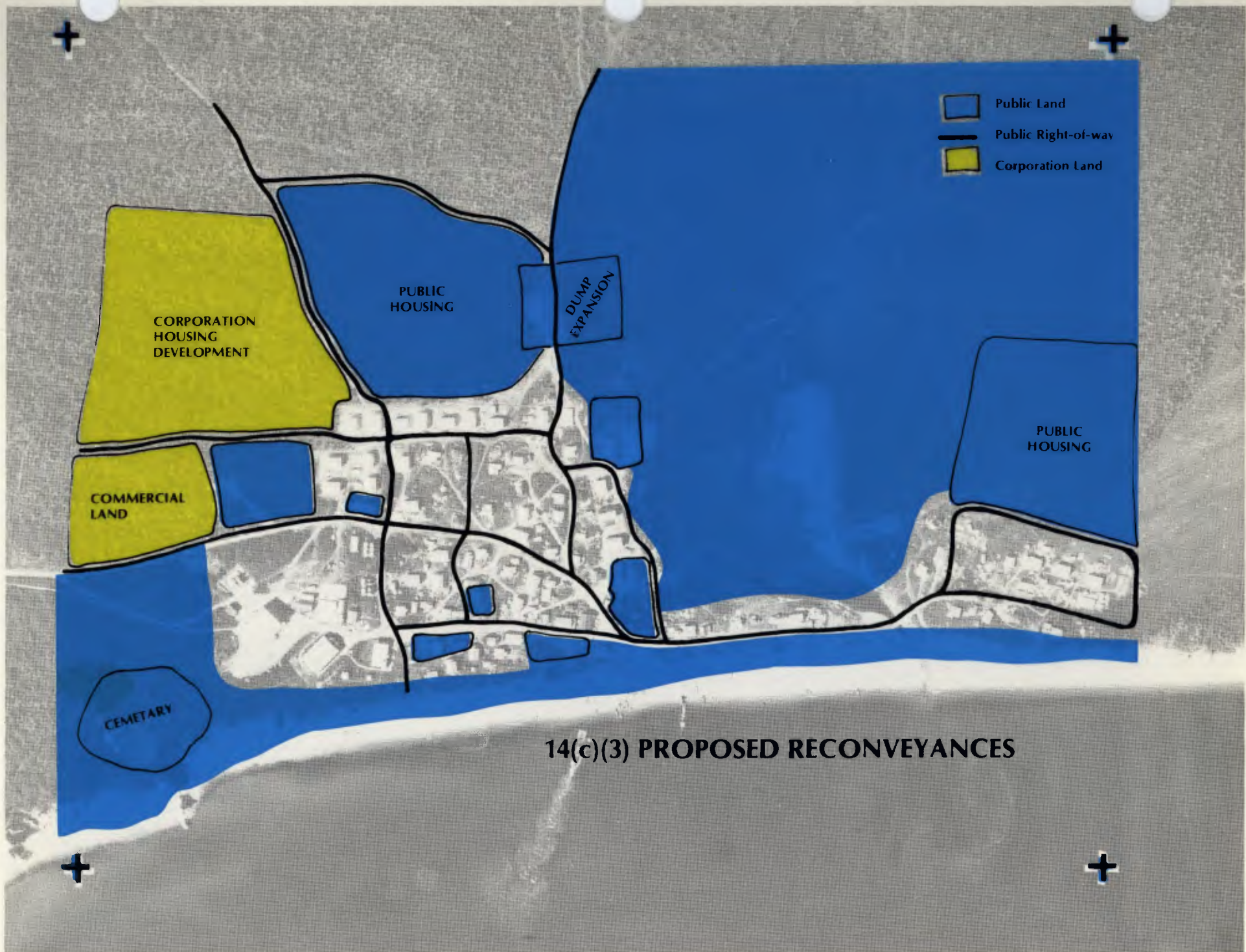
**SAMPLE ACETATE OVERLAY MAPS**

A058272  
NA.Apln  
Par.A

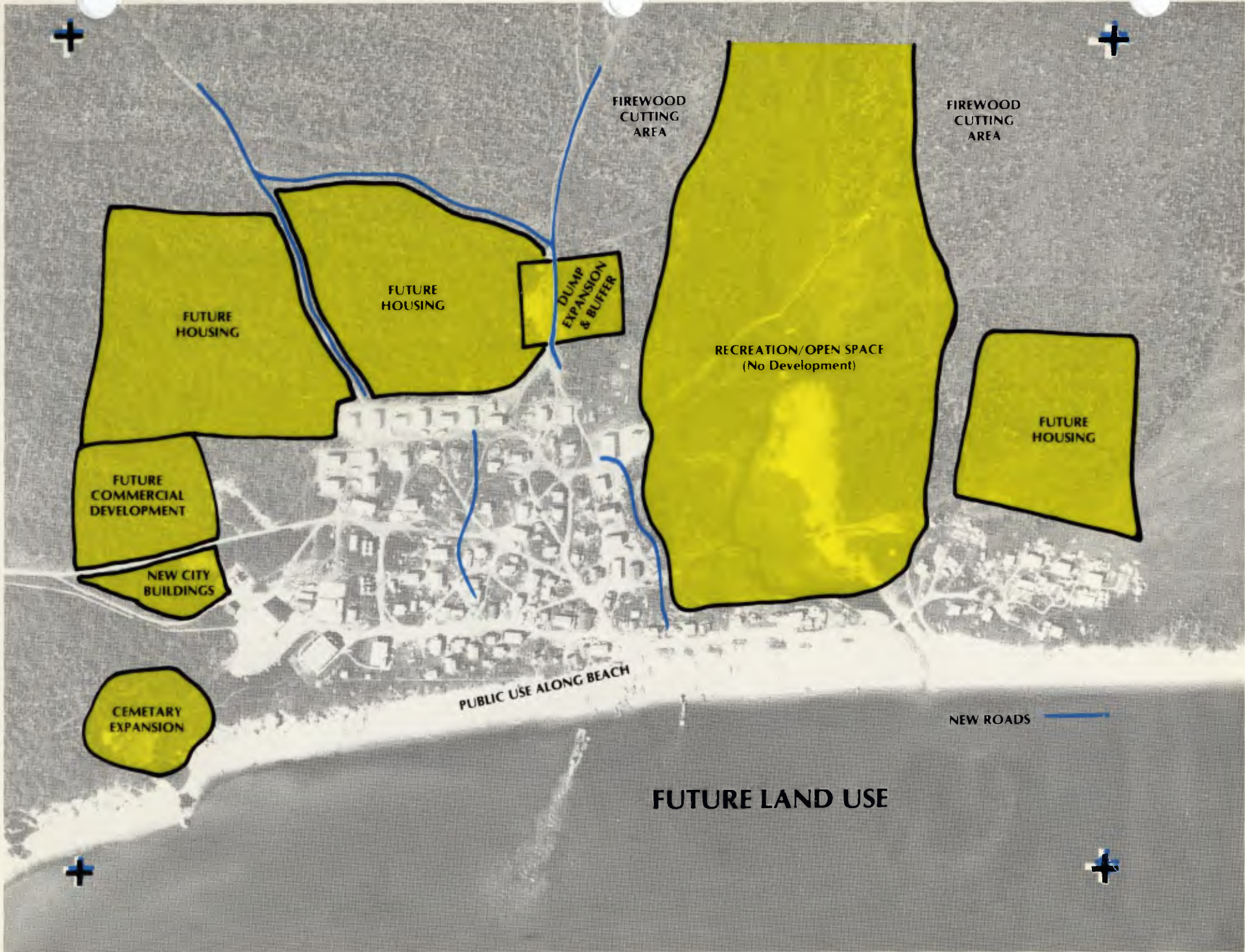


-  14(c)(1) & (2) Land
-  14(c)(3) Land
-  Corporation Land

**DRAFT PLAN OF SURVEY**

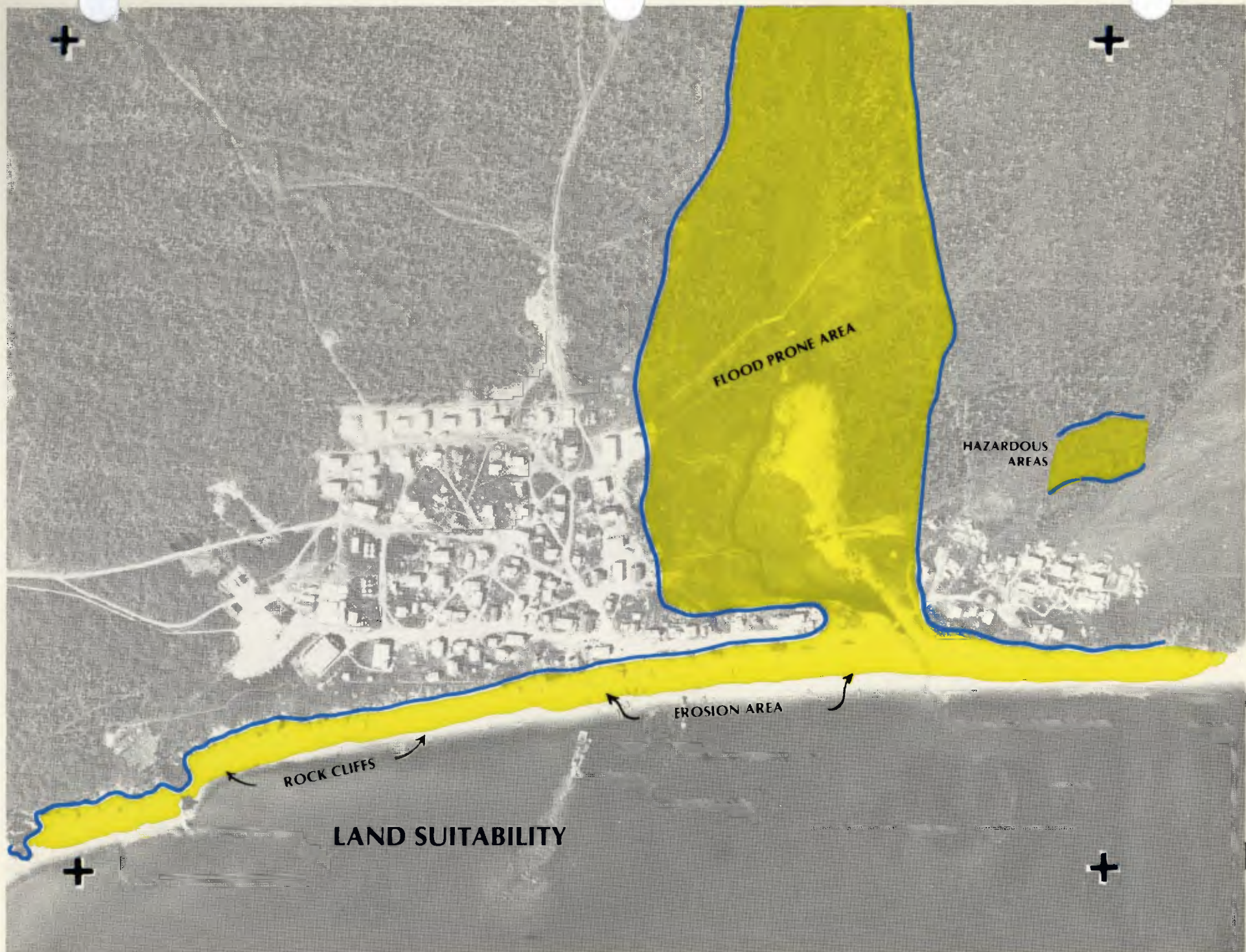


14(c)(3) PROPOSED RECONVEYANCES



**FUTURE LAND USE**





FLOOD PRONE AREA

HAZARDOUS AREAS

EROSION AREA

ROCK CLIFFS

LAND SUITABILITY



A058272  
NA Apln  
Par A

V/SEL

USS 1982  
1.5

LAND OWNERSHIP

# CHAPTER 5

---

## COMPLETING THE RECONVEYANCE PROCESS

---

This chapter discusses the final steps in the 14(c) reconveyance process—from the 14(c)(3) proposal to the issuing of deeds. These steps are summarized in Figure 1.\* They include a draft Plan of Survey, a final Plan of Survey, an interim land management agreement, a survey, and issuance of deeds.

