

VILLAGE LAND RECONVEYANCE PLANNING

A Handbook on ANCSA Section 14(c)



THE ALASKA NATIVE FOUNDATION

4101 UNIVERSITY DRIVE • ANCHORAGE, ALASKA 99508 • PHONE 561-7452

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Acknowledgments

This handbook was originally prepared in 1981 under the federally funded Village Management Assistance Program of the Alaska Native Foundation. Since then much progress has been made in 14(c) implementation. Several lawsuits concerning 14(c) issues have been resolved, and more research has been conducted on various 14(c) issues. Changes were made to State law which now require municipalities to adopt ordinances which address and affect 14(c)(3) reconveyances. The Bureau of Land Management again updated their policy statement for preparing maps of boundaries, and ANF staff have been able to fine tune many of the sample forms in the appendix.

The staff of the Alaska Native Foundation's 14(c) Technical Assistance Program have attempted with this fourth edition to keep up with and provide the most current information on 14(c) issues and implementation. The 14(c) Technical Assistance Program is financed in part by funds from the State of Alaska, Municipal and Regional Assistance Division, Department of Community and Regional Affairs.

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Sharon E. McClintock

Anchorage, Alaska

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Preface

This is the first of a series of informational materials on land planning. It is designed so that pages can be removed and updated versions or supplemental information can be inserted. We hope it will be of assistance to village corporations in meeting the reconveyance obligation of Section 14(c) of the Alaska Native Claims Settlement Act (ANCSA).

Several village corporations have generously shared with us their knowledge, experience and ideas about 14(c) implementation. They share our hope that this handbook will help other village corporations avoid costly and time consuming "reinvention of the wheel."

There simply are not any clear-cut guidelines for 14(c). Throughout this handbook, options are suggested to help corporations think about their procedures and policies. These are not the only options, however. Do not hesitate to consider other plans which might be more suitable to your traditional land use patterns or corporation needs.

The first chapter includes an overview of the reconveyance process and a summary of the legal requirements of ANCSA. Chapter two discusses some general guidelines which apply to Sections 14(c)(1) and (2). Chapters three and four cover in detail these first two types of 14(c) reconveyances.

Chapter five discusses the steps in the 14(c)(1) and (2) reconveyance process. Chapter six provides information on Section 14(c)(3), which is intended to supplement information from the Alaska Department of Community and Regional Affairs' 14(c)(3) handbook. Chapter seven covers Section 14(c)(4), the last reconveyance required by ANCSA. The last chapter, eight, includes information on final actions the corporation must take to complete the 14(c) process. Sample forms are included in the appendix to help reduce the time it takes to implement a reconveyance process. They can be used as is or changed to suit your corporation's 14(c) process.

Please remember, this material is only a rough guide. It has no "dos" or "don'ts," no rules to follow. Each corporation must decide what is best for its own situation. Good luck in your efforts!

The purpose of this handbook is to help village corporations identify some of the problems they may encounter and some options for solving them. It is not intended to be legal advice. Village corporations should contact a lawyer if there is a legal question on specific issues, or need help in tailoring specific language in the sample 14(c)(3) Agreement and deeds included in the appendix.

Chapter 1

An Overview of the Village Land Reconveyance Process

What is 14(c)?

Long ago, traditional use of land by Alaska Natives required no written laws to show ownership. In the 1800's, intrusions upon traditional Native lands by the military, missionaries, miners and squatters took place even though Congress's first Alaska land law (The 1884 Organic Act) said that Natives would not be disturbed in their use of land. Up until the early 1960's, traditional lands of Alaska Natives were still being transferred into private ownership. Miners, homesteaders and others were still acquiring patent to traditional Native land, the State was selecting land, and oil exploration was taking place, all without regard to what rights Native people might have to the land. Fearing further intrusion, Native leaders protested on behalf of all Native occupants in Alaska to put a stop to any more transfers of land. This attempt to preserve ancient land rights led to the settlement of the Native land claims on December 18, 1971.¹

1. Arnold, Robert D., Alaska Native Land Claims. The Alaska Native Foundation, 1976.

The Alaska Native Claims Settlement Act recognized the rights that the Alaska Natives had to the lands they traditionally occupied. Village corporations, comprised of village residents, were entitled to the lands around their villages. The village corporations could not select lands which had already been transferred by patent from the federal government to people or to the state of Alaska. Many other people were occupying land in and around the village in 1971, although they did not have any ownership papers. ANCSA made it possible for these occupants to own the land they occupied on the date when the Act was passed. This provision is in Section 14(c) of ANCSA.

Section 14(c) says that a village corporation which gets title to its ANCSA land must then give title to individuals and organizations who occupied land on December 18, 1971 when ANCSA was signed. This includes land for homes, businesses, subsistence campsites, reindeer facilities, and nonprofit organizations. People do not have to be corporation shareholders to get 14(c) land. Some of the remaining land in the village, including airports, will go to the city or the state. (If your village is not an incorporated city, the land will go to the state in trust for a future municipality.) When all of these lands are identified, their locations are plotted on a map called a map of boundaries which BLM will use as a guide to survey the parcels. This whole process is often called "14(c) reconveyance."

Although ANCSA requires the reconveyance of certain lands, it does not provide definitions of the types of parcels eligible, how much land to

reconvey* for each, or procedures to transfer these lands into private ownership. This is the job for the village corporation. It is an important job which will have a lasting effect on the land patterns in your village. Take enough time to think through your decisions carefully.

Before beginning its reconveyance program, the board may want to review its overall land management plan, including future development potential and the priorities used by the village during original land selection. This review helps coordinate 14(c) with other land plans. It is especially important for the community planning required by 14(c)(3).

How does 14(c) work?

There are several major steps in the reconveyance process. The order and details of these steps will vary from corporation to corporation. The first and probably most important step is for the board to establish its policies on the application process, definitions, size of parcels, appeals, etc. Policy will provide the corporation with a set of rules to follow in recognizing what rights people have to land occupied in 1971. Since the board is familiar with the traditional land uses of the village, it can take customary ways into consideration when setting these policies. When the board has a set of policies to work with, someone should be assigned to do the staff work required to carry out the reconveyance process.

* Underlined words are defined in the Glossary in back.

The second job is to notify people that it is time to apply for 14(c) lands. Newspaper ads, public and shareholder meetings, newsletters, radio spots and bulletin boards are all ways to publicize the corporation's plans. People who are not sure if reconveyance applies to them should fill out an application anyway.

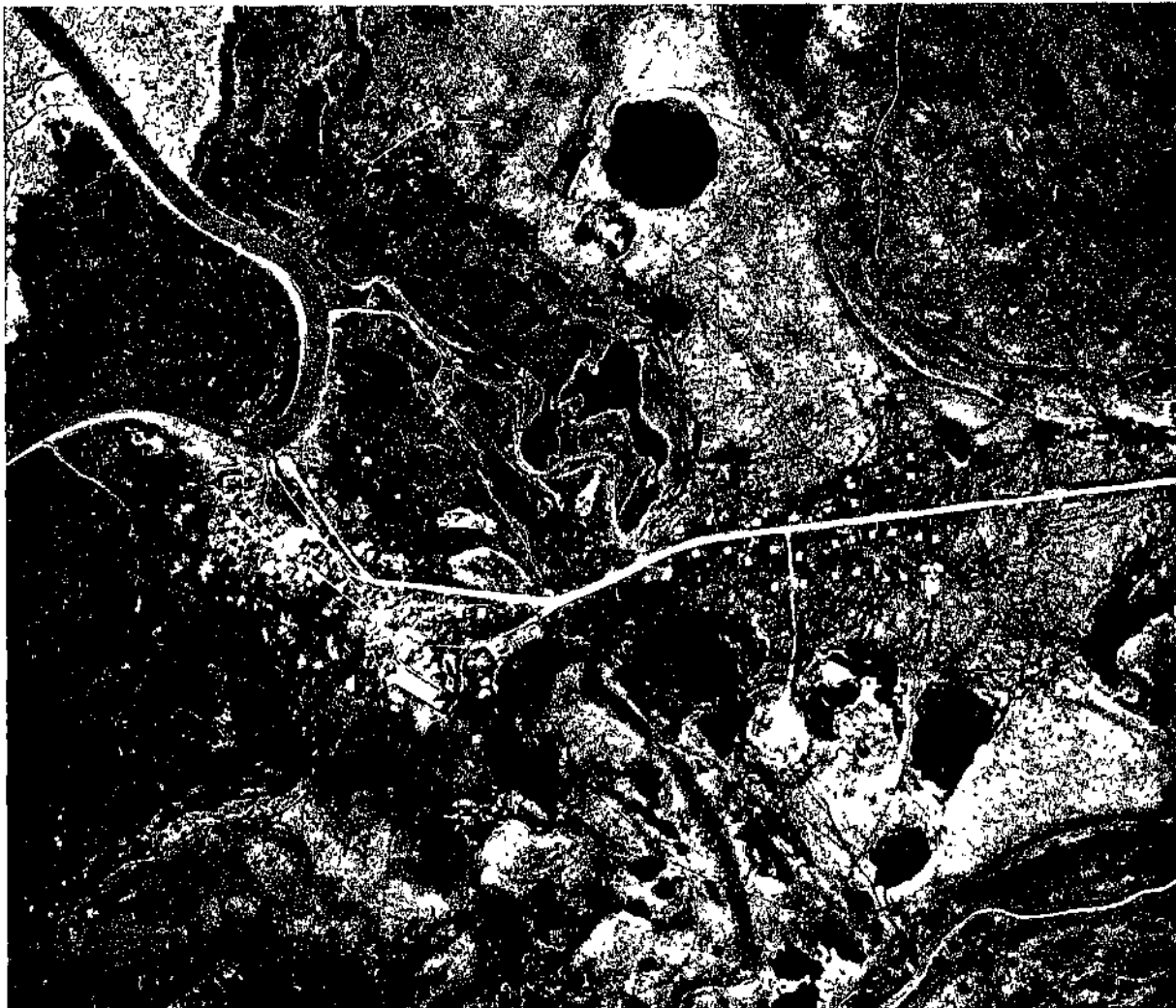
When applications begin coming in, a file should be started on each applicant. Preliminary information should then be gathered for board review. The preliminary work will involve checking land status, doing a field examination, taking photographs and interviewing applicants or references. It is extremely important at this point for the corporation to keep good records of its 14(c) process.

When all necessary information is compiled, the review of applications can begin. This review may be handled in several ways. Some corporations appoint land committees which can do this work, while others may give the job to the full board. Based on this review, an initial recommendation would be made to approve or disapprove applications.

An appeals process should be available in case any 14(c) claimants are dissatisfied with the initial decision. Appeals should be handled by a committee separate from the decision making body. If the issue still cannot be resolved to the claimant's satisfaction at the village level, as a last resort, he can take it to court. The possibility of court challenges is one

reason why it is extremely important for the corporation to try to resolve disputes at the village level.

After the corporation identifies all the people entitled to land, the lot lines are drawn on a general map or aerial photograph. This map is the beginning of the map of boundaries which will guide BLM survey crews. The next phase is to identify lands to be reconveyed under 14(c)(3) to the municipality (or to the state in trust if the village is not an incorporated city). The village corporation, the city/village council, and perhaps the entire



BLM/ASO

Mixture of old and new housing, Hooper Bay.

community will work on identifying community needs and land suitable to fit those needs. Rights-of-way for roads, trails and utilities are included in this phase. Airport facilities must also be considered in 14(c). Some guidelines for airport reconveyances have already been developed by the Alaska Native Land Managers' Association and the State Department of Transportation and Public Facilities. Technical assistance in reconveyance planning is available from agencies and organizations such as the State Department of Community and Regional Affairs, ANF, or some regional corporations and/or their nonprofits.

As the map of boundaries develops, adjustments may have to be made to lot sizes and shapes. Any adjustments will have to be agreed upon with the applicants involved because the corporation must resolve all conflicts before the map of boundaries goes to BLM. BLM Policy requires that the map be submitted as one final product and that the boundaries of claims be marked on the ground with durable materials. Legal challenges to the map will only be reviewed by the courts if they are made within one year of the date when the map of boundaries is filed with BLM.²

The next step in the reconveyance process is for BLM to survey the land and prepare an official plat (or map) showing all the 14(c) boundaries. After the boundaries have been identified by survey, the corporation can complete the process by giving deeds to the appropriate parties.

2. ANILCA Section 902(b).

The length of time for this whole process is hard to predict, but it will probably be several years before the corporation can issue deeds. After the period for accepting applications, it could take anywhere from several months to several years to produce a map of boundaries. Depending on BLM's patent plan process which is a schedule of survey priorities developed by BLM, the survey itself might not be done for several more years.

Who is Required to Reconvey Land?

The transfer of parcels under Section 14(c) must be done by village corporations organized under the provisions of ANCSA. Where there have been mergers or consolidations of Native corporations, the merged corporation takes over the village corporation's obligation to reconvey.³

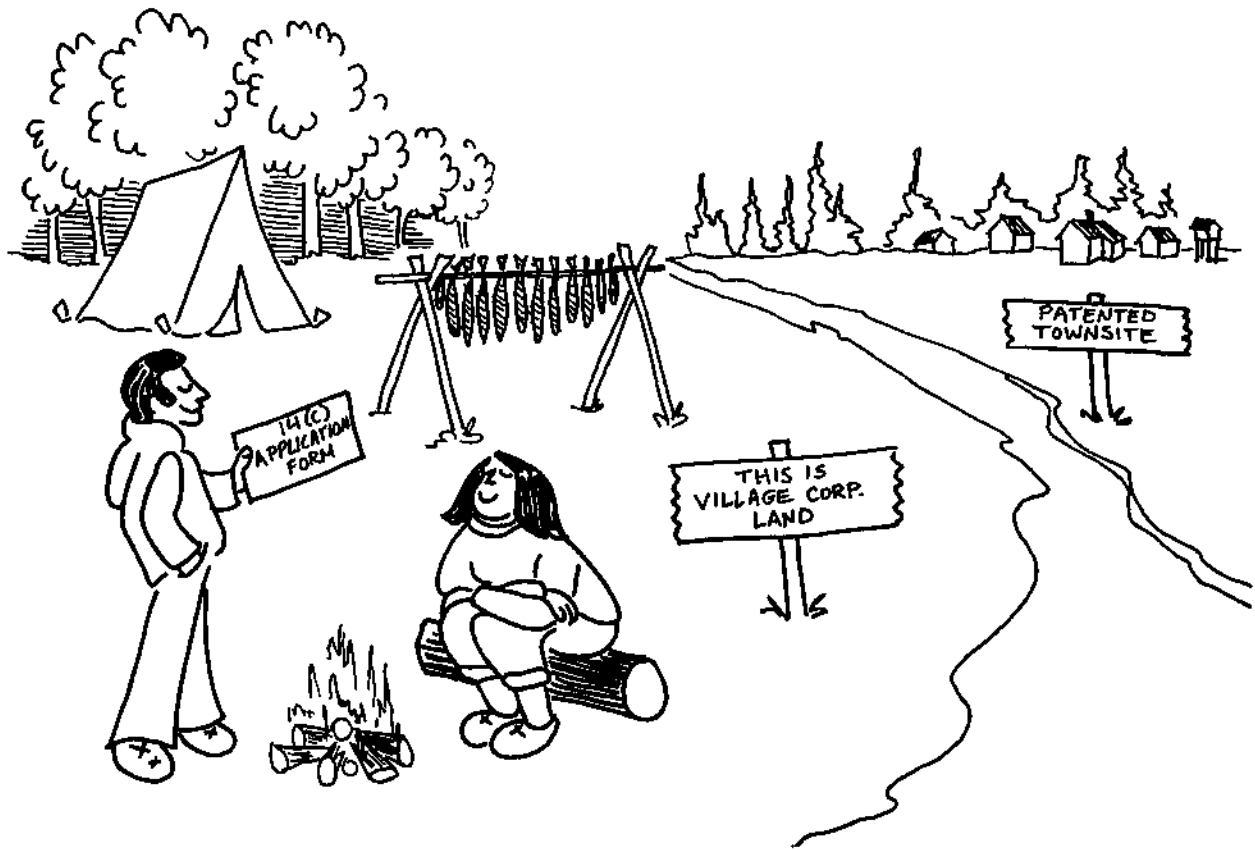
Three types of village corporations do not need to reconvey land. The former reservation villages which voted to take the surface and subsurface of their former reserve lands (instead of the monetary benefits of ANCSA) do not have to make 14(c) reconveyances.⁴ Nor does Section 14(c) apply to the Native groups which received land but were not certified as villages by BIA or the urban corporations for Sitka, Kenai, Juneau, and Kodiak.⁵ Regional corporations also do not have a 14(c) obligation.

3. ANCSA Section 30(b) (1976 amendment); Alaska Statutes 10.05.405(b).

4. ANCSA Section 19(b).

5. ANCSA Sections 14(h)(2) and (3) respectively.

If your village has a patented townsite, part of your 14(c)(1) and (2) reconveyance job is done, since the Federal Townsite Trustee surveys the village area and issues deed to village occupants. However, reconveyances of land outside the townsite boundaries (for instance, subsistence campsites) will still need to be done by the corporation. In these townsite villages, since most community needs may already be provided for, the need for 14(c)(3) land may be minimal.



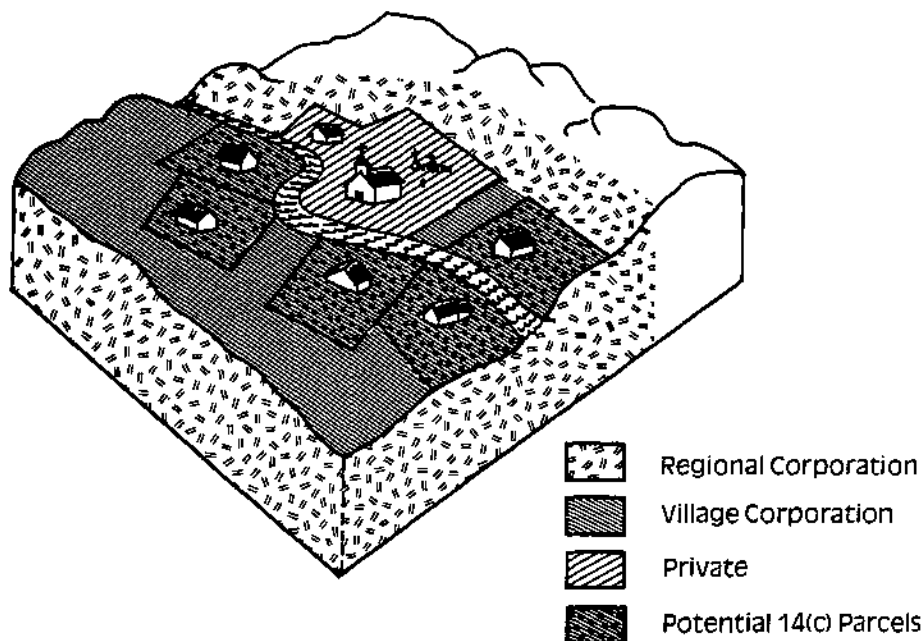
Who is Entitled to Receive Land Under Section 14(c)?

Section 14(c) recognizes the right of certain individuals, organizations and government agencies to receive land. The 1980 Alaska National Interest Lands Conservation Act (ANILCA or d-2) made it clear that people who occupied land as of December 18, 1971 for their homes, businesses, subsistence campsites, reindeer facilities and nonprofit organizations are entitled to receive the land under 14(c). City governments (or the state in trust on behalf of unincorporated communities) are entitled to the remaining improved lands within the community as well as lands for foreseeable community growth. The municipality or the state is entitled to land occupied by airports in December 1971.

Someone who occupied land in 1971 under a federal/state lease or permit may not be entitled to the land under 14(c). Under Section 14(g), the leases or permits are valid existing rights which the corporation must honor for their duration. The U.S. District Court ruled in Buettner and Hamar vs. Kivilco, Incorporated that 14(c) does not apply to lands occupied in 1971 under a valid existing right. Also, people may not be entitled to land under 14(c) if their presence in 1971 was unauthorized, for instance if they had been denied a homestead or other public land entry. Two recent federal appeals court decisions (Lee vs. U.S. and Donnelly vs. U.S.) upheld this interpretation. (See Appendix ____ for more information on these important court cases.) People are not entitled to land under 14(c) if their occupancy of land began after December 18, 1971.

What Lands Can the Corporation Convey?

A corporation can convey only lands it receives from the federal government. Since a village corporation only receives surface lands, surface lands are all that it can convey under 14(c).



When Should the Corporation Begin?

The obligation to transfer land into private ownership under section 14(c) does not begin until the village corporation receives interim conveyance (IC) or patent.⁶ Both the IC and patent transfer title to the corporation. The difference is that patent is title to surveyed lands and interim conveyance is title to unsurveyed lands. Since most lands transferred to corporations are not yet surveyed, BLM usually gives interim conveyances. After BLM surveys inholdings and the exterior boundaries of village selections, a patent will be given to the corporation.

Since there is no deadline for submitting map of boundaries to BLM, a corporation has some flexibility to set its own pace in land planning. The 14(c) process should fit into the corporation's overall land management plans. Although you don't want to rush the process so that it creates problems later, the corporation will not have clear title to its lands until 14(c) is completed. In some cases, the board might want to begin 14(c) planning before it receives interim conveyance.