*\*See page 9.*

### DRAFT PLAN OF SURVEY

---

The draft Plan of Survey is a map combining the proposed 14(c)(3) boundaries with proposed 14(c)(1), (2) and (4) boundaries into one overall 14(c) proposal.\* In most cases there will be two maps: a draft Plan One, which covers the area in and near the village area, and a draft Plan Two, which covers the outlying area. (See Appendix B.)

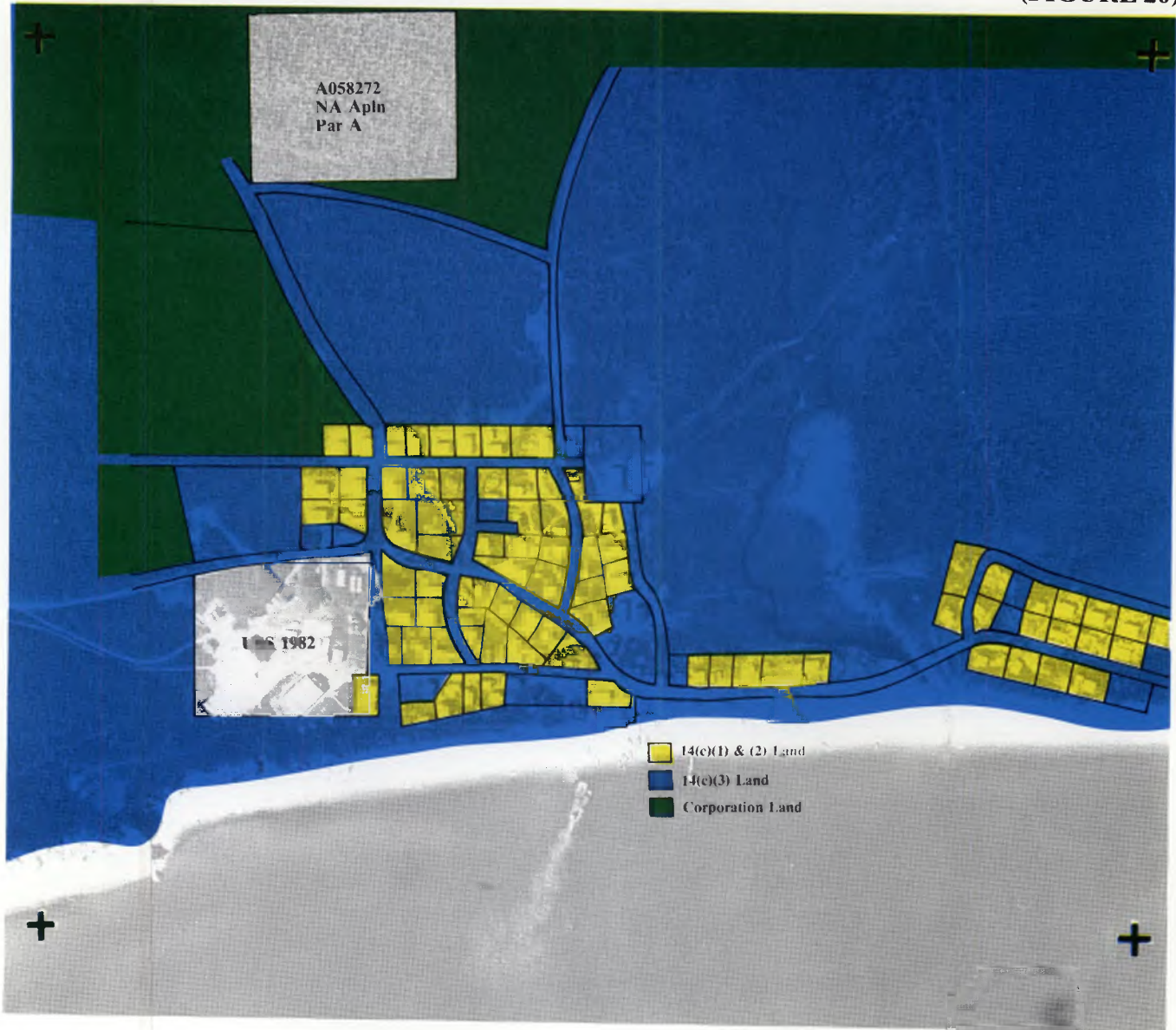
*\*Refer to figure 1, page 9.*

The draft Plan of Survey gives everyone in the village an opportunity to review the proposed 14(c) settlement. Boundary lines may be adjusted as a result of this review. The review should include staking the proposed boundary lines on the ground. Marking the lines on the ground is the best way for people to understand what the draft Plan of Survey actually shows. This field check may take considerable time, especially in the larger villages without townships, because each boundary line must be carefully measured. It is best done in the summer when there is no snow and stakes can be driven into the ground.

During the review of the draft Plan of Survey, some modifications and revisions will probably be necessary. If the corporation and the 14(c)(3) planners did a good job in preparing their proposals, and coordinated their work as they progressed with it, there will not be many revisions necessary to the draft Plan of Survey. When revisions are made, and lines are adjusted on the ground, careful notes of the changes must be kept. These notes are necessary to prepare a final Plan of Survey.

# DRAFT PLAN OF SURVEY

(FIGURE 20)



## FINAL PLAN OF SURVEY

When everyone has had a chance to review the draft Plan of Survey, and when it is revised according to agreements made during the review and field check, a final Plan of Survey is prepared. This is the document that the surveyors will follow. However, the surveyors will try to follow the stakes in the ground unless there is a big difference between the stakes and the measurements shown on the Plan of Survey. If there is a big difference, the surveyors will try to find someone with the authority to decide which is correct. Otherwise, the surveyor will follow the Plan of Survey.

The city council must formally approve the Plan of Survey. A final review of the Plan should be made, since this is the last chance for the council to negotiate changes with the village corporation. Formal action on the final Plan of Survey should be done by village corporation resolution and by a city council resolution (or through the process established by the MLT Program for unincorporated communities). An example of a suitable resolution is available from the Department of Community and Regional Affairs or the Alaska Native Foundation. Unincorporated villages should consult with the Municipal Trustee Program.

If the city council does not agree with the 14(c)(3) land reconveyances shown on the final Plan of Survey which the village corporation submits to BLM, the city council (like other 14(c) claimants) has one year in which to take its complaint to court.\*

*\*Discussed on page 19.*

## VILLAGE SURVEY

If the Plan of Survey meets the technical requirements of BLM, it will schedule the village for a survey. The time it takes for BLM to come to the village to survey depends on a number of factors. These include the number of Plans of Survey that have already been filed by other village corporations, and the amount of money available to BLM for survey work. It may be possible for BLM to complete the survey sooner if it can be coordinated with other surveying such as native allotments. In any case, it could be several years from the time a village corporation submits a Plan of Survey until the survey is done.

ANCSA provides for BLM to survey 14(c)(3) lands at no charge to the village. The law does not prevent the city or corporation from hiring a private surveyor to do the job.

BLM regulations on the Plan of Survey are found in 43, Code of Federal Regulations (CFR) Section 2650.5-4 Village Survey. BLM has also issued a policy statement on 14(c) Plan of Surveys.\* Copies of both these documents may be obtained from the Bureau of Land Management, the Department of Community and Regional Affairs, or the Alaska Native Foundation.