6. Section 1437(d) and 1410 of ANILCA.

Chapter 2

General Reconveyance Guidelines Common to Sections 14(c)(1) and (2)

The general considerations in this chapter apply to the 14(c)(1) conveyances for homes, businesses, subsistence campsites, and reindeer facilities as well as to the 14(c)(2) conveyances for nonprofit organizations.

ANCSA does not provide guidelines for setting up a process of reconveyance. The board of directors has the responsibility for this. Chapters 2 through 5 outline some considerations which the board can discuss as it sets the corporation's overall 14(c) policy. Please remember that these are not the only options to consider.

Acreage

ANCSA does not specify how much land is to be conveyed for section 14(c)(1) and (2). Other than saying "the tract occupied", Congress left this up to the village corporation. In some villages, the homes, businesses and non-profits are close together. In others, they are more widely spaced. In many



Rob Stapleton/ Rural CAP

An example of closely spaced houses, Nulato.



Rob Stapleton/RURAL CAP

An example of houses which are widely spaced, Hooper Bay.

villages, there is a mixture of older buildings close together and new housing on bigger lots. The amount conveyed will have to be decided on an individual basis in most cases because standard size guidelines may not fit.

In the case, Steven Hakala and George Kitchen v. Atxam Corporation (File No. S-1866) the Supreme Court of the State of Alaska asked the trial court to apply the traditional definition of "curtilage" to determine the size of tract the claimants were entitled to under 14(c). The traditional definition of curtilage which could serve as a guide for corporations in deciding the extent of occupied tracts is:

A piece of ground commonly used with the dwelling house. A small piece of land, not necessarily enclosed, around the dwelling house, and generally includes the buildings used for domestic purposes in the conduct of family affairs. A courtyard or the space of ground adjoining the dwelling house necessary and convenient and habitually used for family purposes and the carrying on of domestic employments. A piece of ground within the common enclosure belonging to a dwelling house, and enjoyed with it, for its more convenient occupation.^{6b}

Subsistence campsites are usually away from the village and some corporations have set size guidelines for them. Each board will have to look at its own traditional subsistence patterns and determine what is appropriate acreage for that village. The board will need to be flexible because some occupied tracts may cover more ground, or extended families may want to own land together. (See communal lands option on page 27.) The board may want to minimize the size of the campsite itself, but give people permission to use the land nearby. (See page 31 for more information on this option.)

Occupancy as of December 18, 1971 the key factor is determining eligibility for 14(c) parcels. Although improvements on the land are not required, they help prove occupancy better than anything else. Most 14(c) parcels will probably have some improvements, although structures are not essential. For instance, a subsistence campsite may not have any permanent structure. Common types of improvements are listed on the following page.

6b. Black's Law Dictionary 346 (5th ed. 1979).

**Examples of
Improvements or Physical Evidence
on Land Applied for Under
Section 14(c)(1)**

House or Cabin	Dog Tie Downs	Campsites
Animal Bones	Dog Houses	Garden
Garbage Pit	Temporary Shelter (Lean-To)	Store
Reindeer Corral	Fire Pit	Walkway
Reindeer Line Camp	Cleared Area	Fence
Set Net Site	Fish Cutting Table	Tent
Food Storage Pit	Fish Racks	Tent Frame
Wood/Timber Used for Fuel	Boat Landing or Dock	Fishwheel
Old House Pits	Boat Rack	Meat Racks
Business Equipment Storage	Warehouse/Storage House	Smoke House
Fuel Storage Tank	Trails/Road to Campsite	Bathhouse
Water Tank	Hunting Racks	Outhouse
Clothesline	Net Racks	
Stretch Frame	Food Cache	



Examples of Improvements — left, meat racks at Gambell; upper right, food cache at Nulato. (Rob Stapleton/Rural CAP) Lower right, dog tie downs. (Community Enterprise Development Corporation)

Access

Access is a means of approach to a parcel of land. Access can either be for the general public (as for instance, public highways or roads) or for the use of only the parcels' owner or possibly a group of owners.

Except for community lands and airports, parcels approved for reconveyance will become private property. Under state law, all these newest property owners will be entitled to the same rights as all other private property owners. These rights include access which allows the property owner to get to his or her land. All 14(c) tracts must have a means of access and any village tracts without a legal access shown on the plan of survey may not be approved for survey.

Some public easements will probably already have been reserved in your corporation's interim conveyance (IC) document. This normally would include logical stopping sites along lakes, bays, and rivers and existing and future public access routes across corporation lands to public lands or facilities beyond. Routes which everyone uses within the village may or may not be reserved in the IC. Normally these village roads and trails may also be included as part of the 14(c)(3) community lands, but some (usually outlying ones) could be permanently dedicated as a public easement with the village

corporation still retaining the underlying ownership. A utility easement for powerlines, pipelines, and the like is usually not a public access easement unless it is specifically designated for that use.



Waterway access, Hooper Bay.

Rob Stapleton/Rural CAP



Walkway.

CEDC

Subsistence campsite owners usually have a traditional access route which should be mapped out in a claimant's 14(c) application. Traditional types of access may include snowmobiles, motorboats, dogteams, three wheelers, etc. Methods of transportation which cause damage to the surface, such as 4 x 4 wheeled vehicles, or bulldozers can be specifically excluded. The board will have to discuss what type of policy will be used to grant reasonable access. Easements, licenses, permits, or rights-of-way have been various methods utilized thus far. Although such traditional access should be guaranteed by the corporation, actual conveyance of access easements is neither necessary nor recommended [except as a part of the village 14(c)(3) conveyance.]

Dates of Occupancy and Abandonment

Although ANILCA specified that the corporation is to reconvey certain tracts "occupied as of December 18, 1971," there are still many possible interpretations of what this means. For instance, subsistence campsites are not usually occupied during the month of December. This does not mean that people cannot receive their summer subsistence campsites. The corporation may need to be specific in defining some of the 14(c) terms to reflect traditional customs of land use.

Abandonment means purposely giving up your right or claim to property without any intent to gain title or possession again. Someone who is in the military or away at school for a few years may not have abandoned a 14(c) claim if he or she intends to return to the village to live. However, someone who moved away from the village several years ago without intending to return, may have abandoned his or her 14(c) claim.

There are differing opinions on the subject of abandonment of 14(c) claims because at present there are no set rules. Each board must use common sense in looking at the reasons why someone who applies is no longer occupying the land. An attorney may need to be consulted for help in working out a solution to some situations.



Sharon McClintock/ANF

Abandoned cabin.

Rights of Successors

As of December 18, 1971, people with valid 14(c) claims had a right to receive their parcels even though it would be years before the 14(c) process could be completed. If someone dies before receiving title to a valid 14(c) claim, the right to receive the property passes to his/her heirs. If an individual dies without a will, the courts will decide who the proper heir(s) are according to the Alaska State laws of inheritance.

When an heir applies for a 14(c) parcel, s/he should provide certain information:

- a. The corporation should be given a copy of the person's will, or if the person died without a will, a copy of the court judgment. Oral sworn testimony from individuals may also be provided.
- b. If the person who occupied the land in 1971 died before filing a 14(c) application, the board will also need information about the person's occupancy of the land. This information should come from individuals who are not immediate relatives of the heirs. It can be in the form of written affidavits or oral sworn testimony about the deceased person's occupancy of the land in 1971.

Some people who were entitled to the 14(c) parcels have already sold or given their land to somebody else. The corporation will have to decide how to treat these types of transfers. The corporation could honor the application if the applicant can provide a bill of sale, quit claim deed or other written proof that s/he received the land from someone with a valid 14(c) claim. If there was more than one transfer of the same parcel over the years, written proof of each transaction would be necessary.

Joint Claimants

Under some circumstances, more than one person may receive the same parcel.

- a. A husband and wife may jointly receive the same parcel if they occupied the land together as of December 18, 1971. In this case, the corporation should convey title to the husband and wife as "tenants-by-the-entirety" unless they specifically request otherwise. This means that both husband and wife have the right to use the entire property. Neither one has the right to prevent the other from using a portion of it. If either spouse dies, the surviving spouse gets the whole property.

- b. If a claimant was married after December 18, 1971, the corporation should convey title only to the person who was eligible in 1971, not both spouses. If the claimant wishes to own with his/her spouse, then the property can be transferred to joint ownership with another deed. It is the responsibility of the claimant to provide for this joint ownership. Once the corporation deeds a parcel over to a claimant, its job is done.

- c. If a married couple was entitled to a valid 14(c) claim in 1971 and later divorced, both persons should check with their lawyers about how to handle the property. In the 14(c) application, the claimant should list the ex-spouse where it says, "If anyone else might claim ownership of the land, please give their name and address."

- d. If two or more people (other than a husband and wife) are entitled to the same parcel of land and want to own it jointly, then the corporation would convey title to the claimants as "tenants-in-common." This means that they all will share ownership of the whole property rather than have separate sections of their own. Each owner may sell his/her percentage of the land to anyone s/he wants, and leave it to anyone s/he wants when s/he dies. When one owner dies, his/her share of the land goes to his/her heirs, not automatically to the other owners.

- e. If a number of people apply for ownership of a single area, the corporation has several options. If the use is limited to only those applicants, the land could be owned by all as "tenants-in-common." Or the land could be split among the occupants with each owning only the piece of land on which his camp sits. The whole group could then arrange to use the lands around the camps with permission from the corporation. (See page 26.) The disadvantage here would be smaller individual camp-site lots. The advantage would be that everyone would own individual lots and still have use of the land around them. Another option is for

the corporation to reserve the parcel for communal use, if it is an area which many people customarily use and enjoy together. See following page for more information.



Richard O. Stern



CEDC

Cluster campsites.

Communal Lands

Under 14(c)(1), an individual is entitled to obtain a deed to land occupied as a subsistence campsite. In many Alaska villages, subsistence areas are often shared by a specific group of people or extended families. If each occupant were to qualify for an individual 14(c)(1) campsite parcel, the size of each campsite may be rather small, if the exact location could be determined at all. As a further disadvantage, as property owners, each can sell his/her own parcel or exclude others from using it. These situations could cause a great hardship to the remaining people which depend on the land for subsistence.

Several communities have expressed an interest in preserving an ownership pattern which allows for continued traditional use of the land by a group of people. But, in order to do so would require careful consideration by the corporation, because several workable mechanisms exist.

Interestingly, this concern for preserving traditional use patterns is not new. In 1887, when Massachusetts Senator Henry Dawes successfully sought passage of a new law called the General Allotment Act, (also referred to as the Dawes Act) nineteen Indian tribes unanimously opposed it. The Act, they

claimed, was aimed at breaking down Indian culture by allowing individual ownership of land. Private ownership led to the destruction of the Indian system of common ownership of land and lessened their sense of community identity.⁷

In villages where a number of people apply for ownership of a single area, the corporation has several options.

1. If the use is limited to only a few applicants, the land could be owned by all as "tenants-in-common" explained on page 25.
2. If the use is limited to family or extended family members, or just a cooperative group, the corporation could deed the land (with suitable covenants agreeable by everyone) to an association comprised of all family or group members. Each member would be a shareholder of the association owning equal shares. A board whose members are chosen by vote can make decisions about the use of the land at the direction of the group.

Descendants of members can be included as new members by vote of the group, or as another option, shares could be made inheritable (which however, might dilute the group if shares were allowed to be split).

7. Arnold, Robert D., Alaska Native Land Claims. Alaska Native Foundation, 1976.

3. Another option of the corporation is to reserve the parcel for community use under corporation ownership. The area would be classified as communal subsistence lands. Potential 14(c)(1) claimants would, however, be required to waive their rights to a 14(c)(1) subsistence campsite claim to allow for this type of designation. In exchange to this waiver of rights, the corporation should legally guarantee a continued subsistence use classification or permanent easement. Users of the land would be responsible for determining what uses are allowable or prohibited and also for monitoring trespass. Non-shareholder users would need to indemnify the corporation for liability in case someone gets hurt on the property.

4. The corporation could also designate the property for transfer under ANCSA § 14(c)(3), the reconveyance of land to the municipality or the state in trust (MLT). A possible disadvantage to this would be that under municipal/state laws, the general public would probably be able to use it freely.

5. Another option would be for the corporation to encourage potential claimants to apply for land use permits or leases rather than conveying title to group use lands. This option would allow persons and families to move campsites from year to year and also protect the land from being sold by individual owners in the future. It would, however, not protect against corporate changes in policy without some sort of corporate guarantee. Additionally, if individuals who are valid 14(c) claimants demand title to their lands under 14(c), the corporation must convey title to them.

Adverse Possession

Under state law, it is possible for people to occupy or "squat" on corporation land for a long time to claim ownership even though they were not entitled to receive any land from the federal government such as, a Native Allotment or townsite lot, or from the corporation under 14(c). This is called adverse possession.⁸ In Alaska, to claim ownership by adverse possession, a person would have to:

- a. Occupy and use the property for at least seven years if he or she has some document which supposedly made him/her the owner (or color of title), or for ten years if there is no "ownership" document.
- b. Occupy and use the property continuously for the entire seven or ten years (with only temporary absences) in an open or notorious possession without hiding.
- c. Occupy and use the property without the owner's permission throughout the entire time.
- d. Initiate a legal step called action to quiet title which consists of legal notice and a probable court hearing.

8. Adverse possession is explained in the Alaska Statutes 9.10.030 and 9.25.050.

Adverse possession could be a problem for village corporations which have already received interim conveyance from the government. Although people cannot claim adverse possession against the government, they can claim it against private land owners such as village corporations. The corporations do have temporary protection against adverse possession. Under ANILCA, the seven or ten year period cannot start until three years after the corporation receives interim conveyance from the government.⁹

Permission to Use Lands

There are several things a corporation can do to avoid adverse possession of its land. Since adverse possession requires use of property without permission, the corporation can protect its ownership by granting permission to use certain lands. For instance, to prevent adverse possession of land surrounding 14(c) campsites, the corporation may want to give permission for campsite owners to use adjacent lands. Permission can be given in the form



9. Section 907(c) and (d) of ANILCA.

of leases, permits or agreements which can spell out restricted and allowable uses. The difference between a permit and a lease is that a permit is for a short term and grants fewer and more temporary rights than the lease. Both leases or permits can contain conditions to protect the use of the lands and limit the uses to only those specifically authorized. Time limitations or renewal options could also be included along with possible reverter clauses which would allow the corporation to reclaim the properties if they are no longer needed.

There are a number of advantages to the lease/permit option; first, it is a potential income source to the corporation, and secondly, it removes one of the legal conditions (without permission) for adverse possession thus effectively eliminating the threat. Another advantage of leases or permits is that they are a highly flexible instrument that allows for virtually any conditions or terms that are reasonable to be written into them, yet it leaves the underlying ownership of the land to the corporation.

Chapter 3

Board Policy Considerations for Reconveyance of Homes, Businesses, Campsites and Reindeer Facilities

Section 14(c)(1)

The first major step in the reconveyance process is to establish board policy. Policy will provide the corporation with a set of rules to follow in recognizing rights people have to land occupied in 1971. The language of ANCSA Section 14(c)(1) provides the corporation with a few legal requirements. Other rules must be set by the corporation board. The full text of Section 14(c) is located in the appendix.

ANCSA Requirements

Text of Section 14(c)(1)

Section 14(c)(1) (as amended) states: "Upon receipt of a patent or patents⁹:
(1) the Village Corporation shall first convey to any Native or non-Native

9. Interim conveyance or patent, whichever comes earlier, ANILCA 1410 and 1437(d).

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 headquarters for reindeer husbandry;"

Vesting Date

Any parcel claimed under Section 14(c)(1) of ANCSA must have been occupied by the claimant as of December 18, 1971. The date when you have rights to something is called the vesting date.

Without Payment

Reconveyances for homes, businesses, campsites, and reindeer facilities must be made "without consideration", which means that the village corporation must transfer the land free of charge, without payment.



Board Policy Considerations

ANCSA does not define the terms, "primary place of residence, primary place of business, subsistence campsites, or headquarters for reindeer husbandry." Congress left this job to the village corporation. Since ANCSA provides no statewide guidelines, each village corporation has an opportunity to incorporate its own traditional land use patterns into board policy and procedures. While policy provides the corporation with rules to follow, procedures are guidelines which will be used to implement board policy.

ANCSA (as amended) does not say how much land should be given, other than saying, "the tract occupied as of December 18, 1971." The key for determining size is the extent of occupancy of the land on December 18, 1971. For the most part, each parcel will have to be determined on an individual basis using the best evidence available .

Following are some examples which may help the village corporation set its reconveyance policies. Remember, each village has its own land use traditions, so policies will differ from one to another.

Definitions

- a. Primary Place of Residence. This is the parcel of land used as the person's principal and most important place of residence. Normally, this would require a permanent structure.



There can be only one primary place of residence. This could include multiple parcels for uses associated with the primary residence. Recreational cabins, summer homes, etc. do not qualify since they are not the primary place of residence. A good indication is where the person is registered to vote.



Homes — upper, Hooper Bay; lower, Nulato. (Rob Stapleton/Rural CAP)

b. Primary Place of Business. This is the place that serves as the center of any business activity for that business.



Rob Stapleton/RURAL CAP

Business site, Kotzebue.

Although ANCSA specifies a primary (or main) place of business, the Alaska Supreme Court ruled in Steven Hakala and George Kitchen v. Atxam Corporation, that an individual may qualify for more than one primary place of business, but that there can only be one primary place of business for each business in which the person engages in.

The corporation's definition of a primary business site can distinguish between continuous and casual use. Continuous use would be regular use, such as month after month, year after year, or during every summer. Casual use would be every few years, occasionally, etc., and might not qualify for a "primary" place of business.

In applications for primary place of business parcels, the following information may help the corporation determine whether the claim is valid:

- Type of business
- 1971 business license number
- Percentage of the claimant's gross income which was produced by the business during 1971
- Tax records during 1971.

If more than one business was operating on December 18, 1971, the applicant could be asked to provide the above information for each business and to estimate what percentage of time was devoted to each business. This would help in deciding which one was the primary business.

- c. Subsistence Campsite. This is the parcel of land occupied on a seasonal basis as a campsite while the occupant harvests fish, wildlife, plants, fuel, and other products of the land and engages in other activities associated with the subsistence way of life.

Since ANCSA doesn't say "primary" campsite, applicants may apply for more than one parcel if they occupied more than one subsistence campsite in 1971. The applicant must show that each parcel was used as a subsistence campsite.

- d. Headquarters for Reindeer Husbandry. This is a parcel of land occupied for the purpose of managing, processing, and conducting reindeer herding activities. A claimant may apply for more than one parcel if there were facilities associated with the herding of reindeer in more than one location.



Richard O. Stern

Reindeer headquarter improvements.

Size of Parcel

Although the size of each parcel will basically be the amount of land occupied on December 18, 1971, the board may want to consider other factors in its decision on lot lines. For example, if most families occupied one-fourth acre, but one family occupied only one-eighth acre, then it might be more fair to give everyone one-fourth acre if there is room. Other factors to consider might include density, new or expected services, erosion, potential hazards, or topography.

a. Primary Place of Residence

A primary consideration in determining size is occupancy as of December 18, 1971. However, the board is not prevented from including factors such as present conditions. For instance, access to public facilities and rights-of-way should be considered. All residential parcels will include some form of permanent structure used as the main residence. Many will include additional improvements, such as sheds or steam baths.

The size of each parcel should be determined by the board through its evaluation of all the previously mentioned considerations, while still allowing the recipient the full use of his property as intended by Section 14(c)(1).

b. Primary Place of Business

The same elements used in determining the size of a primary place of residence should be utilized here. The nature of the business itself will provide the best guideline for the size of the parcel required. For example, a small cafe would occupy less land than a large store with a warehouse.

c. Subsistence Campsite

The village corporation has a wider range of options to consider in reconveying land for subsistence campsites than for homes or businesses. Some corporations have set a maximum size for subsistence parcels. Others have depended solely on the amount occupied, without trying to make all parcels roughly the same size. Since subsistence patterns differ from region to region, the size may vary also. In some cases, the corporation may have difficulty establishing the area occupied in 1971 because there may be no physical improvements. Standard size guidelines may be helpful in these situations.

Some campsite areas are shared by extended families or several unrelated people. The parcels may be reconveyed to them under 14(c) as "tenants-in-common" if all occupants agree to the arrangement. Other options are

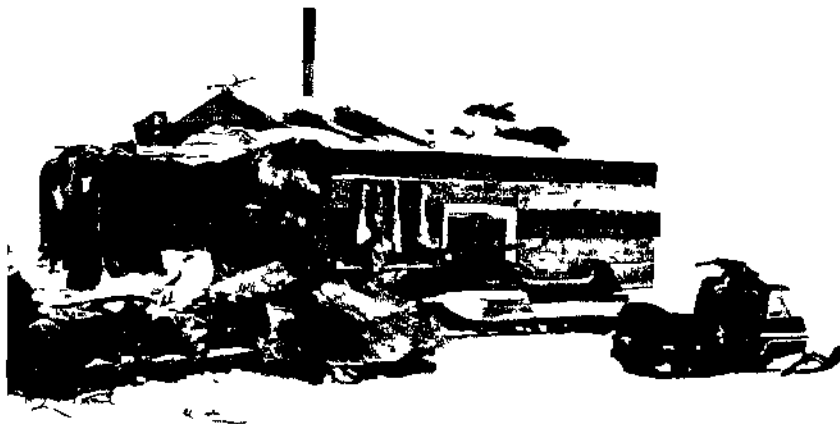
for each person to own his tract individually or for the corporation to reserve the whole area for communal use as discussed on pages 27-29.

d. Headquarters for Reindeer Husbandry

Reindeer headquarter sites vary in size and may include several parcels in different locations. The size will depend upon a number of factors, including the size of the herd. This has a direct influence on the size of facilities necessary to accommodate its management. Another factor is the location of the facilities and the type of terrain where they are located. Since each herder may have his own distinct corral pattern, the size will be entirely dependent upon each individual case.