*\*Presented without attachments in Appendix B.*

## INTERIM LAND MANAGEMENT AGREEMENT

---

Until the survey is completed and the corporation has issued deeds to the city, the land legally belongs to the corporation. However, the city has an interest in how the land is managed. Therefore, some type of formal land management agreement between the corporation and the city is advisable. The agreement should consist of a procedure whereby the city would be involved in all land management decisions with respect to 14 (c) (3) land. This agreement may not be necessary if an adequate legal description of the land is available so a quit claim deed can be issued and recorded.

The Department of Community and Regional Affairs, and the Alaska Native Foundation have samples of agreements and can provide assistance to the corporate and council.

## ISSUANCE OF DEEDS

---

When BLM surveys the village, it will prepare a plat. The plat is the official document that shows the exact location of each boundary line and the size of each lot or tract. The corporation will issue deeds to individuals, non-profit organizations, the city, and airport operator on the basis of the survey plat.

The deed is the document that transfers the ownership of land from one person (or corporation) to another. A deed must contain a precise description of the land which is conveyed. This description may be obtained from the survey plat prepared by BLM. The deed must specify that only the surface estate is conveyed since the village corporation owns only the surface estate. Any other easements or withholdings must also be described. If the corporation does not have staff who are knowledgeable about deeds, it is advisable to get assistance from the Alaska Native Foundation, the Department of Community and Regional Affairs, a lawyer or a realty specialist.

Deeds issued by the corporation are unrestricted deeds. This means that the recipient may sell the land, and is subject to any taxation or regulations which apply to the land. All deeds should be recorded at the State District Recorder's Office, by the people who received the deeds.

When the deeds have been issued by the corporation and recorded, the 14(c) reconveyance process is finished.

## Appendix A: Alaska Statutes 44.47.150:

Sec. 44.47.150. Village land conveyed in trust. (a) The commissioner of the Department of Community and Regional Affairs is designated to accept, administer, and dispose of land conveyed to the state in trust by village corporations under § 14(c)(3) of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 703) for the purposes specified in that section.

(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. Such 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 which 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 revenues from the land, acquired from each village corporation under this section, and within 90 days of the close of each state fiscal year a statement of the account for each municipality shall be prepared by the commissioner and be made available to the village and to the public upon request.

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

(f) No title or interest to lands acquired by the department under this section may be acquired by adverse possession or prescription.

(g) For the purposes of this chapter, the term municipality includes only first and second class cities incorporated under the laws of the state. (§ 1 ch 119 SLA 1975)



# Appendix B: BLM Survey Rules

## Revised Policy Statement for Preparation of Survey Plans under 14(c) ANCSA December 14, 1981 [text only; attachments omitted]

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

The Plan of Survey may be submitted in segments, but will be confined to Plan One and Plan Two (identified hereafter) when possible. Recognizing that some potential 14(c) tracts may be encumbered by a question of title at the time Plan One and Plan Two are prepared, the submission of a third plan will be necessary to accommodate these tracts.

1. **Plan One** is intended to include all tracts which can be surveyed, at the time the plan is submitted, in the immediate area of the village proper.

The plan should be prepared on the enlarged aerial photograph, but may be on a reproducible media at the same scale as the photo. If the enlarged photo provided does not encompass all tracts involved, supplemental sheets of the same scale as the photo may be added to cover the immediate surrounding area. Delineated thereon will be the majority of:

- A. Tracts occupied as a primary place of residence-14(c)(1).
- B. Tracts occupied as a primary place of business-14(c)(1).
- C. Tracts occupied by nonprofit organizations-14(c)(2).
- D. Tracts utilized for airport sites, airway beacons, and other navigation aids-14(c)(4).
- E. The boundaries of that portion of any municipal lands which are contiguous or adjacent to the occupied lots-14(c)(3).

Reference should be made to the "14(c) Handbook" prepared by the Federal-State Land Use Planning Commission for Alaska, dated July 1975, for additional guidelines when preparing the survey plan.

2. **Plan Two** is intended to include the remaining tracts which are ready for survey that cannot feasibly be shown on Plan One because of their remote locations from the village proper. The U.S. Geological Survey quadrangle (1:63,360) maps are quite reliable in most cases and will serve as a key map for the outlying tracts. The outlying tract locations will be shown on the quadrangle maps by reference number.

An 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.), how corners are marked, approximate bearings and distances of boundary lines, applicant's name, and the reference number corresponding to the site location as shown on the quadrangle map. Attachments A-1 through A-7 show examples of the foregoing requirement. [Attachments available from BLM.]

Plan Two will generally include:

- A. Subsistence campsites and headquarters for reindeer husbandry sites-14(c)(1). Any of these sites which are near the village should be included in the Plan One package.
- B. That portion of the municipal lands not included in the Plan One package.
- C. Any other tracts identified under Section 14(c) not included in the Plan One package.

3. **Plan Three**, if needed, will include *all* remaining tracts to be conveyed under 14(c). The intent of this plan is to identify for survey those tracts which could not be included in Plan One or Plan Two because of their particular status at the time the first two plans were submitted.

4. In accordance with 43 CFR 2650.5-4, the BLM will survey only those lots occupied as of December 18, 1971. For informational purposes, the Plan of Survey may include vacant lots and lots to accommodate houses occupied after December 18, 1971. If these new lots are included on the Plan of Survey, they must be clearly identified as such.

The official plat will only show the occupied lots as of December 18, 1971.

5. BLM's rules and regulations say that the boundaries of all Section 14(c) conveyances shall be identified (staked or marked) on the ground as well as shown on the Plan of Survey.

In order to protect the intent of the Plans of Survey as prepared by the applicants, it will be necessary to identify each tract on the ground or by locatable written description. If each tract can be identified as to location by one of the following means, the individual corners need not be marked on the ground: (1) A tie to an existing survey monument of record, (2) Natural features, (3) Occupancy (ties to improvements thereon), (4) A tie to an adjacent (located) 14(c) tract, or (5) Written description (such as aliquot parts of a section). Those tracts that cannot be delineated by one of the aforementioned means will be clearly identified on the ground by marking corners with durable materials.

6. It is essential that conflicts among potential transferees identified in Section 14(c) of the Act or between transferees and Village Corporations be resolved before submission of the Plans of Survey. Conflicts arising during the survey could result in suspension of the survey effort.

7. Each Plan of Survey will have a title block wherein the name of the municipality (village) will be identified together with the Village Corporation. Also within the title block a certification to the effect that there are no conflicts among any of the property lines as staked and shown on this plan of survey, and there are no conflicts between the Village Corporation and any of the transferees. This certification must be signed by the designated Village Corporation Officer.

Each Plan of Survey will be accompanied by a corporate resolution authorizing the Plan of Survey and designating the corporate officer to sign and submit the plan.

Separate lines shall also be included to state the Plan of Survey has been reviewed and approved by the Bureau of Land Management.

8. As the Plans of Survey are received they will be programmed for survey. It is not necessary to submit all plans at the same time, but each plan must be complete when submitted.

## **Appendix C: Alaska Omnibus Act for Rights-of-Way**

\*The State of Alaska may have a valid claim to some rights-of-ways in or near your community under the Alaska Omnibus Act (Public Law 86-70 (73 STAT 141)) and under Revised Statute (RS)2477. Rights-of-way under the Alaska Omnibus Act are identified in the interim conveyance document. However, a right-of-way to which the State is entitled under RS2477 will not be identified in the interim conveyance. Instead, these rights-of-ways are covered by the "subject to valid, existing rights" clause in the interim conveyance. It is up to the State and the village corporation to decide if any rights-of-way in or near the village are subject to RS2477. In general, RS2477 rights-of-way are those roads or trails which were constructed and used by the public between 1866 and October 21, 1976, while the land remained in the public domain (i.e., the land was not withdrawn for selection under ANCSA or other purposes). For further information on the State's position on its claims to rights-of-way under these laws contact the Alaska Department of Natural Resources at the following address:

Policy Research/Land Entitlement Section  
Division of Research and Development  
Alaska Department of Natural Resources  
Pouch 7-005  
Anchorage, Alaska 99501  
Phone: (907) 276-2653