The corporation is required to convey the amount of land occupied by reindeer facilities on December 18, 1971. However, due to increase in herd size and greater demand for reindeer products, the amount of land used in 1971 may be less than what is used today. The corporation could sell or lease the additional land needed or issue a permit to make it available for use with or without charge.

The type of improvements will also be a factor in the size. Traditionally, facilities have included line camps (consisting of cabins or tent frames), corrals, drying racks, storage sheds, and butchering facilities. These improvements will have the greatest influence on the size of reindeer headquarter parcels.



Upper left, reindeer corral. Note wings, chute, pockets and camp. Upper right, close-up of corral. Below, reindeer line camp. (Richard O. Stern)

Chapter 4

Board Policy Considerations for Reconveyance of Parcels for Nonprofits Section 14(c)(2)

The reconveyance of parcels of land for nonprofit organizations follows the same general format as the reconveyance of homes, businesses, campsites, and reindeer facilities in Section 14(c)(1). The only difference is that the corporation is given a choice to either require payment or convey the land at no cost to the nonprofit organizations.

ANCSA Requirements

Text of Section 14(c)(2)

Section 14(c) (as amended) states: "Upon receipt of a patent or patents¹⁰:
(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair

10. Interim conveyance or patent, whichever comes earlier, ANILCA 1410 and 1437(d).

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;"

Vesting Date

Any parcel claimed under Section 14(c)(2) of ANCSA must have been occupied by the claimant as of December 18, 1971. The date when you have rights to something is called the "vesting date."

Nonprofit Organizations

Alaska Statute Sec. 10.20.005 provides a list of what types of organizations may be organized as nonprofits. Any organization not organized for profit purposes also qualifies as nonprofit under the Internal Revenue Code whether tax-exempt or not. Below are some possible examples:

EXAMPLES OF 14(c)(2) NONPROFIT ORGANIZATIONS

Examples, type and possible land uses, follow:

Alaska Native Brotherhood or Sisterhood	fraternal	hall
Campfire/Scouts	civic	camp
Russian Orthodox, Moravian, Episcopal, etc.	religious	church & cemetery
Little League	athletic	ballfield
Headstart	educational	school and playground
Whaling Association	fraternal	office
Fisherman's Union	trade union	office
VFW/Eskimo Scouts	patriotic	hall/parade ground
4-H Club	agricultural	garden plot
Sec. 16 IRA Council /traditional government	civic	cultural hall
Aquacultural Association	commercial association	hatchery



Rob Stapleton/RURAL CAP

St. Paul church.

Board Policy Considerations

Payment for Nonprofit Organizations

The terms "without consideration" and "upon payment of an amount not in excess of fair market value" give the village corporation a choice. It can either convey the land to nonprofits free of charge (without consideration) or require payment.

If payment is charged, it cannot be more than the fair market value of the land when the nonprofit first occupied the parcel. The corporation can

charge less than this value, but not more. If improvements are located on the land, the corporation cannot include their value in the payment required. Only the land value is estimated.

In deciding which option to choose, the board of directors should consider several factors. The directors are entrusted by law with a fiduciary responsibility to the shareholders of the corporation. In addition, shareholders may have elected the board to fulfill certain goals which they feel are important.

The board may want to establish a 14(c)(2) policy which would provide income for the village corporation by conveying the land for its earlier fair market value. In cases where the value was high, the corporation might earn some significant income this way. In other cases, if the land had little commercial value or if the nonprofit has been on the site for many years, the earlier dollar value of the land may be quite low. In these cases, a village corporation might spend more money on an appraisal and staff time deciding how much to charge than it would receive later in payment. If so, a payment policy would not provide much (if any) income or protect stockholder interests.

On the other hand, the board may decide that it is in the shareholders' best interests to donate the land to the nonprofit. The corporation may be able to take a tax deduction for the charitable contribution. Another factor to

consider is whether the nonprofit organization has the ability to pay. For instance, can the church or clinic afford to pay for the land on which it was built?

If the board decides to require payment, the corporation and the nonprofit organization should negotiate the amount of payment as explained above. If the parties cannot agree on the fair market value of the land, an appraiser can be consulted. The corporation and the nonprofit organization could agree to split the cost of consulting an appraiser.

Uniform Payment Policy

The corporation does not necessarily have to adopt a policy which treats all nonprofit organizations in the same manner. It can give land free to some nonprofits and require payment from the rest. However, it may be easier and less troublesome to have one set policy. This is for the corporation to decide.

Size of Parcel

The board could rely on the same factors used in determining the size of homes and business parcels, since most nonprofits are also located within the village area. The size of parcel may vary depending on the type of nonprofit. For example, a school parcel might be larger than a church parcel.

Transfer of all Corporation Lands

Whether a village corporation can convey a large portion of all of its land to an IRA or traditional council under § 14(c) is an issue of considerable interest. Assuming that the council qualifies as a nonprofit organization, the issue is whether the council was an "occupant" as of December 18, 1971. Clearly, specific buildings and sites occupied for nonprofit uses qualify. However, other corporation lands that are not specifically used for tribal government activities will not be considered "occupied" by the council. Occupancy, as the term is likely to be used in § 14(c)(2), is perhaps best explained by an analogy. The Municipality of Anchorage has jurisdiction over all activities within its boundaries; but it only occupies specific sites, as an owner, e.g., municipal headquarters, library, etc.

ANCSA makes the 14(c)(2) reconveyance mandatory by saying a corporation "shall" convey certain lands to nonprofits. Since the reconveyance is mandatory, it presumably could be compelled by court action. Congress clearly did not, in passing ANCSA, intend tribal organizations to be able to compel a village corporation to convey the entire land holding of the corporation to it. If, however, tribal organizations are treated as "occupants" of the village and adjacent area, this is the exact result. In addition, a transfer of all corporation land to tribal organizations under § 14(c)(2) would create a conflict with § 14(c)(3); which is also mandated. Since treating tribal organizations as nonprofit occupants of village lands leads to nullifying the 14(c)(3) duty Congress could not have intended that a tribal organization be treated as a § 14(c)(2) occupant of all village land.

Board Policy Checklist

The previous chapters provided various options for board consideration in setting policy on 14(c)(1) and (2) reconveyances. This checklist is included so that the board can make sure all policy areas have been covered.

CHECKLIST-14(c)(1) and (2) RECONVEYANCE POLICIES

The Board needs to make the following determinations:

- _____ **Definition of Primary Place of Residence**
- _____ **Size of Tract for Primary Place of Residence**
- _____ **Definition of Primary Place of Business**
- _____ **Size of Tract for Primary Place of Business**
- _____ **Definition of Subsistence Campsite**
- _____ **Size of Tract for Subsistence Campsite**
- _____ **Definition of Headquarters for Reindeer Husbandry**
- _____ **Size of Tract for Headquarters for Reindeer Husbandry**
- _____ **Definition of Nonprofit Organization**
- _____ **Size of Tract for Nonprofit Organization**
- _____ **Payment Policy for Nonprofit Parcels**
- _____ **Joint Claimants and Communal Lands**
- _____ **Claims by Successors**
- _____ **Competing Applications**
- _____ **Shared Use Tracts**
- _____ **Application and Decision Making Process**
- _____ **Access**

Chapter 5

The Reconveyance Process

The technical reconveyance process can begin when the board has decided its general 14(c) policies. The chapter discusses all the steps in the reconveyance process from giving notice to preparing the map of boundaries. Remember that the order and details of these steps will vary from corporation to corporation depending upon individual situations. References are made throughout this chapter to sample forms which are in the appendix. These forms can either be used as they appear or they can be modified to suit your corporation's 14(c) process.

Making Policy: Step 1

The board's first step, making general policy on 14(c), was discussed in Chapters two through four.

Assigning Staff Work: Step 2

When the corporation is ready to begin, it will need to assign someone to do the work of implementing the reconveyance process. These tasks would involve publicizing the program, helping people with applications, keeping good records, gathering information for board review, conducting field exams, handling correspondence, and drafting the plan of survey.

After reading this chapter, you will have a better idea of the amount of work involved. Depending on the size of your village and the number of claims you expect, 14(c) may need a full-time or part-time person. The board could also consider assigning the work to a committee.

Giving Notice: Step 3

After the board has decided on its general 14(c) policies and assigned someone to do the staff work, the next step is to notify people that the corporation is taking applications. It is important that the corporation make a reasonable effort to contact everyone (not just shareholders) who may have a claim. Otherwise, people who would be entitled to parcels can rightly say that they didn't know it was time to apply. There are two aspects to con-

sider in giving notice: how much time is adequate, and where the notice should be given. Both aspects are best answered by the corporation board in light of the particular village situation.

How Long?

How long to give notice depends on the village itself, but it should not be less than 60 days. This is the legal notice period required for several types of land matters such as "quiet title actions." Some corporations may need much more time to contact people, especially if many residents are out of town. The notice period could last several months, or even years. To notify people who occupy subsistence campsites only during certain seasons, some corporations may want to extend the application deadline for a full year. The balance is between giving enough time to potential applicants and allowing the corporation to settle its obligations within a reasonable time so it can have clear title to its ANCSA lands.

In most communities, the summer months would not be a good time to set the application deadline because village residents may be at subsistence camps, out on fishing boats, etc. Deadlines close to important holidays may not be a good idea either.

Where?

It is also important to consider where to give notice. Effective notice depends upon how many of the potential applicants are in the village, subsistence patterns, where residents visit when out of town, etc. It certainly would not be enough to post a notice in an unused building or publish it in a newspaper that no one reads; but there are no fixed rules on what is enough.

The corporation can place notices in well-used buildings such as the post office, store, armory, clinic, and community hall. (A sample notice is in the appendix as Form A.) Many potential 14(c) applicants can be reached by publishing a notice or ad in a newspaper which is widely read in the region, and in the corporation's newsletter. (See Form B in appendix.) The frequency of publication might be four to six times over a 60-120 day period.

Radio and TV announcements are other effective means to inform people, as are public information meetings. Radio can be especially helpful during the summer, when people depend on it for messages and news while at camp. The annual meeting is an excellent time to announce a reconveyance program and to explain 14(c) to stockholders. Informational materials on 14(c) can accompany proxy materials for the annual meeting. Some suggestions for giving notice are listed on the next page.

Suggestions for Giving Notice

- **Hold a public meeting in the village.**
- **Post notice and map in busy places in village, such as the post office, community hall, store and corporation office.**
- **Publish notices in the Tundra Times, the Anchorage Daily News or the Anchorage Times, and/or a newspaper of general circulation in the region.**
- **Include a notice in the corporation newsletter or a letter to the shareholders.**
- **Include a notice in the annual meeting announcement.**
- **Make an announcement on the radio and/or television.**

The corporation may want to make a special effort to seek out older people who may have difficulty understanding English or the reconveyance process. Some of these people were passed over when various land entry programs were initiated in the past. They may require special assistance to apply for 14(c) land.

It is important that the corporation keep records of its efforts to notify people about 14(c) applications. It will give some measure of protection to the corporation to show that a reasonable effort was made to contact potential 14(c) claimants. Keep a record of the times notices are published, the frequency of radio announcements, where notices were posted, etc. (Form C is a chart you can use for this purpose. See Appendix.)

Receiving Applications: Step 4

When notice about 14(c) is given, the corporation must be ready to distribute application forms. Two sample applications, (Form D) are in appendix. Most people can pick up an application at the corporation office, but be prepared to mail them to people living outside the village. (See Form E in appendix for a letter that could accompany the application form.)

All 14(c) applications should be submitted directly to the village corporation. A person could be available to help people fill out applications and someone should be assigned to accept them as they come in. Even people who are not sure if reconveyance applies to them should fill out an application.

If an applicant wants to provide additional information for board review, sworn statements (affidavits) can be assigned by people who know about the applicant's occupancy. (See Form F in appendix.) Affidavits are optional, but some corporations find them helpful, especially in situations where the 14(c) applicant lives out of town.

To keep track of each applicant's materials, an individual file folder should be started when each application is turned in. Be sure to mark the date received on each completed application. All forms, correspondence, maps,

reports, and interviews which relate to a person's application should be kept in this file folder. If they are kept in alphabetical order in a file drawer or box, it will be much easier to find someone's folder when you need it.

Gathering Information: Step 5

Someone should be assigned to gather the preliminary information for the application review. The first task is checking the land status. This step is important because 14(c) reconveyances can only be granted for land which the corporation received from the federal government under ANCSA. The corporation cannot give 14(c) parcels if the lands are claimed or have already been patented to others for mining claims, Native Allotments, homesites, etc. Land records can be checked at the State's district recording offices, the BLM district offices or the Alaska Department of Natural Resources (DNR) if the corporation's land is located within the vicinity of State land holdings. BLM or State DNR "master title plats" (MTP's) will show which lands are patented and which lands fall within boundaries of the village corporation selection. Aerial photographs taken before or near December 18, 1971 will show what buildings and improvements were located on the land at that time. Current aerial photographs will show post-71 improvements.

Conducting Field Examinations: Step 6

The field exam is a visit to the site which can provide information to help the board determine the validity of the 14(c) claims. A date and time for a

field examination of the land should be arranged with each 14(c) applicant. The visits could be made as each application comes in or they could all be scheduled after the application deadline. It may be helpful to look at campsites during the time of year the applicant claims to use the land. The exam should be conducted with the applicant present if possible. All of the field exam information should be put into the applicant's 14(c) file folder.

The report should include a description of all the improvements, visible use and occupancy. (See the report format in Form G in appendix.) It can also include interviews with adjacent property owners or references. They can be interviewed if there is need for more information such as when and how the applicant first occupied the property, when improvements were built, etc. In some cases, it may be helpful to take photographs of the land and improvements. However, remember that the key date for occupancy is December 1971, not the present. If the applicant has any photographs taken around December 1971, these can be attached to the field report.

Selecting Committees for Decision Making: Step 7

While applications are being accepted, the board needs to make final decisions about its 14(c) process if it has not done so already. This includes deciding who will make the preliminary decisions on 14(c) applications, how to handle appeals, and what additional forms will be used in the process.

The corporation can give the job of reviewing 14(c) applications to several types of committees. To date, various corporations have given this job to their land committee, the full board of directors, and a committee of board and non-board members.

Since each applicant should have an opportunity to appeal if dissatisfied with the initial decision, a different group should be appointed to hear appeals. For example, if the board's land committee makes the initial decisions, then the full board could hear appeals. Or if the full board makes the initial decisions, then appeals could be made to a grievance committee, board of elders, neutral person, or hearing officer.

Reviewing Applications: Step 8

When the staff work on the applications is finished, the committee assigned to make the initial decision should review all the information included in each 14(c) file. This will include the application, any affidavits, the land status check and the field exam report. This committee then makes a preliminary decision on each application.

Notifying the Applicant: Step 9

The applicant should be informed of the committee's decision by certified letter. To make sure the letter is delivered to the applicant only, mark "restricted delivery, show to whom and date delivered" on the receipt for certified mail. Since applicants must sign to receive the letter, the corporation will know that its decision has been communicated. This is especially important if the application has been denied because there will be a specific time period for requesting an appeal.

Keep the post office receipt in the person's 14(c) folder. If the corporation prefers to distribute letters in the village or have people pick them up, be sure to have the applicant sign that it has been received.

If the application is recommended for approval, the applicant can be sent a copy of a map showing the location of the parcel. (See Form H in appendix.)

If the application is denied, the letter should give the reasons why. (See Form I in appendix.) The denied applicant should be offered a chance to appeal if s/he feels the decision was unfair. The corporation should give the applicant a reasonable amount of time to respond to the letter, at least 30 days. If the applicant wants to appeal his/her case, a time should be arranged for the appeals committee to hear cases. See the "hearing appeals" step below.

Plotting Locations on Map: Step 10

Parcels approved for reconveyance can then be plotted on a general map or aerial photo. This is the beginning of the map of boundaries. Each applicant and the city or state in trust should be given an opportunity to review this map to be sure lot lines were drawn correctly.

Hearing Appeals: Step 11

The appeals process will allow aggrieved applicants an opportunity to provide additional information or argue his/her case. Remember that the burden of proof is on the claimant. Development of procedures to hear appeals is the responsibility of the corporation. Important considerations in this process involve setting up a committee separate from the decision making committee to avoid conflict of interest and providing adequate time and notice to individuals who appeal. Before the appeals hearing, the applicant should be given a copy of the field examination report or other pertinent information. (See Form J in appendix.) He or she should be permitted to appear at the hearing in person and/or through a lawyer. The applicant can also ask other people to speak about his or her occupancy of the land.

Making a Final Decision: Step 12

The decision reached after the appeals hearing is the final decision made on the village level. If the applicant is still not satisfied, s/he can take the issue to court. However, it is very important for the village corporation to make every attempt to resolve any dispute on the village level, because any resulting lawsuits are costly, time consuming and will not only delay the reconveyance process, but also will result in the title to land remaining clouded.

Working on the Next Phases of 14(c)

When you have completed the first two obligations of the reconveyance process--14(c)(1) and (2)--you are ready for the next phases, 14(c)(3) and 14(c)(4).

Chapter 6

Working on the Next Phases of 14(c) Municipal Reconveyance Planning 14(c)(3)

When you have proceeded well along toward accomplishing the first two obligations of the reconveyance process--14(c)(1) and (2)--you are ready to actively begin the next phases.

The next step is planning for the transfer of land for community purposes to the existing municipality [or to the state in trust--the Municipal Land Trustee (MLT)] under § 14(c)(3). The last type of reconveyance, § 14(c)(4) is to the state, city, or other airport operator for lands used in 1971 for airport facilities (Chapter 7).

This chapter is not intended to be a detailed step-by-step 14(c)(3) planning manual, but as a supplement to the 1983 Alaska Department of Community and Regional Affairs' handbook entitled COMMUNITY PLANNING FOR ANCSA 14(c) LAND RECONVEYANCES. It is intended to offer additional points and viewpoints that village corporations may need to consider.

What is ANCSA Section 14(c)(3)?

Section 14(c)(3) is the third obligation after 14(c)(1) and (2). It is a joint planning process which requires negotiation between a village corporation and city, or if there is no city, the State Municipal Land Trustee. The final 14(c) settlement agreement will specify the location and the amount of land which will be reconveyed to the city or state to meet community needs. If the city or State Municipal Land Trustee agree in writing, less than 1,280 acres, or even no acreage at all, need be conveyed.

What Does 14(c)(3) Say?

Text of ANCSA Section 14(c)(3)

Section 14(c)(3) (as amended) states: "Upon receipt of a patent or patents:¹²
(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless

12. Interim conveyance or patent, whichever comes earlier, ANILCA §1410 and 1437(d).

the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, that the word "sale," as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;"

What Does it Mean?

Simply put, Section 14(c)(3) means that the village corporation, unless it can negotiate for a lesser amount, must convey a minimum of 1,280 acres of land to meet community needs to city governments or to the state in trust. Further, the conveyance of land is subject to the conditions that a written agreement for less than a 1,280 acre reconveyance is required, and that the net proceeds from the sale of surface resources harvested or extracted (which are not utilized for governmental purposes) will go to the village corporation.

It should be emphasized that 14(c)(3) is much more than a simple reconveyance step based on the desires of the city or village corporation. Rather, it is a participatory planning/negotiation process that normally will require a written agreement for a final settlement. Because the process is one in which both parties must participate, the village corporation and the city each need to know its individual long range goals and present and future interests. This is so each will be able to bargain wisely for the best mutually acceptable compromise possible.

Who is Entitled to 14(c)(3) Land?

The village corporation is to convey land 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..." A Municipal Corporation is defined in § 3(i) of ANCSA to be "...any general unit of Municipal government under the laws of the State of Alaska." Under the Alaska Statutes (AS 29.04.010-.020), the term municipality means a home rule or general law city or an organized borough of any class.

If the village is unincorporated (as over ninety are), the land is to be conveyed to the State, to hold in trust. The Municipal Land Trustee (MLT) Program was created under Alaska law (A.S. 44.47.150) to specifically accommodate ANCSA § 14(c)(3). Alaska law pertaining to lands conveyed in

trust for unincorporated communities defines the term municipality to be only first or second class cities. Although it would seem that a borough would not qualify under that definition, and because it is not the municipality "in the Native village," a borough can be a recipient or joint recipient of 14(c)(3) lands. This occurs in cases where the village is situated wholly or partly within a borough or unified home rule municipality. A 14(c)(3) reconveyance could be made to the borough or unified home rule only if the Appropriate Village Entity gives its approval (19 AAC 90.020).

The "Appropriate Village Entity" or AVE is an officially recognized group that the trustee is satisfied can be truly representative of the entire population of the village and whose purpose is to oversee and approve of all the actions of the trustee in administering the trust lands of that village. If no AVE is recognized, each proposed action affecting trust lands requires that a special village meeting be called to obtain approval of the residents. (See page 10 and 11 of DCRA's 14(c)(3) Handbook.)

An IRA or traditional council, does not qualify as a recipient of 14(c)(3) lands under the MLT definition of municipality and there are no state laws which include them in any definition of municipality.

What Types of Land are to be Reconveyed Under 14(c)(3)?

ANCSA Section 14(c)(3) requires that the village corporation reconvey certain types of land to meet community needs.

Remaining Improved Land

The wording "... shall then convey title to the remaining surface estate of the improved land on which the Native village is located ..." means the improved land remaining after the preceding § 14(c)(1) and (2) claims have been satisfied are to be conveyed under § 14(c)(3). "Improved land" is generally recognized to mean land altered from its natural state and benefited in some positive manner for use by people. This definition is supported in the MLT regulations [19 AAC 90.990(5)] which defines improved land as "the land conveyed under ANCSA to village corporations which is changed from its natural state through valuable additions made to the land or



Improved land in the village of Nulato.

Rob Stapleton/RURAL CAP

through regular use by the residents of the village..." Thus vacant and unimproved land would not qualify of itself under this part of 14(c)(3). Other improved land uses that might not qualify are improvements to corporation land which took place after 1971 without securing the consent of the corporation. Obvious examples of improved land to be conveyed might be community buildings, cemeteries, water storage tanks, sewage lagoons, garbage dumps, and similar public uses.

Land Necessary for Community Expansion and Other Foreseeable Needs

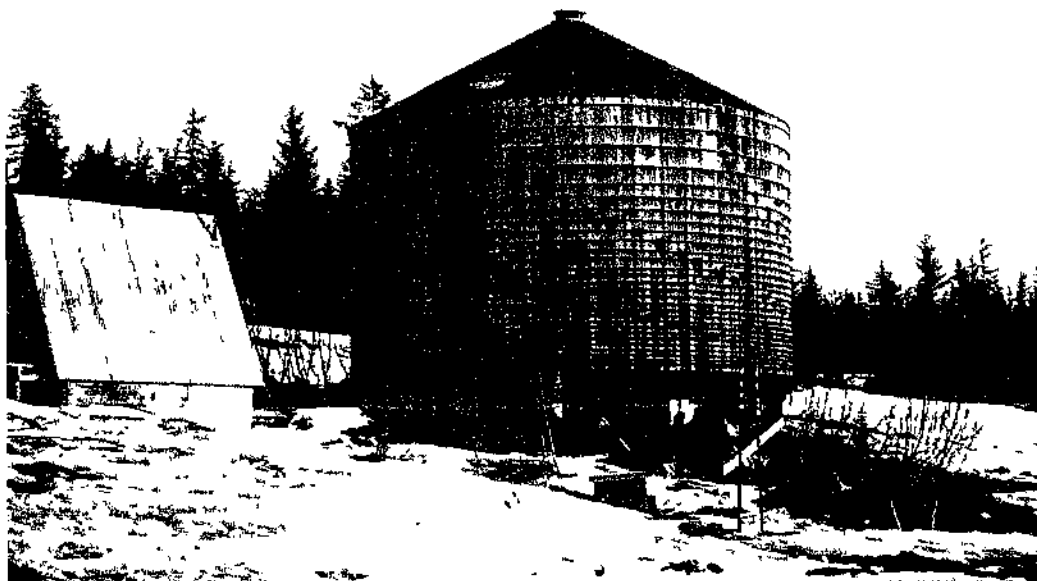
Next to be conveyed is "...land necessary for community expansion and other foreseeable community needs." As a village grows, lands which the community would use in common are good candidates for 14(c)(3) reconveyance. For example, land for expanded community facilities, new roads, a new larger



Sharon McClintock/ANF

New community hall at Fort Yukon.

garbage dump, or a new or larger airport, which are used in the performance of municipal purposes might qualify. If, on the other hand, the population over the past ten years or longer has been declining, foreseeable community land needs might be rather minimal.



Sharon McClintock/ANF

A new water tank will some day replace this one at Tatitlek.

The word "foreseeable" means, "what may reasonably be anticipated," "the ability to see or know in advance," or "that which lies within the range for which forecasts are possible." Foreseeable is probably best defined by what a competent expert witness says it is in each particular case. An example of a reasonable interpretation of foreseeable might be the ten year period used for the comprehensive plan adopted by Anchorage. Other land management entities have similar land use planning periods with more frequent periodic reviews and updates required as needed.

The Alaska Statutes (AS 29.40.030) requires the municipality's governing body to periodically review and update the comprehensive plan as necessary. In planning for Capital Improvement Programs (CIP), it is common to have a five year plan along with the current year's budget for a total of six years. Small cities often plan their CIP's only one to two years ahead.



Sharon McClintock/ANF

Land planning session in Shishmaref.

If all else fails, ask community residents what their community needs are--they should be more aware of their own needs than anyone else. Otherwise, 14(c)(3) reconveyances that are based on over-long and over-zealous future community expansion and community needs estimates are on very weak ground. Also, there is no requirement for the corporation to assume the burden of providing for unknown and unspecified purposes. The point to bring out here is that if each community were to access their reasonable foreseeable needs through a proper planning process, there should be no reason to contest a 14(c)(3) decision.

Appropriate Rights-of-Way for Public Use

Under 14(c)(3), the language requires the village corporation to provide appropriate rights-of-way for public use. Rights-of-way provide access across land for people, vehicles and utilities such as water and sewer lines, electric and telephone poles and lines.



Main Street at Emmonak. Note utility poles and lines.

Sharon McClintock/ANF

Depending on the type of use, rights-of-way for public use can be provided through the reservation of an easement or by outright ownership. Where only the use of the land is required and the primary beneficiary of the use is the adjacent landowner, an easement is appropriate.

An easement is a lesser right of use for a limited purpose; for example, a utility easement whereby a utility has only the right to cross land with its lines and associated supporting structures and such access as is necessary to maintain the utility. A utility easement is usually limited to the utility uses specified. The basic ownership is retained by the land owner. Easements do not provide full public access although sometimes they receive such public use.

Outright ownership means all rights (to the surface estate) of the land are transferred. Ownership is appropriate when the primary beneficiary is someone other than the adjacent land owner. For example: a right-of-way easement might be used for local electrical service (the power poles and lines) but a right-of-way deed might be used for a power transmission line (the structures and lines) serving another region. In most communities, easements are usually reserved rights-of-way for public access, although some are owned outright. Easements are also frequently reserved for utilities, which can be owned either privately or publicly. Easements for utility services, such as electricity, telephone, water, or sewer can be provided through a narrower (i.e., 10-25 feet) access separate from the road, although road easements can generally be used for both.

Rights-of-way, either existing or as a definitely foreseeable need, leading to outlying publicly used sites such as dumps or airports, should also be provided. For access to airports, the corporation may be required to grant the right-of-way outright if federal funds are used to maintain it.

Because a village corporation seldom needs or wishes to have the responsibility for maintaining public rights-of-way, paying taxes on them, or assuming the legal liability for accidents, it is probably always best for the corporation to give these rights-of-way as part of the 14(c)(3) grant.



Rob Stapleton/Rural CAP

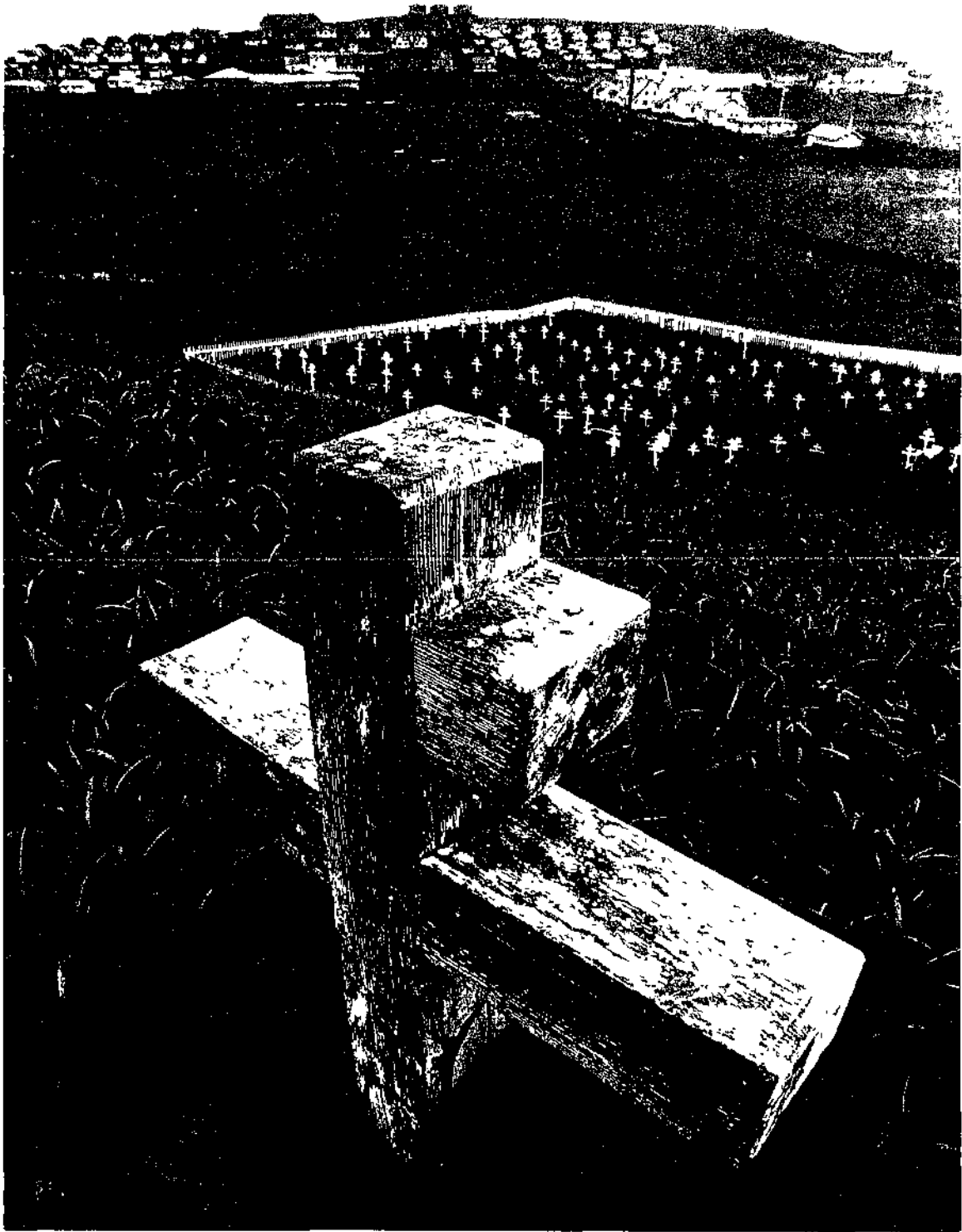
Road right-of-way at Hooper Bay.

Amount of 14(c)(3) Land

The pertinent portion of Section 14(c)(3) says that the amount of lands to be transferred "...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..." A 1980 ANILCA Amendment (§ 1405) added the provision that less acreage could be conveyed if agreed to in writing.

ANCSA legislative history shows that several alternate versions of the 14(c)(3) provisions were considered. Among them was a bill which gave no thought to the municipal conveyances, to versions giving municipalities anywhere from 160 acres to an entire township for community expansion. One version considered the use of a sliding scale conveyance of 160-640 acres based on the population of the village. The history also showed that there was a movement away from giving municipalities everything to only giving it some lands to meet foreseeable community needs.

The 1,280 acre minimum was simply a mistake, according to David Hickok who was an advisor to the chief counsel for the Senate Interior Committee when ANCSA was being written. He had recommended one square mile (640 acres) as an amount of land that would cover anything conceivable for municipal purposes. When asked about doubling it he agreed that in his opinion the 1,280 acres would surely cover anything anyone could ever conceive of. So the staff people in both the House and Senate began to think of the 1,280 acres as a maximum



Rob Stapleton/Rural CAP

The amount of land to meet 14 (C)(3) community needs in St. Paul will vary from other villages.

acreage for municipal conveyance. He believes someone forgot to change the "no less than" of the 160 acre amount to "no more than" for the 1,280 acre amount. The large land transfer minimum was just a mistake in final drafting that wasn't caught in the very hectic conference committee period. The amount of land required for 14(c)(3) reconveyance was later to be the subject of much controversy which ultimately led to the 1980 amendment in ANILCA § 1405.

The ANILCA amendment allowing for a lesser conveyance was proposed because the reconveyance of the full 1,280 acres far exceeded village municipal needs and made little sense. Legislative history shows consideration was given to asking Congress to identify villages where reconveyance may not be necessary to providing some standard for determining a reasonable amount. Thought was even given to a sliding scale ranging from 100 to 500 acres depending on the population of the village, but was struck down when the issue arose of whether or not the reduction of the 1,280 future would constitute a taking of municipal property rights. The final language left the amount negotiable.

The point to be made here is that not only is 1,280 acres a considerable amount of land but, that it is far in excess of any realistic foreseeable need for any of Alaska's cities or villages. And since Alaska's larger communities, such as Kotzebue, Nome, Bethel, Dillingham, and Barrow as they presently exist, do not now occupy as much as 1,280 acres of improved area, it is illogical to suppose that 1,280 acres is really necessary for the smaller villages' present and foreseeable needs. The DCRA 14(c)(3) handbook on pages

15-18 has an excellent section illustrating the size of some existing villages and how large 1,280 acres is by comparison.

The key to arriving at a sound 14(c)(3) agreement is by identifying actual community needs, backed by local knowledge of suitable land best able to meet those needs. Past experience shows that each community is best equipped to



Sharon McClintock

Existing city building in Kwethluk and its parking area covers less than one half acre.



Sharon McClintock

Future needs in Kwethluk includes a new cemetery site.

identify its own needs and to resolve the issue themselves. When careful thought and consideration is given to balancing the economic needs of the corporation and the needs of the community, the final 14(c)(3) sign-off will most likely result in a sound agreement. A surprisingly small amount of land very likely will meet actual community needs.

When to Begin

Since each village is different, with its own set of unique problems and circumstances, the process and 14(c) responsibilities will vary from village to village. Roughly half of ANCSA villages have federal townsites where community improvements, rights-of-way, and expansion needs have been, in large measure, already provided for. In the rest of the ANCSA communities where no federal townsite withdrawal exists, the corporations' 14(c)(1) and (2) responsibility will be more extensive. In these cases, because 14(c)(1) and (2) claims take precedence over other 14(c) reconveyances, the length of time it might take to resolve them could affect the timing of 14(c)(3) negotiations.

In all situations, it is wise for a village corporation to begin consideration of the possible impacts of 14(c)(3) on their land ownership early in the 14(c) process. While 14(c)(3) is the reconveyance that is ordinarily done last after all the other 14(c)(1), (2), and (4) claims are completed, the

village corporation needs to think ahead to which lands will best meet its future corporate goals, and what lands are presently used and are necessary for future community expansion.

Planning Considerations

To determine the amount and kind of land which an existing or future city actually requires to meet its present and future needs, some sort of a planning process is needed. If the planning process is more formalized and there is good village participation, the plan will most likely be accepted by all parties. While it is possible for the municipal corporation and the village corporation to each work up or commission a separate version of what it thinks should be in a community plan, and then try to compromise on a final version, it might be a better approach to work up the plan from its initial stages on a community wide basis and in a non-adversarial situation.

Past experience indicates that when a broadly based community plan is finalized on such a basis, it will be far easier for the village corporation and the municipal corporation or MLT to reach a final, negotiated, written compromise 14(c)(3) agreement. Chapter three of DCRA's 14(c)(3) handbook provides one step by step method which has been used by many communities. Other communities may find that another similar process may work better for them. The end product is an agreement negotiated to meet both parties needs.

Sequence of Reconveyance

The participants representing the village corporation in the formulation of the community plan need to be well aware of several factors. One is that the ANCSA language sequence requires 14(c)(1) and (2) claims to be satisfied first before land is conveyed to the municipality or to the State for airports. This has not been the case for a number of reasons.

There are situations where corporations have altered the sequence of the 14(c) process. This has occurred when villages have found it necessary to make a partial 14(c)(3) conveyance before completing the 14(c)(1) and (2) phase in order to secure funding for a badly needed project such as new housing, water system, new school, or other community improvement project. (See Form P in appendix.) There have also been many cases where airport reconveyances have been made before 14(c)(1) and (2) claims have been identified.

Although the rights of 14(c)(1) and (2) claimants or other valid existing rights have not always been identified first, it is advisable that the corporations make 14(c)(3) and (c)(4) reconveyances last. If the corporation does not follow the ANCSA sequence, it is important that those conveyances be made subject to valid existing rights, and that an alternative corrective action be considered in case a conflict does arise after the land is identified and before the ANILCA § 902(b) Statute of Limitations elapses. There are two reasons for this. One is that the boundaries of 14(c)(3) and (4) land cannot be adequately established until the 14(c)(1) and (2) claims are firmly identified. Another reason is that because 14(c) is a village corporation obligation, there is some risk the corporation may be taking upon itself if it conveys land which properly belongs to a 14(c)(1) or (2) claimant to the city or state.

Value of Land

Another consideration is that because the settlement of the land claims was meant to afford Native organizations an opportunity for economic advancements, it is reasonable that Congress did not intend for the 14(c)(3) provision to take that opportunity away from village corporations by forcing them to give away their most valuable land. Thus, it is important that corporations be aware of their overall corporate goals, and the potential for utilizing it's land to meet those goals.

Since village corporations receive only the surface estate, it is these lands on which it must depend upon to survive. In any community the lots within the village core or near the improved area are most likely to have the highest value--probably higher in monetary value than most casual observers would believe. As of 1984, values of \$0.35 per square foot and higher, which were estimated by a BLM appraiser, are not uncommon for centrally located lots even in small villages. (That translates to \$15,000 plus per acre) Once such lands are formally deeded to the municipal interest, the village corporation becomes the same as any other land applicant and if a mistake was made in granting certain lands, the corporation will be in the position of having to purchase or exchange lands in order to get formally deeded lands back.

Economic Viability

A key principle to keep in mind is that village corporations are created primarily to be profit-making entities and that municipal corporations are not, although some cities do dispose of land or operate money-making ventures to add money to their budgets. Consequently, 14(c)(3) land should generally not go to a city to be used for profit-making schemes which will openly compete for profits with the local village corporation.

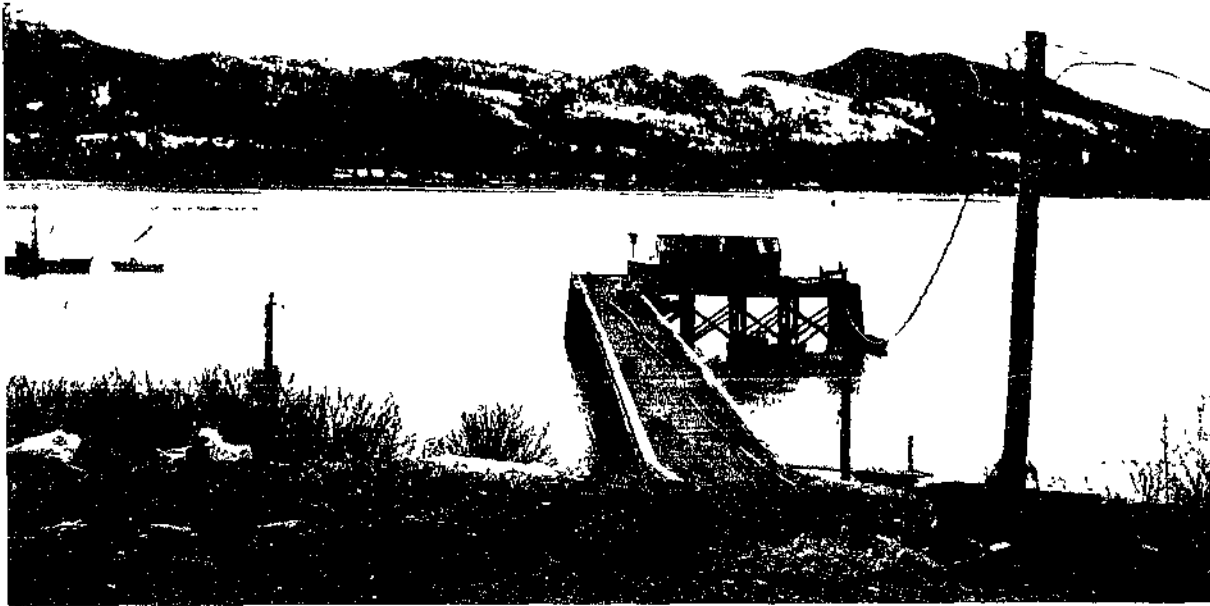
The legislative history of ANCSA supports the contention that Congress did not intend for the 14(c)(3) process to take away a corporation's economic viability once having created it for profit-making purposes. Thus, retaining a certain amount of good developable land in and near the community is a



Sharon McClintock/ANF

Land for residential subdivisions — a good business proposition.

reasonable goal for a village for-profit corporation. For example, land can be retained for corporation offices and other corporation land development, such as residential subdivisions, or shorefront development.



Sharon McClintock/ANF

Waterfront — prime land for profit-making ventures.

Differing Land Status

Despite the fact that land status varies from village to village, the 14(c)(3) reconveyance is still an obligation of all corporations. However, several factors regarding individual land status should be considered in overall 14(c)(3) planning, because the land status could affect the actual needs of villages or hamper the corporation's ability to provide for such needs.

For instance, many villages have a patented federal townsite. Since a federal townsite is basically an earlier version of the entire 14(c) process, villages with these townsites may have many, if not most, of their existing and future community land needs already met. If a city becomes or is already the owner of federal townsite land, there should be little reason why a full 1,280 acres from the village corporation is needed to fulfill the same purposes.

Another factor which could affect 14(c)(3) needs is that many corporations were not able to select the majority of lands near their own village since these lands had already been transferred into private ownership before ANCSA. Since the intent of 14(c)(3) is to provide for community expansion, it is unlikely (and not cost effective) to expect communities to expand in scattered locations, unless a relocation is necessary or suitable land for public uses like dump sites are located miles away.

Other Considerations

Municipal ownership of lands falling outside of the incorporated municipal boundaries, while not prohibited for such things as roads, dumps or watersheds, is open to question if the purpose is not an authorized city function. In these situations there may be other alternatives that would accomplish the same objective for the city as outright ownership. See pages 90 to 93.

Today, many communities are close knit and the city which receives 14(c)(3) land very likely reflects the common interests of all of its residents. However, someday that might not be the case and common interests could be lost.

Public vs. Private Ownership of Land

In the ideal cooperative joint planning process, where each interest is knowledgeable as to the other's viewpoint and respects those views, the question of public versus private ownership of land is certain to arise. Each



Rob Stapleton/Rural CAP

Graveyard and sidewalk — obvious 14(C)(3) public uses. Satellite dish can be either public or private.

community must decide for itself what combination of ownership will best fit its particular interests and needs. Some considerations to help make those decisions, follow.

Each tract conveyed to the city or MLT under 14(c)(3) becomes public land. The use of public land by all people both within and outside of the village will be subject to such limitations as municipalities or the MLT may want to place on the land.

The Alaska Statutes, particularly Title 29, regulates a municipality's actions relative to land controls and municipal ownership inside and outside of the city limits. With the major revision of Title 29, that became affective January 1, 1986, a municipality's governing body is now required to have an ordinance which establishes a formal procedure for acquisition and disposal of land and interests in land by the municipality. (A.S. 29.35.090)

A municipality must formally adopt such an ordinance as a part of its code of ordinances prior to executing a 14(c)(3) agreement. The municipality must follow the procedures specified in the ordinance when it approves the 14(c)(3) agreement and signs the map of boundaries. Failure of the municipality to do so may invalidate the 14(c)(3) reconveyances.

The MLT for unincorporated villages can make negotiated sales to individuals (such as post-71 occupants) but without discriminating to whom the land will

go to. A private land owner such as a village corporation, on the other hand, has more flexibility than either. It can sell or lease lands and regulate use as it sees fit.

There is seldom any dispute that public buildings such as city offices, the health clinic, sewer and water systems, or the garbage dump should be public and deeded to the municipality. A strong consideration should be given to the fact that most state and federally funded projects require public ownership or a long term lease from a public entity.

Probably one of the most frequent areas of ownership contention between the village corporation and the municipal interest is over jointly used lands. Public ownership of communally used lands along a waterfront or communal subsistence campsite areas may not be the best choice if such municipal ownership will lead to the corporation losing a potential money-making option for a privately financed port facility or problems with non-villagers using campsite areas heavily--for sport fishing or hunting, for example. Other communal land uses such as wood cutting areas or watershed protection areas may fall into the category of "...other foreseeable community needs..." for a 14(c)(3) conveyance.



Rob Stapleton/Rural CAP

Meat racks at Gambell. Corporation or city ownership of certain village lands require careful thought.

Another area of public versus private ownership concern is on land that is subject to natural hazards. This includes land areas which are prone to flooding, avalanches, mass wasting, (rock or mud slides) erosion and so forth. When the corporation is planning for 14(c)(3) reconveyances, it needs to consider which lands might be more advantageous in public ownership, by weighing the potential risk of liability and the suitability of the land for development against public ownership and the protection it could offer.

Alternatives to Outright Ownership

Zoning

Zoning is the division of a city (or borough in Alaska) into regulatory districts or zones--each of which prescribes a certain standardized set of building and/land use prohibitions together with the uses allowed in that zone. Zoning offers a regulatory approach to land protection, but only to incorporated municipalities which utilize their powers to do so.

Both borough and city governments which are created under Alaska law (A.S. Title 29) either have, or can assume planning, platting, and zoning powers which enable them to control the land uses within their jurisdictional boundaries. Essentially, a city must first create a planning/platting commission which sees that a comprehensive development plan is prepared. A zoning ordinance can then be passed to implement that plan. This process, although advantageous to long range planning, takes some time, can be costly, and may not be a responsibility every small city wants.

Zoning can prevent or limit development or use of privately owned steep eroding river banks, or flood hazard areas without requiring the city to own the lands.

This alternative is a rational way to handle community development in many cases, but, if carried to extremes it could devalue the land to a point of no value. Consequently, zoning restrictions may sometimes result in the owner not being able to use the land in whatever manner they choose.

Moreover, zoning and other land use controls have proven ineffective in the face of strong economic pressure for development. From the standpoint of a village corporation, however, even a very restrictive zoning, with the possibility of modifying it at some future time, might be preferable to the outright loss of ownership by 14(c)(3) conveyance.

Leasing/Permits

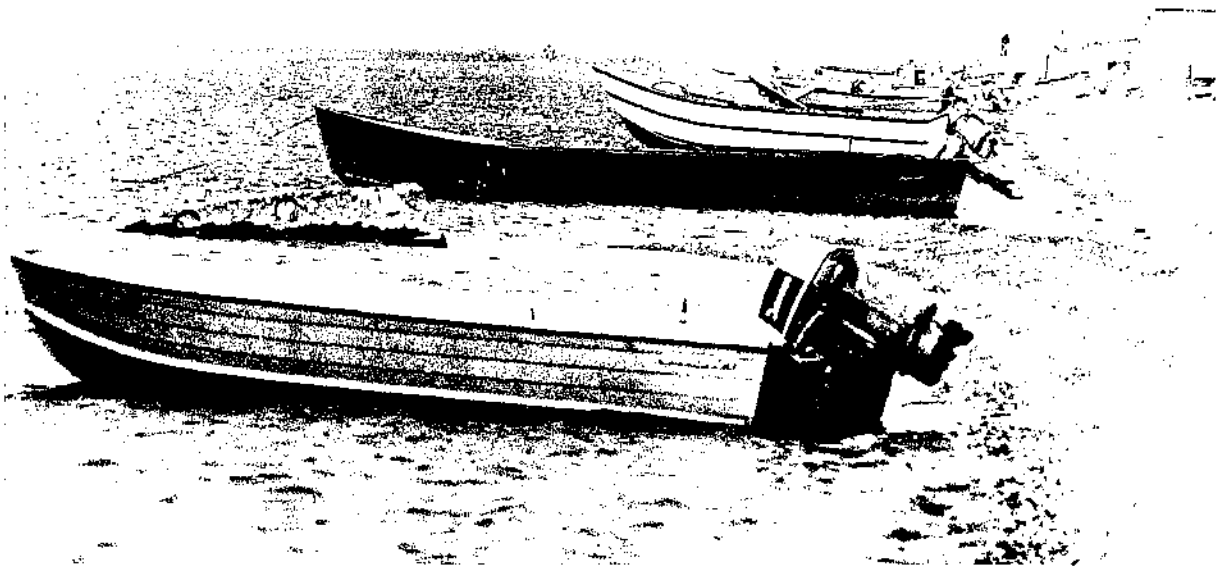
The use of leases and permits to allow for specific uses of land are not only a very favorable alternative but can be a highly flexible mechanism. To protect both municipal and corporate interests, a lease could be drawn up with such terms and conditions that it becomes almost the equivalent to ownership. As an interim measure, in the absence of a full 14(c)(3) sign-off, the use of interim leases instead of partial reconveyance deeds offer more protection to the village corporation. Interim leases would provide income until a 14(c)(3) agreement is finalized, and reduce the risk of conflicts with unresolved 14(c)(1) and (2) claims. If a lesser interest would adequately protect the city's needs, a permit or lease for a shorter term might also be used.

In either case, expert legal and financial advice is probably needed to assist both entities in protecting each of their respective interests.

Protective Easements

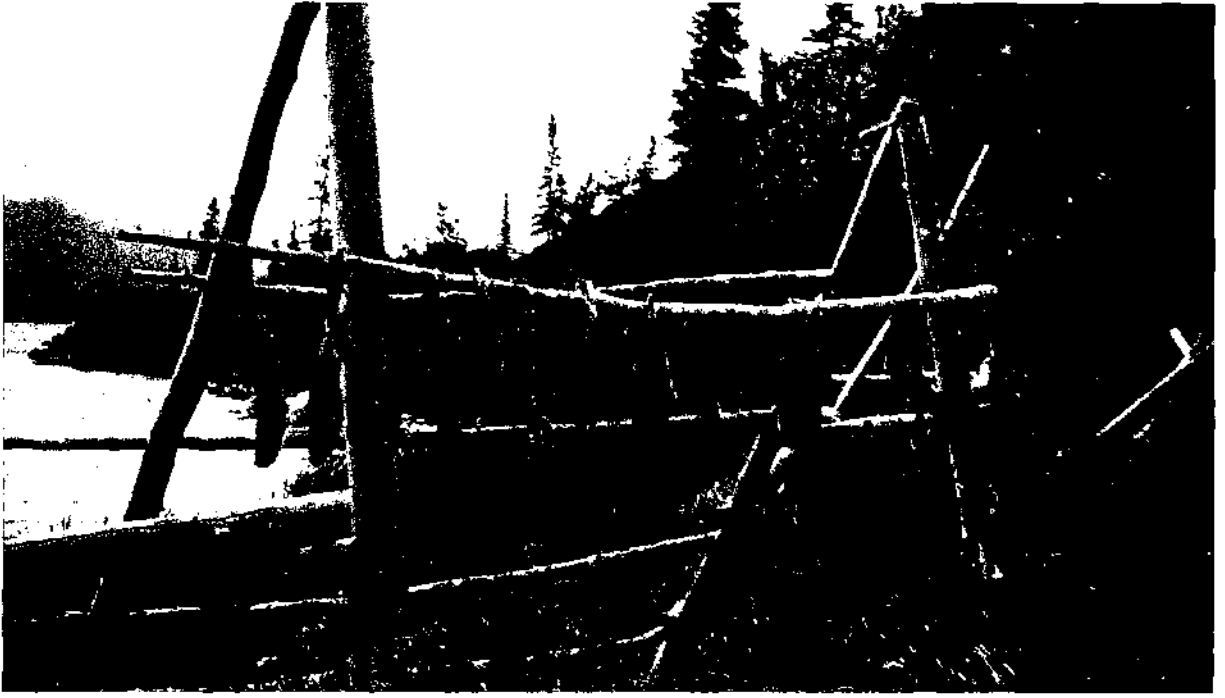
An easement is a legal right of use upon, or over, the property of another. It is granted by the property owner to another party for a specific use, or set of uses, by that other party. A protective easement, like an easement for utilities, is a partial interest. Partial interests can generally be sold, leased, donated, or bequeathed from one party to another, either for a set time period, or perpetually. A protective easement might be perpetual and "run with the land." However, the concept of a protective easement is somewhat different from the usual easement, in that it is designed to protect or "conserve" a value or right, or set of values or rights, that the city deems to be of importance now, and in the future.

Thus, an easement could be granted by the corporation to the city to protect a public value on its private lands, such as a communal boat launching or fish rack area, and might be written in such a way that the corporation retains at least some development rights. Perpetual protective and conservation easements are a new concept to Alaska. Since there is no provision under current Alaska law to provide for such a concept, Alaska legislation would need to be developed.



Rob Stapleton/Rural CAP

Communal boat launching area in Kotzebue.



Sharon McClintock/ANF

Fish drying racks — Pedro Bay.

Bargaining Considerations

The 14(c)(3) reconveyance is a process whereby the corporation and city negotiate an agreement as to the location and amount of lands to be conveyed. In the course of that settlement, the parties, while complying with the requirements of ANCSA law, may reach such other agreements as they deem to be appropriate.

ANCSA § 14(c)(3) as amended, is silent as to any mention of compensation or restrictions of title which might be imposed by a village corporation as a part of a final 14(c)(3) agreement. By the absence of such language, ANCSA provides no limitations to prohibit a village corporation from receiving compensation from a city as part of a 14(c)(3) agreement or from attaching reversionary provisions or other restrictions to a mutually acceptable agreement.

Although a 14(c)(3) settlement is negotiable, the Municipal Lands Trustee Program regulations follow different rules. Under 19 AAC 90.040, the trustee will not accept conditions on 14(c)(3) land reconveyances. However, it is possible for them to accept less-than-fee interests on a discretionary basis.

Compensation

Section 14(c)(1) provides that reconveyances are to be made without compensation. Section 14(c)(2) provides that those reconveyances are to be made either without compensation or upon payment not in excess of fair market value determined as of the date of initial occupancy. Section 14(c)(3) and (c)(4) are silent as to compensation. The ambiguity of the 14(c)(3) language can and has been argued either way--that Congress intended to require no consideration or that Congress by its silence did not prohibit payment.

Restrictions of Title

Section 14(c)(3) expressly sets forth an obligation for the village corporation to convey land to the city or state in trust and that the mandatory conveyance be for title to the surface estate, subject to the restrictions and conditions as stipulated in the conveyance from the United States. There is nothing in the 14(c)(3) language or the legislative history which would prohibit limitations such as reverter clauses or other restrictions in the 14(c)(3) reconveyance. State law for Municipal Trust Lands, on the other hand prohibits the MLT from accepting a reconveyance which contains a reversionary clause or conditions created by the village corporation.

In summary, there are no limitations which would prevent the village corporation from bargaining with a city for compensation, reversionary interests or other restrictions, if they are agreed to as a part of a proposed negotiated settlement.

Time Limitations

Since ANCSA sets no time limitation on the completion of the 14(c) process, the village corporation has considerable leverage on its side during bargaining. By refusing to agree to any 14(c)(3) land transfers until a final agreement can be reached, the village corporation can use the delaying tactics to its advantage. The potential forfeiture of funding for a local project because of a cloud on the land title has been known to help markedly in hastening a final agreement. Conversely, a corporation which gives partial 14(c)(3) grants without a final 14(c)(3) agreement, may lose all of its leverage for obtaining a reasonable and final agreement. Lastly, when an agreement is reached, it should be final and without open ended provisions for indefinite future city land needs. See Appendix for a sample 14(c)(3) Agreement (Form O).

Summary

The foregoing chapter has discussed at some length why a corporation should begin consideration of the 14(c)(3) process early on. The entire process is actually a planning and negotiation task where there is consideration given to a number of factors. When agreement is reached, the parties will agree on all aspects--from who the valid recipient is, to how much land must be conveyed, and what conditions are acceptable to both parties.

The chapter makes some additional key points. Among the most important is that Congress did not intend for a corporation to give away all of its highest value lands and its principal source of economic viability. Another point is that under 14(c)(3), Congress intended for communities to obtain unencumbered land to meet public needs. Further, village lands have a far higher value than most people are aware of.

Other points made are that cities have other ways to acquire land, and that there are alternatives to outright city ownership which still allow for public use of lands. Further, just about every aspect of 14(c)(3) is negotiable and whatever can be agreed upon between the two interests--corporate and municipal is acceptable. The final point is to reiterate that 14(c)(3) is a joint planning/negotiation process, and that cooperation and compromise in a non-adversarial relationship is far preferable and more expedient in most cases than is litigation of a dispute in the courts.

Chapter 7

14(c)(4) Airport Reconveyances

The information in this chapter, as in Chapter 6, is intended to supplement information on ANCSA Section 14(c)(4) which is already available from the Alaska State Department of Transportation and Public Facilities and the Department of Community and Regional Affairs.

This provision requires the reconveyance of land used for airports and air navigation and related purposes as such existed on December, 1971 to the present airport operator. Section 14(c)(4) is the fourth and last conveyance legally required of the village corporation under 14(c), although in practice this provision has often been done first.

Since valid 14(c)(1) and (c)(2) claims take precedence over the airport conveyance, this practice as explained on page 81 can be a risky step for

several reasons. One is that because the boundaries of the airport cannot be adequately established unless the 14(c)(1) and (2) boundaries are properly identified. Two, the corporation might incur some liability unless they are certain that a reasonable effort is made to identify the location of the 14(c)(1) and (2) claims beforehand, or to assure that language in the conveyance deed subjects the transfer to valid existing rights. Another reason why it is advisable to make 14(c)(4) reconveyances last is because the State DOT/PF must have "good title," that is, generally, title free and clear of encumbrances.

What 14(c)(4) Says

Section 14(c) (as amended) states: "Upon receipt of a patent or patents:¹³
(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971."

13. Interim conveyance or patent, whichever comes earlier, ANILCA 1410 and 1437(d).

What Does 14(c)(4) Mean?

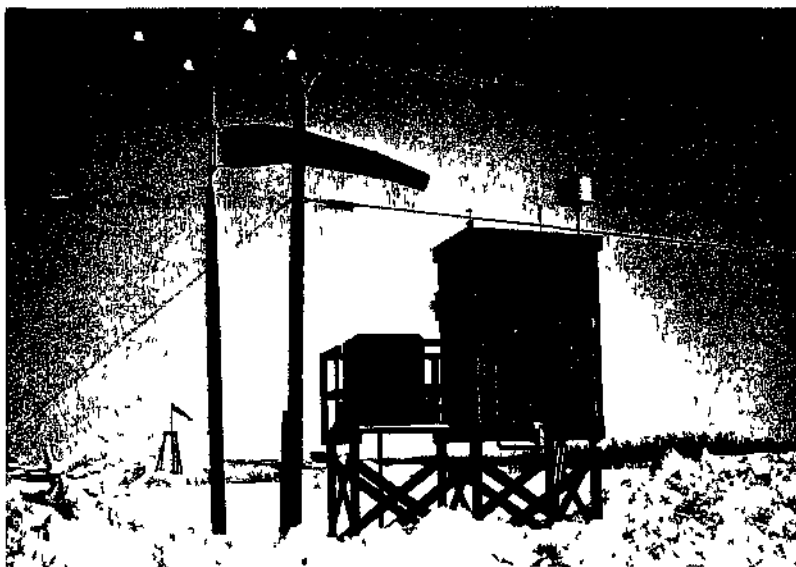
The language of Section 14(c)(4) as amended, means that the village corporation must reconvey the surface estate of land occupied for airport sites, related navigational aids and easements as they existed on December 18, 1971 to the appropriate governmental entity responsible for operation of the airport.

Who is Entitled to 14(c)(4) Land?

In most cases, the State Department of Transportation and Public Facilities (DOT/PF) will be the recipient of 14(c)(4) land since it is the leading operator of Alaska airports, although there are a few municipalities who also operate airports.

In some situations, the DOT/PF will not be a direct recipient of some airport land. This will occur in villages which have expanded their airport since 1971, or have added a cross runway or other facility, or moved to a new location entirely. In others, a new airport may have been built where no airport at all existed in 1971.

If one of these situations exist, the post-1971 airport land will probably be a 14(c)(3) community grant to the City or MLT. The city or MLT, in turn, would lease the 14(c)(3) airport portion to the DOT/PF or DOT/PF could purchase it from the corporation. In situations where a 20-year lease agreement already existed between BLM & DOT/PF, the lands are conveyed to the corporation as part of its normal entitlement, subject to the lease. BLM will waive administration of the lease to the corporation when it issues interim conveyance. ANCSA Section 14(g) insures that all of the current leases remain in effect until the expiration date and the corporation must honor the lease terms for that duration.



Sharon McClintock/ANF

Navigational aids at Emmonak Airport.

What Type of Land is Conveyed Under 14(c)(4)?

The type of land conveyed under 14(c)(4) is airport sites, including related navigational aids such as easements or approach zones which are necessary to



Rob Stapleton/RURAL CAP

Runway at Gambell.

provide related and safe governmental services. Lands which comprise regular use of airport property include the airspace, improvements, and facilities used for the operation of aircraft flying to and from the landing area. Besides the runway, taxiways and parking aprons, the airport property may include other areas used for supporting services and facilities related to the operation of the aircraft as such existed as of December 18, 1971.

BACKGROUND

The airport is among the most vital of services in the village, since the community residents depend on it as a major link for many of its basic needs. When it comes to airport safety, there is no stronger advocate than the village resident.



Sharon McClintock/ANF

Airport facility — Point Hope.

WHO OPERATED THE FIRST AIRPORTS?

The first public airports and landing strips were first constructed by the Alaska Road Commission, and were later transferred to the Territory of Alaska, Department of Aviation. After Statehood, the Department of Public Works, Division of Aviation took over responsibility for air transportation facilities. Today, that responsibility for airport operation belongs to the Alaska State Department of Transportation and Public Facilities (DOT/PF). This agency presently has responsibility for the operation and maintenance of more than 200 public airports in the State.

How Were the First Airports Withdrawn?

Prior to ANCSA the village airport land was either: 1) patented to the State under the Airport Conveyance Act; 2) a one time federal or military airport, subsequently patented to the State under the 1958 Statehood/Omnibus Act; 3) a BLM 20-year airport lease, or similar Fish and Wildlife Service permit to the State; or, 4) a townsite tract airport either already deeded to the State or pending a townsite trustee deed. Since items 1 and 2 are already patented, the village corporation is normally only involved with items 3 and 4, unless more land is needed for expansion of the patented airports. Acreage under these various granting authorities varied widely with no set size standard other than a general policy effort on the part of the governmental entity to have as much land as possible to meet future needs.

ANCSA Section 14(c)(4) Amendment

Like other ANCSA provisions, the language of 14(c)(4) was amended in ANILCA §1404(c) to clarify that the corporation is required to reconvey only airport lands as they existed on December 18, 1971.

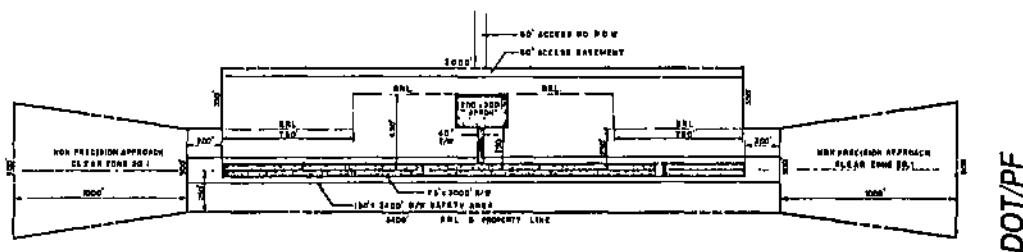
ANCSA Section 14(c)(4) Implementation

Despite the ANCSA amendment and its seeming clarity, the actual implementation of this provision during the last several years has been the subject of much concern by ANCSA corporations.

Early on, one of the major problems of 14(c)(3) and (c)(4) airport grants was the matter of lack of size standards on how much land was actually necessary to safely operate the airport.

AFN LMA-DOT/PF Memorandum of Agreement

The lack of a size standard and problems encountered in the 14(c)(4) reconveyance process led to an AFN Land Managers Association-DOT/PF Memorandum of Agreement (MOA) Policy Guidelines on Airport Conveyances (See Appendix) in 1981. The memorandum provided four standard templates or airport diagrams showing four classes of airports and the FAA minimum acreage requirements for each, and options for 14(c)(4) reconveyances.



Template of typical secondary airport.

The agreement also set forth the understanding that DOT/PF would not acquire additional property interests for expanded or future airport operations under 14(c)(4), but could obtain them by lease from the local municipality, purchase them from the corporation or obtain them through other normal means of acquisition. DOT/PF is also willing to accept title, which contains a reversionary clause, to airport lands from municipalities or the State-in-trust .

Because village airports vary in size and uses, the templates considered for use should be used only as guidelines in the negotiation of 14(c)(4) claims. If you use the templates, two points should be kept in mind: first, the diagrams represent an idealized flatland situation, and in practice, individual terrain considerations can either raise or lower the acreage required for safe approach zones; second, approach clear zones and navigational electronic interference-free zones do not necessarily require a conveyance and an easement will often suffice.

As guidelines, the memorandum of agreement is a good rule of thumb to follow, for most cases. In others, it may be more advantageous to consider the factual situation. For instance, if an airport has grown substantially since 1971, and federal funding is used to operate the airport, the village should consider using FAA guidelines rather than the agreement. Further, since the memorandum was signed, DOT/PF has upgraded the classification of all state airports one grade up from their basic STOL to the Secondary airport. This in

effect means that the STOL size can no longer be recognized as a classification serving a community, and therefore the minimum size standard which they will accept is a secondary airport. This could mean an additional 20+ acres.



Rob Stapleton/Rural CAP

Airstrips' size varies from village to village.

Considerations for 14(c)(4) Negotiations

In settlement of the 14(c)(4) obligation, the corporation and the airport recipient have not only the legal requirements of ANCSA, but also the Memorandum of Agreement to use as guidelines.

A point to remember is that DOT/PF is entitled to land occupied by airports as of December 18, 1971 even though the airport may not exist today. Since

the 14(c)(4) provision is subject to negotiations between the operator and the village corporation, additional provisions may be agreed upon with the consent of both parties.

Airport lands are often among the most economically valuable lands a village corporation may have. Experience has shown that the airport land actually used in 1971 [14(c)(4)] and/or what is needed as a post-1971 14(c)(3) airport grant is subject to varying interpretation. Often the village corporation and the DOT/PF must undergo extensive negotiations to come up with a settlement which is agreeable to both parties and which conforms to what ANCSA law intended. While few would argue that an airport is an essential service for most communities, and that few villages can afford the cost of maintaining it, a village corporation also needs to protect its corporate economic viability by making certain that the minimum requirements of 14(c)(4) are complied with.

Since 1971, over forty agreements have been made on 14(c)(3) and (4) airports. From these early experiences, a number of village corporations have identified problem areas which are still the subject of great concern among Native land managers. Because village airport circumstances may vary greatly, corporations with unresolved 14(c)(4) claims should become aware of some of the issues they might encounter in the 14(c) process. Depending upon individual situations, corporations may run into any one of these circumstances.

Airport Leases

At the time that BLM issued 20 year airport leases to Alaskan villages, the regulations were not specific as to how they would provide for easements and clear zones, so they just described them by aliquot part. This practice resulted in airport lease areas encompassing quite a large area -- larger than was actually needed. In villages where these leases exist, a corporation undergoing 14(c)(4) negotiations often encounter considerable difficulty because DOT/PF may or may not give up the interest it has in the land encompassed by the lease even though the 14(c)(4) standards are smaller.

In several situations, DOT/PF has been reluctant to cancel the old BLM airport lease when it embraces a larger than standard guideline area (a common occurrence) upon receiving a 14(c)(4) and/or 14(c)(3) deed for the airport because they contend that the guarantees required for federal funding of the original airport construction (through FAA) forbid altering the original property interest to a lesser acreage until the remainder of the original 20-year lease term has run. However, if there is no use of the land for airport operation, and if the land is needed by the village immediately, and if no Federal money was used for the airport construction then exceptions can be granted by DOT/PF on a case by case basis.



Bruce Oskoikoff/ANF

Airstrip at Chalkyitsik.

Auxiliary Uses

A second problem area is the leasing or potential leasing of airport lands for non-aviation and "auxiliary" uses in direct competition or potential competition with village corporation initiatives. Auxiliary uses by State Regulation (17 AAC 40.320) are defined as functions not directly aviation related and generally operated for the convenience of the air-transient public such as a taxi cab service, rent-a-car agency, cocktail lounge, etc. (and probably also a fishing/hunting lodge and commercial fish buying/processing and air hauling as well). It is not uncommon that land is leased for such auxiliary uses despite the strong objections of affected villages by these decisions.

Federal/State policy generally holds that airports should become financially self-sustaining as soon as possible and any such leasing is to be encouraged, but it does not require them to be so. Like other government agencies, it is a questionable practice when it begins competing with private business interests. Presently there has been no solution to this problem except to seek change through the political process.

Use of Gravel

Another long standing contention is over the use of gravel for the construction and maintenance of airports. A BLM airport lease does not authorize the use of gravel and since it has been determined by the courts to be a subsurface resource, permission to use gravel is primarily a determination to be made by the regional corporation and the village corporation.

When gravel is involved, an appraisal of Native land is required. When DOT/PF requires lands for roads, for example, they need to look around for comparable sales. Since that information often doesn't exist in a small village, comparable sales are based on other "similar" lands usually in larger communities and adjusted. Until recently DOT/PF did not pay for gravel needed for State facilities built in the villages. The last agency to agree to pay was the Local Service Roads and Trails Program. Now the State pays for the gravel needed for all State owned developments and improvements they build in rural Alaska: airports, buildings, roads and trails.

Leasing for Post-71 Airports

In a post-71 [14(c)(3)] situation, the possibility of leasing an airport or part of an airport to the State occasionally comes up in discussion. The State DOT/PF can lease from the city or MLT interest, and is often not adverse to doing so, depending on lease term and fee. A village corporation, however, because it is a private entity, is by current federal regulation, not able to give an acceptable land interest to qualify for airport money grants.

Summary

The 14(c)(4) reconveyance is a complex step, in which many cautions should be observed. First, before reconveying any land for airports, the village corporation should be absolutely sure that all valid 14(c)(1) or (2) claims within the boundaries to be reconveyed are identified or that acceptable language is included in the deed which subjects that conveyance to those and other valid rights. Second, the corporation should be sure that the airport land conveyed under 14(c)(4) does not exceed the 1971 criteria unless there is compensation given for a larger area or an acceptable agreement is reached as to the excess land. Leasing of 14(c)(3) airport lands may be a viable alternative for the City or MLT under present standards, but seldom is for a village corporation.

Chapter 8

Finalizing the 14(c) Process

When the village corporation has adjudicated and verified most of its 14(c)(1) and (c)(2) claims for validity, and successfully signed off on a 14(c)(3) agreement with the municipal interest, and settled its 14(c)(4) airport obligation, it is time to complete the final steps in the process. The next steps are to finalize a map of boundaries and submit it to BLM. Once the map of boundaries has been approved by BLM and a survey completed, the corporation can then issue deeds.

Plan of Survey

The Map of Boundaries refers to the map(s) or air photo enlargements showing the boundaries of all the tracts required by law to be reconveyed by the village corporation pursuant to 14(c) of ANCSA, plus any additional tracts to be surveyed at the corporation's or city's option. This plan is intended to guide BLM survey crews to the exact location of all 14(c) claims in the field.

If the municipal interest--city or MLT--and the village corporation have been working together in a joint 14(c) planning process, much of the basic work will probably already be done, and it may only be a matter of finalizing existing planning maps or photos into a map of boundaries. In most cases, there will probably be two basic sets of maps or photos -- one set showing the area of and near the village itself, and a second set covering the 14(c) tracts in outlying areas. (See appendix for examples.)

Law, Regulation, and Policy Relating to Plans of Survey

ANCSA § 13(a) specifically provides that the federal government shall survey the boundaries of all primary places of residence and business, subsistence campsites, reindeer and nonprofit sites and land for other 14(c) purposes. The regulations which expand on § 13(a)--43 CFR 2650.5-4(c)(1) require: that the boundaries of these tracts be posted on the ground and shown on a map "...approved in writing by the affected village corporation and submitted to the Bureau of Land Management." Later in Section 2650.5-4(c)(2) the regulations state that "No surveys shall begin prior to final written approval of the map by the village corporation and the Bureau of Land Management. After such written approval, the map will constitute a plan of survey. Surveys will then be made in accordance with that plan of survey."

The map of boundaries is also referred to in § 902(b) of the Alaska National Interest Lands Conservation Act (ANILCA) which states that any judicial review

(lawsuit) of decisions made by a village corporation on 14(c) must be initiated "...within one year after the date of filing of the map of boundaries as provided for in the regulations promulgated by the Secretary."

In 1974 BLM issued a three page "Policy Statement for Preparation of Survey Plans under 14(c) of ANCSA" which expanded upon the law and regulations cited above. The most recent version of that policy statement, dated October 16, 1987, (See Appendix) requires that the map of boundaries be submitted in total, but recognizes that there may still be some tracts encumbered by a question of title at the time of the submittal. According to the policy, these tracts should be provided for in the map, in order to avoid the need for a new survey after the title dispute is resolved.

The single stage map of boundaries submission is necessary, according to BLM, because it is more cost effective for BLM to survey the 14(c) land all at one time. However, there are situations where a village corporation has made previous partial reconveyances. Under BLM's revised § 14(c) guidelines, a village corporation can obtain the protection of § 902(b)'s statute of limitation for partial conveyances and final self-survey by filing a map of boundaries with BLM. There is no other method of invoking 902(b). This statute of limitation is designed to assure that village corporation decisions relating to reconveyancing become "absolutely final."

In order to minimize the possibility of boundary disputes between adjoining tract occupants, BLM requires that the village lots be staked with durable materials prior to survey. This is so that early on, lot occupants can visually see where their lines lie, and to help eliminate later "surprises" and disputes when the survey begins, among other reasons.

Another method to work out disputes over lot lines, before the actual survey is done, is for the village corporation to require 14(c) claimants to sign a settlement of 14(c) obligation form (Form M in Appendix.) As an additional measure, the corporation may post a draft map of boundaries in a public place in the village and notify all the claimants where it can be viewed. Such practices will be a form of insurance that will enhance the corporation's legal position in the event of a later dispute over the way the lots were surveyed.

Any extra surveys that the corporation wants or needs to do that are not legally a part of 14(c) (such as post-71 occupancy tracts), may be considered for inclusion in the map of boundaries even though that part of the survey will not be paid for by BLM (Item #3 of BLM policy). In principle, the corporation can save a considerable amount of money if it can take advantage of BLM paying the high cost of mobilization or setting up/travel costs for the survey effort. Even so, the corporation should probably seek bids from competing survey firms to insure the lowest possible cost.

Actually, BLM need not enter into the 14(c) survey picture at all if the village corporation is willing to do the planning, and contract for (and pay

all the costs of) the survey. While few village corporations are probably willing to assume this entire burden, partial 14(c) surveys for special projects or problem areas are also a possibility. In the case of housing projects, for example, the responsible agency will normally do the planning and surveys.

Approval of the Plan of Survey

When the draft plan is finalized it is then submitted to BLM for their review. BLM survey staff makes sure that the draft map of boundaries is surveyable and that there are no conflicts with Allotments or other valid rights. They may also suggest planning changes such as making sure each lot has legal access. Claimants should be informed in writing of any changes that affect their claims. BLM also requires that copies be submitted of the corporation resolution (and municipal resolution if appropriate) approving the map of boundaries and 14(c)(3) agreement as well as the 14(c)(3) agreement itself. (See Forms R and T in Appendix) If the map of boundaries successfully passes this review, BLM will sign the map as officially accepted.

Once the map is accepted BLM will issue a legal notification that the map is accepted and the one year statutory protest period of ANILCA 902(b) has begun (See Appendix). At the end of that one year period, if there have been no legal challenges to the accepted map of boundaries, BLM will sign the map as officially approved. At this point, the map of boundaries becomes the plan of survey. BLM will then write the "Special Instructions," a detailed written guide for the surveyors to follow based on the plan of survey, and then

contract for the actual survey. Present BLM policy is that most 14(c) surveys will be carried out by BLM staff surveyors. However, depending on funding, it may be several years before a particular survey is actually done.

BLM's policy statement allows a survey to be completed prior to expiration of the one year statute of limitations and BLM's formal approval of the map of boundaries. The corporation must agree in writing to bear the costs of any additional survey work resulting from changes to the map of boundaries due to successful legal challenges or appeals (See Form S in Appendix). BLM must also have funding available to perform these surveys.

Deeds

A deed is a document that transfers ownership of an interest in land from one entity to another. There are a number of different kinds of deeds, but a quitclaim deed is the main one of interest to a village corporation.

A quitclaim deed is one which transfers only that title which the corporation (the grantor) has or may have. The quitclaim deed does not contain any guarantees (or warrants) that the title being transferred is valid and without defects. For all 14(c)(1) and (2) reconveyances, a quitclaim deed (Form N, see page 151.) is recommended. However, it is advisable that the 14(c)(1) and (2) quitclaim deed not be signed and delivered until after the BLM has completed its survey of the 14(c) parcels, for two reasons.

First, the survey may result in a slightly different description of the land. There could be confusion if the deed described one piece of land and the survey boundaries are slightly different.

Alaska Statutes 29.40.180 and 29.71.800.(23)(A) make it illegal to sell or transfer subdivided land unless a plat has been approved by the appropriate platting authority. Further, unless a subdivision has received proper approval, the recorder will not accept a plat for filing. There is a strong legal argument that the requirements of Section 14(c) of ANCSA should be controlling so these Alaska Statutes do not apply. However, you should obtain legal advice from the corporation's lawyer if you wish to issue deeds before the Bureau of Land Management has completed its survey of the 14(c) parcels or before the one year statute of limitations has passed.

A warranty deed is one in which the grantor guarantees good clear title and is obligated to make good on any defects which may be hidden but could arise later. Since the BLM does not warrant its patent, it is not good business for a village corporation to do so.

Issuance of Deeds & Recordation

When the survey is completed and approved, an official plat of survey will be sent to the corporation. This plat shows the exact dimensions and size of each lot, as well as designating an official lot and block or other system to

legally describe each parcel. This plat thus enables the corporation to precisely and legally describe the parcel(s) to be reconveyed.

Any deed must basically do four things: first, it must state the name of the grantor (the corporation), then the name of the grantee(s) or recipient(s).¹⁴ Secondly, it must give the legal description of the land being conveyed and thirdly, the type of interest in the land that is being conveyed, i.e. surface estate. Fourth, the deed must state any reservations affecting the parcel; those contained in the patent from BLM, and subsequent easements or rights-of-way developed as a result of the joint 14(c)(3) planning process. Any additional reservations such as reversionary clauses and similar conditions imposed at the option of the corporation are not authorized by law [14(c)] and can only be included if consented to by the grantee or recipient. A sample quit claim deed form is found in the Appendix. (See Form N on page 151.)

Deeds issued by the corporation, unlike townsite lot deeds or Allotment certificates, are unrestricted and may be sold, or attached, as by a lien for money owed. Although an unrestricted deed normally subjects land to taxation, it is not certain whether a 14(c)(3) reconveyance is considered "given pursuant to ANCSA Section 21(d)." If so, 14(c) claims would incur the exempt status for a period of 20 years from ANILCA or issuance of interim conveyance, whichever is earlier, unless the land is developed or leased to third parties.

14. See pp 24-26 on Joint Claimants and pp 27-29 on Communal Lands

As soon as the deeds have been issued, it is important they be recorded at the State's District Recording Office. Recordation is the actual legal notice to the world that a deed has been issued and the property is owned by the grantee. It also protects the ownership record in case the original deed is lost. The 14(c) land recipient will want to record his or her deed. When the deeds are issued, the village corporation's 14(c) obligation is completed.



Sharon McClintock/ANF

A brass cap monument marks the survey's corners.

Steps to be Taken by the Corporation Board in the Reconveyance Process

- STEP 1 Make Policy
- STEP 2 Assign Staff Work
- STEP 3 Give Notice
- STEP 4 Receive Applications
- STEP 5 Gather Information for Committee Review
- STEP 6 Conduct Field Examinations
- STEP 7 Select Committees for Decision Making
- STEP 8 Review Applications
- STEP 9 Notify the Applicant of Decision
- STEP 10 Plot Locations on Map
- STEP 11 Hear Appeals
- STEP 12 Make a Final Decision at Village Level on 14(c)(1) & (2)
- STEP 13 Corporation & Village or City Council Work on 14(c)(3)
- STEP 14 Corporation, Council & DOT/PF Work on 14(c)(4)
- STEP 15 Map of Boundaries to BLM
- STEP 16 Survey by BLM
- STEP 17 Issue Deeds

Appendices

Glossary

These words are found in the text and are underlined the first time they appear. Some of the words have more than one definition, but only the meaning used in the text is given here. These are not precise legal definitions. They favor generally understandable English rather than "legalese."

Abandonment	To knowingly give up property or a claim to property without intending to get it back again.
Access	A means of approach to a parcel of land.
Action to Quiet Title	A legal proceeding to establish a claimant's or plaintiff's right to land by bringing an adverse claimant (Such as a Native corporation) into court to defend its title. See also Adverse Possession.
Adverse Possession	A method of acquiring title to real property by means other than the normal ownership process. It requires using land in an open, notorious way for a number of years without permission of the owner. Specifics on adverse possession are explained in the Alaska Statutes.
Affidavit	A written statement which is sworn to before a notary public or village postmaster.
Appraisal	An estimate of property value which is made by someone specially qualified to give estimates (an appraiser).
Appropriate Village Entity	Any group or organization in an unincorporated (MLT) village that the trustee believes can fairly represent <u>all</u> the people in that village on MLT issues.
Color of Title	An appearance or semblance of title.
Comparable Sales	Competitive property sales used for comparison in the valuation process, also called "comps."
Convey	To transfer title to property from one person to another by means of a written document, such as a deed, interim conveyance or patent.
Deed	A legal document that transfers property title from one party, the grantor, to another party, the grantee.
Easement	The right to use land for a specific purpose such as for access to other land or running utility lines.

Interim Conveyance (IC)	Legal title to ANCSA lands given by the federal government to a Native corporation. IC lands are not surveyed yet. The IC contains certain restrictions for easements, navigable waters, rights-of-way, 14(c) claims, etc.
Legal Description	A technical written description of land which identifies it very specifically. It must be specifically precise to enable a surveyor to locate the boundaries. The description is required in order for a deed to be valid.
Lot	A piece of land with specific boundaries.
Map of Boundaries	Map(s) and/or aerial photo(s) showing the boundaries of lots which the village corporation will convey under Section 14(c).
Municipal Lands Trustee (MLT)	The state entity to which 14(c)(3) community purpose lands are conveyed to be held in trust for any future city which may be created in an unincorporated village.
Notorious Possession	An occupancy so commonly and widely known that a prudent landowner should also know. (A term used in adverse possession cases.)
Patent	The document of land title by which the government gives legal title to surveyed public lands. Patent of ANCSA land contains certain restrictions for easements, navigable waters, rights-of-way, or other interests in land such as 14(c).
Plan of Survey	The final map of boundaries when formally approved by BLM at the expiration of the 902(b) statute of limitations becomes the plan of survey. BLM uses the plan of survey to survey all 14(c) reconveyances.
Public Easement	A public right to use private land (such as ANCSA land) for certain purposes. The easements may be for use by the general public or for use by a specific governmental agency. These easements are permitted under Section 17(b) of ANCSA, and are listed in the IC and patent documents.
Quit Claim Deed	A deed which gives whatever rights a person has, if any, to a piece of land.

Reconvey	To convey again, such as when the corporation transfers land under 14(c) after it receives interim conveyance from the federal government.
Section 902(b) Statute of Limitations	A one-year period, specified in section 902(b) of ANILCA, after which a corporation's map of boundaries cannot be challenged in a court of law.
Subdivision	The division of a parcel of land into two or more lots or other division for the purpose of sale or building development, including resubdivision, and relates to the process of subdividing or to the land subdivided. (AS 29.71.800(23))
Successor	A person who receives a right or title from someone else by inheritance, sale, etc.
Title	The right to or ownership of land, also the evidence of such ownership.
Valid Existing Rights	A property right or other legal interest (lease, permit, etc.) which was given to someone by the federal or state government before the land was selected by a Native corporation. These rights are recognized in Section 14(g) of ANCSA.
Vesting Date	The specific date when a person becomes entitled to something. For instance, the date when someone had a right to land under 14(c).

Throughout the text, we have referred to sample forms you can use in your reconveyance process. Each form is explained briefly below. The purpose of these forms is to help your corporation reduce the amount of time it takes to implement the actual reconveyance process. They can be used as they appear here or they can be adapted to the board's specifications.

FORM A - Bulletin Board Notice

This is the text of a notice to be posted in the village. It can be written on a large piece of cardboard or paper so it attracts attention. This notice should be accompanied by a photo or map of the village land selection boundaries and land status. (See page 133.)

FORM B - Newspaper Notice

This is the text of a notice to be published in the newspaper. It can be sent to the newspaper on your purchase order form. Be sure to send it enough in advance to give the newspaper time to plan for publication on the schedule you request. The newspaper will automatically send you an "affidavit of publication" as proof that the notice was published. Keep the affidavit of publication on file. (See page 134.)

FORM C - Record of Notice Given

This chart will help you keep track of the times reconveyance notice was

given. List the type of notice under "method" (for instance, radio, newspaper, shareholder meeting. Indicate the days when notice appeared or was printed. Put the name of the newspaper or the buildings where the notice was posted in the "location" column. The "comments" column is meant for miscellaneous notes, such as the frequency of publication or a notice that a copy of the ad is in the file. (See page 135.)

FORM D - Application

Two sample 14(c) applications are provided. Note that sample #2 is specifically tailored for a primary place of residence only. To obtain copies of applications for the business, subsistence campsite, reindeer headquarter sites and nonprofits, please contact ANF. Your board can either use the forms as they appear or adapt them to your own needs. (See page 137 & 143)

FORM E - Letter to Applicants

This letter is intended to accompany applications given to potential 14(c) claimants. It explains the application and gives the deadline for returning applications to the corporation. (See page 148.)

FORM F - Affidavit

This sample affidavit can be filled out by individuals who wish to make a sworn statement on behalf of the 14(c) applicant. It may be especially helpful if the applicant is not living in the village at present. (See page 150.)

FORM G - Field Examination Report

This report form is intended to help the corporation employee conduct a

"ground check" on 14(c) claims. The information gathered in this report will help the board make a decision on 14(c) applications. (See page 151.)

FORM H - Letter Approving Applications

This sample letter informs the applicant that the board has approved his/her application. It can be accompanied by a map so the claimant can verify the location. The 30 days period for review of the boundaries is optional; if the corporation feels more time is needed, then the number should be changed. Have people sign for the letters or send them by certified mail. Keep the receipt in the applicant's file. (See page 153.)

FORM I - Letter Denying Applications

This letter informs the 14(c) applicant that his/her 14(c) application has been denied by the review committee. Be sure to list the reasons why the application was denied and give a reasonable amount of time for the applicant to respond if he/she wishes to appeal the preliminary decision. Have people sign for these letters or send them by certified mail. Keep the receipt in applicant's file. (See page 154.)

FORM J - Letter Scheduling Appeal

This letter notifies the applicant of the date for his or her appeals hearing. A copy of a completed field examination report should accompany this letter. Send all letters by certified mail. Keep the receipt in applicant's file. (See page 155.)

FORM K - Record of Applications

This record of 14(c) applications will help the corporation keep track of the number of applications submitted, the date they were received, whether the applications have been reviewed, and other information for the files. This way, if an application is lost, the corporation has a record of when it was originally received. (See page 156.)

FORM L - 14(c) Progress Chart

This form will keep the corporation up to date on the progress of the 14(c) program. It will be easy to see at a glance how much has been done so far and what still needs to be done. (See page 157.)

FORM M - Claim Settlement Form

BLM requires the corporation to resolve any conflicts before they will accept the plan of survey. This form will help the corporation show BLM that no conflicts exist between the 14(c) claimant and the corporation. (See page 158.) Another approach would be to have people sign the corporation's copy of the plan submitted to BLM.

FORM N - Quit Claim Deed

This deed is intended for the transfer of 14(c)(1) and (2) land. It would be best not to sign and deliver this deed until after the Bureau of Land Management has completed its survey of the 14(c) parcels. There are two reasons for this.

First, the survey may result in a slightly different description of the land. There could be confusion if the deed described one piece of land and the survey boundaries were slightly different.

As explained on page 119, Alaska Statutes 29.40.180 and 29.71.800(23(A) make it illegal to sell or transfer subdivided land unless a plat has been approved by the appropriate platting authority. Remember to obtain legal advice from the Corporation's lawyer if you wish to issue deeds before the Bureau of Land Management has completed its survey of the 14(c) parcels or before the one year statute of limitation has passed.

Because the quitclaim deed provides for the grantee to sign that he is accepting the deed in full satisfaction of all his claims under Section 14(c), the deed should contain all the 14(c) parcels which the grantee is to receive. (See page 159.)

FORM O - Sample 14(c)(3) Agreement

This is a sample agreement between the municipality and a village corporation for lands to be conveyed to the municipality under Section 14(c)(3) of ANCSA. (See page 160.)

FORM P - 14(c)(3) Partial Reconveyance Deed

This is a sample deed for a partial reconveyance under 14(c)(3) from the village corporation (grantor) to the State Department of Community and Regional Affairs (grantee), as Trustee for any future municipal corporation.

This form was not written by nor reviewed by a lawyer according to the State Municipal Lands Trustee Program, which prepared it. It should be reviewed by your corporation's lawyer if you're planning to use it (take special note of paragraph 3), especially to indemnify the corporation and to provide reversionary language which would go into effect if conflicts with 14(c)(1) and (2) claims arise. To get started on the Section 902(b) Statute of Limitations one year period, it would be in the corporation's interest to submit a map of boundaries to BLM showing the parcel's location and shape. (See page 178.)

FORM Q - 14(c)(3) Interim Lease

This is a sample lease to be used as an interim measure for community use or expansion purposes until such time as the 14(c)(3) reconveyance takes place. This interim lease offers more protection than a partial reconveyance deed: It reduces the risk of 14(c)(1) and (2) claim conflicts, provides income to the village corporation up until such time as the deed is issued; provides leverage to get the city to resolve the 14(c)(3) issue. But it may have some shortcomings, so a review by the corporation's lawyer is recommended to insure the village corporation's interests are protected. (See page 180.) A sample board resolution providing for authorization to approve the lease and empower a corporate representative to sign on behalf of the corporation follows on page 183. Another sample board resolution is provided for either an AVE or city representative to approve the lease on Page 184.

FORM R - Map of Boundaries Transmittal Letter

This is an example of a letter one ANCSA corporation prepared to transmit its map of boundaries to BLM. The letter briefly describes the content of each individual sheet of the map of boundaries. The letter also lists the additional materials submitted, such as copies of resolutions, the 14(c)(3) agreement and pertinent supplemental legal descriptions and surveys. (See Page 185.)

FORM S - 902(b) Statute of Limitations Letter

This is an example of a letter an ANCSA corporation sent to BLM regarding the 902(b) statute of limitations. In the letter, the corporation agrees to pay for any survey that maybe required if a successful legal challenge or appeal alters any 14(c) reconveyance boundaries shown on the map of boundaries. A corporation is required to agree to this in order for BLM to survey prior to expiration of the one year statute of limitations. (See page 188.)

FORM T - Corporate Resolutions:
Map of Boundaries and 14(c)(3) Agreement

These two resolutions are typical of those a corporation submits to BLM along with the map of boundaries. BLM's policy statement requires the corporation to adopt a resolution approving the map of boundaries and naming the corporate official authorized to sign the map of boundaries. The second resolution authorizes the corporation to execute the 14(c)(3) agreement when less than 1,280 acres are being reconveyed. BLM's policy statement makes no mention of this resolution, although BLM asks that a copy be submitted also. (See Page 189)

N O T I C E

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

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

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

PLEASE LOOK OVER THIS MAP. THE AREA OUTLINED IN BLUE IS THE BOUNDARY OF THE VILLAGE CORPORATION LAND. THE AREAS IN RED ARE ALREADY OWNED BY OTHERS. IF YOU USED LAND WITHIN THE WHITE AREA AND YOU OCCUPIED THE LAND ON DECEMBER 18, 1971, THEN YOU MAY HAVE A VALID 14(c) CLAIM.

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

(NAME)

(ADDRESS)

(PHONE NUMBER)

APPLICATIONS WILL BE ACCEPTED UNTIL _____

This request for publication can be sent to the newspaper on a purchase order form or in a letter.

Please publish the following legal notice:

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

Application forms and further information are available from:

Telephone (907) _____.

Applications will be accepted until _____.

Publish: (dates) _____.

(Signature)

14(c) APPLICATION

1. NAME: _____
 (Last) (First) (Middle Initial)

2. ADDRESS: _____
 (Street/Box) (City) (State) (Zip)

3. BIRTHDATE: _____

4. TYPE OF CONVEYANCE CLAIMED: (If more than one category is claimed, fill out a separate application for each one.)

- _____ PRIMARY PLACE OF RESIDENCE
- _____ PRIMARY PLACE OF BUSINESS
- _____ SUBSISTENCE CAMPSITE
- _____ NONPROFIT ORGANIZATION
- _____ HEADQUARTERS FOR REINDEER HUSBANDRY

5. FOR EACH CLAIM, DESCRIBE LOCATION OF EACH PARCEL OF LAND BELOW AND DRAW SKETCH ON BACK OF APPLICATION OR ATTACH MAP: _____

Are the corners staked? YES _____ NO _____

6. WERE YOU OCCUPYING THIS LAND AS OF DECEMBER 18, 1971? (This means using it on a regular basis for the purpose you checked in #4.)
 YES _____ NO _____

If not, please explain on the back who occupied it in 1971 and why you believe you are entitled to this land. Please attach copies of any deeds, bills of sale, wills or other documents which support your right to the land. Answer the rest of the questions with information about the 1971 occupant.

7. HOW MUCH LAND WAS OCCUPIED? _____

8. WERE YOU USING MORE THAN ONE PARCEL FOR THE PURPOSE BEING APPLIED FOR?
 YES _____ NO _____

If YES, describe how each parcel was used:

9. WHEN DID YOU FIRST ESTABLISH OCCUPANCY? _____

10. ARE YOU STILL THERE? YES _____ NO _____

11. WHAT MEANS OF ACCESS IS USED TO GET TO THE PARCELS(S)?
 (Examples: car, truck, boat, 3-wheeler, snow machine)

12. HAVE YOU CONSTRUCTED ANY IMPROVEMENTS? YES _____ NO _____

13. FOR EACH IMPROVEMENT ON THE LAND, PLEASE GIVE THE FOLLOWING:

Description of Improvement	Date Made
----------------------------	-----------

_____	_____
_____	_____

14. WERE THERE IMPROVEMENTS ON THE LAND IN 1971 THAT ARE NOT THERE NOW?
YES _____ NO _____ Please describe.

15. IF ANYONE ELSE MIGHT CLAIM OWNERSHIP OF THE LAND OR IMPROVEMENTS, PLEASE GIVE THEIR NAME AND ADDRESS. (Examples: other heirs, a former spouse)

16. DO YOU HAVE ANY PERMIT FOR USING THIS LAND (grazing, special use, etc.)?
YES _____ NO _____

If YES, describe who issued the permit, its purpose and its expiration date. Include copies, if available. _____

17. HAVE YOU EVER FILED ANY TYPE OF APPLICATION FOR THE LANDS CLAIMED?
(Native Allotment, Mining Claim, Homesite, etc.)

If YES, indicate the agency to which you applied and the result of your application. include copies, if available.

18. DOES ANYONE ELSE USE THE LAND BESIDES YOU? YES _____ NO _____

If YES:

Who else is using it? _____

When do they use it? _____

How do they use it? _____

19. ARE YOU THE OWNER OF ANY PROPERTY LOCATED NEXT TO THIS CLAIM?

YES _____ NO _____

If YES, describe the situation on the back page.

20. IF APPLICANT IS A CORPORATION, GIVE THE FOLLOWING INFORMATION:

a. Is the corporation for profit? _____ Or nonprofit? _____

b. Date and place of incorporation: _____

c. Name and address of Registered Agent: _____

d. IRS Tax Number: _____

Corporations, please attach the following documents to this application:

- i) a certificate of good standing issued by the State of Alaska;
- ii) a certificate of good standing issued by the State of incorporation, if not Alaska;
- iii) a certified copy of your Articles of Incorporation;
- iv) a certified copy of the resolution authorizing the filing of this application.

If the corporation is a NONPROFIT, please provide proof of your IRS NONPROFIT tax exempt status.

21. IF APPLYING AS AN INDIVIDUAL (OR THE USE IS BASED UPON THE USE OF AN INDIVIDUAL IN 1971) PLEASE PROVIDE THE FOLLOWING INFORMATION ABOUT YOURSELF IF YOU USED THE LAND IN 1971, OR THE PERSON WHO USED THE LAND IN 1971, IF IT IS SOMEONE DIFFERENT THAN YOURSELF:

- a. Your address in 1971 _____
- b. Where were you registered to vote in 1971? _____
- c. Did you have a driver's license in 1971? _____
YES _____ NO _____ FOR ALASKA? _____
- d. Did you have a hunting or fishing license in 1971? _____
YES _____ NO _____ FOR ALASKA? _____
- e. Did you enroll under ANCSA? YES _____ NO _____
To which region and village? _____

22. IF APPLYING FOR A PRIMARY PLACE OF RESIDENCE, PLEASE GIVE THE FOLLOWING INFORMATION:

- a. Did you live in a home on the tract? YES _____ NO _____
- b. If YES, was this home the primary place where you resided?
YES _____ NO _____

23. IF APPLYING FOR A PRIMARY PLACE OF BUSINESS, GIVE THE FOLLOWING INFORMATION:

- a. Type of Business: _____
- b. 1971 Business License Number: _____
- c. Approximate percentage of your total gross income produced by business during the calendar year 1971: _____ %
- d. If you were operating more than one business on December 18, 1971, provide the above information for each business on back page, and estimate what percentage of time was devoted to each.
- e. If the land was used as a residential rental, please indicate on back page the times during which it was rented, the monthly rate, the name of the party(ies) renting it on December 18, 1971, and if the property is no longer being rented, the date it was last rented and its present use.

24. IF APPLYING FOR A SUBSISTENCE CAMPSITE OR HEADQUARTERS FOR REINDEER HUSBANDRY, PLEASE GIVE THE FOLLOWING INFORMATION ABOUT YOURSELF IF YOU USED THE LAND IN 1971, IF IT IS SOMEONE DIFFERENT THAN YOURSELF.

a. List the improvements on the land in 1971 which were used as part of your activities. _____

If no improvements existed, give the name of two persons not related to you or each other who will give sworn statements that you, or the person you are claiming through, used the land in 1971:

Names	Addresses
-------	-----------

1.	_____
2.	_____

b. Did you use the land exclusively for berry picking?

YES _____ NO _____

For a garden site? YES _____ NO _____

c. Did you use the land only for recreation? YES _____ NO _____

d. Was any of the land used by your family as a family in 1971?

YES _____ NO _____

e. Were you the head of your family in 1971? YES _____ NO _____

If NO, who was the head of the family?

f. Were you employed in 1971? YES _____ NO _____

If YES, please indicate where, how long, and doing what:

Where: _____

How Long: _____

Job: _____

25. IS THIS APPLICATION FOR PROPERTY USED BY A NONPROFIT ORGANIZATION IN 1971? YES _____ NO _____

If YES, please describe how the use of the land related to the nonprofit status. _____

26. ARE YOU NOW MARRIED? YES _____ NO _____

If YES, what is your spouse's name? _____

Were you married to the same person now as then? YES _____ NO _____

If NOT, to whom were you then married?

27. IF WE NEED MORE INFORMATION FOR THIS APPLICATION, WHERE CAN WE REACH YOU?

28. NAME AND ADDRESS OF THREE REFERENCES WHO HAVE PERSONAL KNOWLEDGE OF YOUR USE OF THIS LAND:

1. _____
2. _____
3. _____

29. DID ANYONE HELP YOU FILL OUT THIS FORM? YES _____ NO _____

30. IF YES, THAT PERSON SHOULD SIGN HERE:

(Signature)

(Print Name)

(Address)

THIS IS A SWORN STATEMENT AND THE FACTS GIVEN ABOVE ARE TRUE TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT ANY FALSE ANSWERS OR STATEMENTS COULD RESULT IN THE REJECTION OF THIS APPLICATION.

APPLICANT'S SIGNATURE

DATE

CO-APPLICANT, IF ANY

DATE

SUBSCRIBED AND SWORN TO before me this _____ day of _____
_____, 19_____, at _____, _____
(City) (State)

Notary Public or Postmaster
My Commission Expires: _____

USE THIS PAGE TO COMPLETE QUESTIONS, DRAW SKETCHES, OR ADD ADDITIONAL INFORMATION.

14(c)(1) Application for Primary Place of Residence

PART I ALL APPLICANTS MUST FILL OUT PART I.

1. NAME(S) _____
Last First Middle Initial

Last First Middle Initial

A married couple or more than one person who lived on the land together in 1971 may jointly apply for the land using this same application form.

2. MAILING ADDRESS _____
Box/Street City State Zip

3. TELEPHONE NUMBER: Home _____ Work _____

4. BIRTHDAY _____ 5. SOCIAL SECURITY NO. _____ - _____ - _____
Month Day Year

PART II

6. WERE YOU LIVING ON THE LAND AS OF DECEMBER 18, 1971?

Yes _____ Go to Question #7 below
No _____ Go to Part III at the top of the next page

7. WHEN DID YOU FIRST LIVE ON THIS LAND? _____
Month Day Year

8. SHOW ALL THE PERIODS OF TIME YOU ACTUALLY LIVED ON THIS LAND:

FROM: _____ TO: _____
Month Day Year Month Day Year

FROM: _____ TO: _____
Month Day Year Month Day Year

FROM: _____ TO: _____
Month Day Year Month Day Year

9. LIST THREE PEOPLE WHO WOULD KNOW THAT YOU LIVED ON THIS LAND IN 1971.

Name and Address

Name and Address

Name and Address

SKIP PART III AND FILL OUT PART IV.

PART III

IF YOU ANSWERED "NO" TO QUESTION NUMBER 6, YOU MUST FILL OUT PART III. IT IS IMPORTANT TO KNOW WHY YOU WERE NOT LIVING ON THE LAND IN 1971.

10. WERE YOU LIVING SOMEWHERE ELSE IN 1971 FOR ANY OF THE FOLLOWING REASONS?

A. IN SCHOOL: Yes _____ No _____

WHERE _____

WHEN: FROM: _____ TO: _____
Month Year Month Year

B. MILITARY SERVICES: Yes _____ No _____

WHEN: FROM: _____ TO: _____
Month Year Month Year

C. MEDICAL REASONS: Yes _____ No _____

WHERE _____

WHEN: FROM: _____ TO: _____
Month Year Month Year

D. WORKING: Yes _____ No _____

WHERE _____

WHEN: FROM: _____ TO: _____
Month Year Month Year

E. Other: List _____

WHERE _____

WHEN: FROM: _____ TO: _____
Month Year Month Year

11. WAS SOMEONE ELSE LIVING ON THE LAND IN 1971? Yes _____ No _____

A. NAME OF PERSON WHO LIVED ON THE LAND:

Last First Middle Initial

B. RELATIONSHIP TO YOU (if any) _____
Father, Mother, Uncle, etc..

C. WHEN DID THEY FIRST LIVE ON THE LAND?

Month Day Year

D. SHOW ALL THE PERIODS OF TIME THEY LIVED ON THE LAND:

FROM: _____ TO: _____
Month Year Month Year

D. (cont.) FROM: _____ TO: _____
Month Year Month Year

FROM: _____ TO: _____
Month Year Month Year

12. ARE YOU THE LEGAL HEIR OF THE PERSON NAMED ABOVE IN QUESTION NUMBER 11?
(Did you inherit his property or rights to property?) Yes _____
No _____.

IF YES, PLEASE ATTACH A COPY OF A WILL, COURT DOCUMENTS OR OTHER LEGAL DOCUMENT SUPPORTING YOUR CLAIM.

13. DID YOU BUY OR RECEIVE FROM THE PERSON NAMED ABOVE IN QUESTION NUMBER 11 THE HOUSE OR OTHER RIGHTS TO THE LAND?
Yes _____ No _____

IF YES, PLEASE ATTACH A COPY OF A DEED, BILL OF SALE OR OTHER DOCUMENT SUPPORTING YOUR CLAIM.

14. LIST THREE PEOPLE WHO WOULD KNOW THAT THE PERSON NAMED IN QUESTION NUMBER 11 LIVED ON THIS LAND IN 1971.

Name and Address

Name and Address

Name and Address

PART IV ALL APPLICANTS MUST FILL OUT PART IV.

15. GIVE A LEGAL OR OTHER DESCRIPTION OF THE LOCATION OF THE LAND YOU ARE CLAIMING (If in a village, give the street it is located on, what building or landmarks it is next to; If the land is not in a village, give the township, range, and section description, if known, and nearby features such as streams, hills, or landmarks.)

16. PLEASE MARK WITH AN "X" ON THE ATTACHED MAP THE LOCATION OF THE LAND YOU ARE APPLYING FOR (If you are claiming land not in a village, please include a map or a sketch showing the location. Maps are available from the corporation office.)

17. HOW LARGE IS THE PARCEL OF LAND WHICH YOU ARE CLAIMING? TELL HOW MANY FEET IT IS ON EACH SIDE, SUCH AS 80 FEET WIDE BY 100 FEET LONG. THE SIZE SHOULD ONLY INCLUDE THE LAND ACTUALLY USED IN 1971 - REMEMBER, THIS IS NOT A NATIVE ALLOTMENT.

18. DESCRIBE THE STRUCTURES THAT WERE ON THIS LAND IN 1971. (For example, cabins, tent frames, house, smoke house, outhouse.).

STRUCTURE

DATE BUILT

19. WHICH OF THE STRUCTURES DESCRIBED ABOVE ARE STILL ON THE LAND?

20. HAVE YOU EVER FILED ANY OTHER APPLICATION FOR THIS LAND? (For example, Native Allotment, mining claim, townsite lot, homesite, etc.)

Yes _____ No _____

If "YES", WHAT KIND OF APPLICATION? _____

WHO DID YOU APPLY TO? _____

WHAT ACTION WAS TAKEN? _____

Please include copies, if available, of applications, patents, deeds or decisions.

21. DO YOU OWN ANY OTHER LAND NEAR THIS PARCEL OF LAND?

Yes _____ No _____

IF YES, GIVE A DESCRIPTION OF THE LAND OWNED:

22. IF ANYONE ELSE MIGHT CLAIM THIS LAND, GIVE THEIR NAMES AND ADDRESSES (if you are claiming land that was used by a relative who is deceased, there may be other people who have a right to the same land such as your brothers and sisters.):

Last First Middle Initial Last First Middle Initial

Relation (if any) _____ Relation (if any) _____

23. DID ANYONE HELP YOU FILL OUT THIS FORM? Yes _____ No _____

IF YES, PLEASE HAVE THEM FILL IN THEIR NAME AND ADDRESS BELOW:

Name (Print)

Address

24. IS THIS THE ONLY 14(c) APPLICATION YOU ARE FILING OR HAVE FILED WITH THE CORPORATION? Yes _____ No _____

IF "NO", WHAT OTHER APPLICATIONS HAVE YOU FILED AND WHEN DID YOU FILE THEM?

THE FACTS GIVEN ABOVE ARE TRUE TO THE BEST OF MY KNOWLEDGE. I KNOW AND UNDERSTAND THAT ANY FALSE ANSWERS OR STATEMENTS COULD RESULT IN THE REJECTION OF THIS APPLICATION.

Date Applicant's Signature

Co-applicant, if any (wife, husband, etc.)

WITNESSED BY:

(Witnesses are only required if an X is used for the applicant's signature).

SUBSCRIBED AND SWORN TO ME before me this _____ day of _____,
19_____, at _____, _____
City State

(Notary Seal or Postmaster Stamp)

Notary Public or Postmaster
My Commission Expires _____

(If signed by a Postmaster, the Postmaster's stamp must also be used).

Date

Name

Address

City State Zip

The Alaska Native Claims Settlement Act (Section 14(c)(1) & (2)) requires the corporation to give land which it owns to any person or persons who occupied land as of December 18, 1971 as their primary place of residence, (their main home), primary place of business, subsistence campsite, headquarters for reindeer husbandry, or as nonprofit organizations.

The corporation is now starting this reconveyance program for lands the corporation owns in and around the village area. A map showing these lands is included in this application.

At a meeting of the corporation Board of Directors the following attached policies and criteria were adopted.

If you meet these criteria, you should fill out this application. Also, if you are the legal heir (you inherited property or rights from someone who died) of someone, such as your father or mother, who lived on land in the village in 1971, you may apply for land through their use of the land.

You may also apply for land on which someone else lived in 1971 if the 14(c) land rights were sold or transferred to you by them after 1971. Married couples or other people who lived on land together in 1971 can jointly apply for the land using the same application.

Attached to this application is an affidavit you may wish to use. The affidavit should be filled out and signed by someone who knows that you occupied the land in 1971 that you are claiming. Submitting this affidavit with your application will be particularly helpful if you have moved since 1971.

These affidavits may be used by applicants claiming land on the basis of inheritance or through purchase or other transfer of property rights. If you are unable to find and submit copies of legal documents (will, deed, bill of sale, court order) supporting your claim, then it will be helpful to submit an affidavit with your application. This affidavit should be filled out and signed by someone who knows that you inherited, purchased or otherwise received rights to the land you are claiming. Copies of blank affidavits can be obtained at the corporations office.

YOU MUST FILL OUT THIS APPLICATION AND RETURN IT IN PERSON OR BY MAIL TO THE CORPORATION OFFICE BY _____. APPLICATIONS RECEIVED IN THE CORPORATION OFFICE AFTER THIS DEADLINE WILL NOT BE CONSIDERED.

Applications will be reviewed by corporation staff as they are received. In many cases, we may need to contact applicants for additional information. FOR THIS REASON, THE CORPORATION ENCOURAGES ALL APPLICANTS TO SUBMIT THEIR APPLICATIONS TO THE CORPORATION BY _____. The sooner applications are received, the sooner staff can complete their review.

If you have questions, feel free to call or write the corporation. Corporation staff are available to help people fill out applications.

READ THE APPLICATION COMPLETELY BEFORE BEGINNING TO FILL IT OUT. DON'T FORGET TO SIGN THE APPLICATION IN FRONT OF THE POSTMASTER OR A NOTARY PUBLIC.

Thank you very much.

To Applicant: The attached affidavit is designed to help prove your 14(c) claim by allowing individuals who know of your occupancy to swear to it on your behalf. It is optional but it may be very helpful if you are no longer in the village.

To Signer: The affidavit you are signing is a sworn statement which says you know that the applicant occupied the land described in his/her 14(c) application. (Since you are swearing that the applicant occupied this land on December 18, 1971, you may want to look at the application to make sure it is the land you are familiar with.)

STATE OF ALASKA)
) ss.
____ JUDICIAL DISTRICT)

AFFIDAVIT

_____ being first duly sworn on oath deposes and says

- THAT
1. My name is _____.
 2. My address is _____.
 3. I am a resident of _____.
 4. I have known _____ for _____ years.
 5. I know that _____ occupied the parcel described here: _____

 6. _____ occupied the described parcel as of December 18, 1971.
 7. This is how he/she used his land: _____

 8. Any additional comments: _____

SUBSCRIBED AND SWORN TO Before me this _____ day of _____, 19____, at _____, Alaska.

Notary Public or Postmaster
Notary's Commission Expires: _____

Signature

FIELD EXAMINATION REPORT

Name of 14(c) Claimant _____

Address _____

City, State _____

Name of Village Corporation _____

Name of person conducting field exam _____

Title _____ Date _____

Location of Land: _____

Description of Improvements: _____

Description of all visible use and occupancy: _____

Is a photograph available which was taken on or before the year 1971?
Yes _____ No _____

Check here if photograph is taken of site during field exam. _____ (Attach)

Was applicant present during examination? Yes _____ No _____

Are there any adjacent land owners? Yes _____ No _____

Record all interviews with adjacent land owners and references on back.

Name _____ Adjacent landowner? ____ Reference? _____

Name of Interviewer _____ Date Interviewed _____

Name _____ Adjacent landowner? ____ Reference? _____

Name of Interviewer _____ Date Interviewed _____

Name _____ Adjacent landowner? ____ Reference? _____

Name of Interviewer _____ Date Interviewed _____

Corporation

Address

Date

Name

Address

City State Zip

Dear _____:

Your application for a 14(c) reconveyance has been approved by the board of directors for a _____
(type of parcel)

The land staff has plotted all approved parcels on a general map. Enclosed is a map showing the location of your parcel. If it is incorrect, please contact us within 30 days. If there are any adjustments, you will be contacted again to review the location of your parcel on the plan of survey map.

If you have any questions, please contact _____
(Name)
at _____ or at the address above.
(telephone)

Sincerely,

President, Board of Directors

Corporation

Address

Date

Name

Address

City State Zip

Dear _____:

Your 14(c) application for a _____ has been tentatively denied for the following reasons:

If you disagree with this action, you may appeal in person to the _____ . You have ___ days to appeal this decision. If we do not hear from you within this time, your application will be denied. Please contact _____ to arrange a time for your appearance at the appeals hearing. You may appear with a lawyer if you wish. If you are not satisfied with the decision of the corporation appeals board, you can take this case to court.

If you have any questions, contact _____ at the address above.

Sincerely,

President, Board of Directors

Corporation

Address

Date

Name

Address

City State Zip

Dear _____

Enclosed is a copy of the field examination report conducted on the land you applied for under our reconveyance program.

Your appeal on the denial of your 14(c) application is scheduled for _____, 19__ at _____ o'clock at _____ . You may appear in person or through a legal representative. This hearing is to give you an opportunity to provide additional information, testify or call witnesses on your behalf.

If you have any questions, contact _____ at the address above.

Sincerely,

President, Board of Directors

RECORD OF 14(c) APPLICATIONS

Appln. Number	Name	Date Rec'd.	Field Exam Date	Land Committee Review Date	Board Review Date	Date Applicant Notified	Applicant's Signature or Certified Letter Number	Check Here If Applicant Appeals	Settlement of 14(c) Obligation Form Signed
------------------	------	----------------	-----------------------	-------------------------------------	-------------------------	-------------------------------	--	--	--

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P R O G R E S S O N 1 4 (c)

Date	Number of Applications Received	Number of Field Exams Completed	Number Reviewed by Land Committee	Number Reviewed By Board	Number of Appeals	Number of Claims Satisfied
------	---------------------------------	---------------------------------	-----------------------------------	--------------------------	-------------------	----------------------------

SETTLEMENT OF 14(c) RECONVEYANCE OBLIGATION

I/WE HEREBY CERTIFY THAT THE PARCEL(S) IDENTIFIED FOR CONVEYANCE

BY _____ AND DESCRIBED
(Name of Village Corporation)

BELOW SATISFIES ANY CLAIMS OF ENTITLEMENT I/WE MAY HAVE UNDER SECTION
14(c) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Signature

Date

Signature

Date

SUBSCRIBED AND SWORN TO Before me this _____ day of _____, 19____

at _____, _____
City State

Notary Public or Postmaster
Notary's Commission expires: _____

QUITCLAIM DEED

_____ ("Grantor") grants and quitclaims to _____ ("Grantee"), _____ (address) the following described real property located in the _____ Recording District, _____ Judicial District, State of Alaska:

Grantee accepts this Quitclaim Deed in full satisfaction of all of his claims under Section 14(c) of the Alaska Native Claims Settlement Act of 1971, as amended.

Dated this _____ day of _____, 1984.

GRANTEE: _____

GRANTOR: _____
(Name of corporation)

By _____
Title _____

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 198__, by _____, the _____ of the _____ CORPORATION, an Alaska corporation, on behalf of the corporation.

Notary Public for Alaska.
My Commission Expires: _____

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 198__, by _____, the _____ of the _____ CORPORATION, an Alaska corporation, on behalf of the corporation.

Notary Public for Alaska.
My Commission Expires: _____

SAMPLE AGREEMENT

Attached is a sample agreement between a municipality and a village corporation for lands to be conveyed to the municipality under Section 14(c)(3) of ANCSA.

The sample agreement has several blanks which are numbered, which blanks should be filled in the following manner:

1. - Name of the City (Municipality)
2. - Name of the Corporation
3. - Name of the Community
4. - Name of the Recording District in which the land is located.

In addition, in the notice provision in Section 16 there are provisions for the addresses of each party.

There are additional provisions that may be added to the Agreement should they be appropriate:

- a) Consideration -- If the City is to pay or to provide other consideration to the Corporation as the result of their negotiations for some of the land to be conveyed, then a section needs to be added setting forth the amount of the consideration and the time and manner of payment.
- b) Reversionary Interests -- If the City and the Corporation agree that certain of the parcels to be conveyed to the City are contingent upon the City's using them for certain purposes, then an additional section should be added describing the parcels, the uses which are allowable, and a statement that title will revert to the Corporation if the land is used for any other purposes. Because the language of this section depends upon the factual circumstances, the Corporation would

be best advised to seek legal counsel in its preparation.

- c) Conflict of Interest -- In some communities, the City Council and the Board of Directors of the Corporation are often composed of the same individuals. In such a case it may be advisable to have the Agreement ratified by the voters who are residents of the City in order to prevent any subsequent challenges based upon an alleged conflict of interest. Should this be the case the Corporation would be advised to consult legal counsel for assistance in preparing appropriate language for a section requiring a ratification election to be held and terminating the Agreement should it fail to be ratified. This provision should be prepared only after the local ordinances for elections have been reviewed.

The Corporation and the City should prepare an Appendix A to be attached to the Agreement which would set out the legal description of the lands to be conveyed.

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Appendicies

A. Legal Description of Lands to be Conveyed

A-1. Map

AGREEMENT

between

[Municipality]

and

[Village Corporation]

AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, 198__, by and between the _____ (1), an Alaska Municipal Corporation (hereinafter "CITY") and _____ (2), an Alaska corporation (hereinafter "CORPORATION").

W I T N E S S E T H:

WHEREAS, the CORPORATION is the Native village corporation for the Village of _____ (3), and is organized and incorporated pursuant to the provisions of the Alaska Native Claims Settlement Act of December 18, 1971, as amended, Pub.L.92-203, 85 Stat.688, 43 U.S.C. §160 et. seq. (hereinafter "ANCSA"), and as such is entitled to receive title to certain lands in the area of and including the community of _____ (3); and

WHEREAS, pursuant to the provisions of Section 14(c) of ANCSA (43 U.S.C. §1613(c)), CORPORATION may make certain conveyances of land including conveyances to CITY; and

WHEREAS, in order to provide for the orderly development of CITY and orderly planning by CORPORATION, the parties have entered into this Agreement to identify lands to be conveyed to CITY, the terms of such conveyances, and to facilitate the conveyances of those lands in order to allow CITY to meet its obligations to the general public;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, the sufficiency of which is

hereby acknowledged, CORPORATION and CITY hereby agree and covenant as follows:

1. Designation of Lands. The CITY and CORPORATION hereby agree that the CORPORATION shall convey to the CITY and the CITY shall receive from the CORPORATION the surface estate of those lands described in Appendix A, attached hereto and incorporated herein by reference (such lands hereinafter as "Subject Lands"). Receipt of title by CITY to such Subject Lands, as may be conveyed in accordance with the provisions of this Agreement, shall constitute full and complete satisfaction of all obligations which CORPORATION may have to CITY arising under Section 14(c)(3) of ANCSA. The parties acknowledge that the interest to be conveyed hereunder, in the Subject Lands and the CORPORATION's right to convey any such interest, is subject to the provisions of ANCSA, including but not limited to Section 14(a), 14(c), 14(g), 17(b) and 22(b).

2. Legal Descriptions. The parties acknowledge that the descriptions of the Subject Lands as set forth in Appendix A are approximate and prior to a survey of the exact area to be included having been performed. The CORPORATION is not required to issue a conveyance of any of the Subject Lands, prior to a survey being conducted by a licensed surveyor of the lands, which are the subject of the proposed conveyance.

All boundaries of the Subject Lands to be conveyed pursuant to this Agreement shall be the same as those set forth on the map, which is required to be submitted to the Bureau of Land Management (hereinafter "BLM") pursuant to 43 CFR Section 2650.5-4(c)(1). To the extent that BLM requires the boundaries of the Subject Lands to be staked on the ground prior to the survey of the Subject Lands, CORPORATION shall give CITY

reasonable notice as to when such required staking shall occur, and CITY shall have the right to have a representative designated by it present at the time of such staking. Should the CITY have a survey performed pursuant to the provisions hereof, the boundaries of the Subject Lands shall be set forth on a map consistent with Appendix A, and such map and such instructions as may be mutually agreeable to the parties hereto, shall serve as the basis for the survey to be performed.

3. Third Party Rights. Pursuant to Section 14(c)(1) and (2) of ANCSA, the CORPORATION is required to make certain conveyances to third parties. The CORPORATION is relieved of any obligation to convey to CITY, title to any of the Subject Lands which the CORPORATION has determined to be subject to a valid claim of title arising under such sections of ANCSA. CORPORATION has the further right to delay the conveyance to CITY of any of the Subject Lands, which it may determine are subject to a potentially adverse claim of title arising under Section 14(c)(1) and (2) of ANCSA. Such delay may continue until a final determination of any such adverse right has been made. Should the CITY be conveyed any Subject Lands hereunder, prior to the expiration of the statute of limitations for Section 14(c) claims, as provided in Section 902(b) of the Alaska National Interest Lands Conservation Act of December 2, 1980 (P.L. 96-487), and a valid claim under Section 14(c)(1) or (c)(2), subsequently be determined to exist with respect to such conveyed Subject Lands; then CITY shall convey to claimant, either the title to the Subject Lands which the claimant is otherwise entitled to receive, or title to such other land as CITY and claimant may agree. CITY shall at all times indemnify and hold the CORPORATION, its officers, agents and employees harmless from all loss, liabilities or expenses which it may incur as the result of its inability to make the conveyance required by Section

14(c)(1), or (2) because of its prior conveyance of the Subject Lands to the CITY.

4. Conveyances. All conveyances to be made by CORPORATION to CITY pursuant to the provisions of this Agreement shall be by quit claim deed and shall be subject to:

- a) all restrictions, reservations and limitations in the conveyance from the United States to the CORPORATION for such land;
- b) all rights required to be recognized by Section 14 and 22 of ANCSA; and
- c) all provisions of this Agreement.

The CORPORATION shall make such conveyances to CITY as are contemplated by this Agreement within one hundred twenty (120) days after the earlier of, (i) the receipt by the CORPORATION of a recorded plat of survey of the Subject Lands prepared by a licensed surveyor in compliance with Section 2 hereof, which subdivision plat or survey has been duly approved in accordance with state law to the extent such approval is required, or (ii) the receipt by the CORPORATION of a recorded survey of the Subject Lands performed by the Bureau of Land Management in compliance with the provisions of ANCSA; provided, however, no conveyance shall be required to be issued if there is any pending litigation which involves conflicting claims to the Subject Lands under Sections 14(c)(1) or 14(c)(2) of ANCSA.

5. Rights of Certain Third Parties. The parties acknowledge that some of the Subject Lands may presently be occupied by persons to whom CORPORATION is not required to convey title

pursuant to Section 14(c), and whose occupancy is not recognized pursuant to the provisions of ANCSA or by public land law. The CITY agrees to consider conveying to all such persons, title to the land occupied by them, as of the date of this Agreement.

6. Survey. The CORPORATION shall use its best efforts to obtain a survey of the exterior boundaries of the tracts to be conveyed, which survey to be performed by the BLM pursuant to ANCSA, and at no expense to CITY. However, CORPORATION shall not be responsible for the cost of any survey to be performed of the interior boundaries, lots, blocks, and easements of the area conveyed, pursuant to this Agreement, which is not required to be performed by the BLM pursuant to the provisions of ANCSA.

7. Access Rights to Land. To the extent it is able, CORPORATION hereby grants to CITY the right to enter upon any and all land intended to be conveyed to CITY under this Agreement, and to engage in any activities, thereon, which are reasonably necessary to permit CITY to determine the land to be conveyed, pursuant to this Agreement, and to permit CITY and its successors in interest to proceed with planning and other activities necessary for the expansion of CITY on the lands to be conveyed hereunder.

8. Representations and Warranties

a) Corporate Status. CORPORATION hereby represents and warrants that it is an Alaska corporation duly incorporated in accordance with the laws of the State of Alaska, that it is in good standing and qualified to do business in the State of Alaska, and that it is empowered to enter into this Agreement and any and all transactions contemplated hereunder.

b) Municipal Status. CITY hereby represents and warrants that it is the municipal corporation and governmental body for the community of _____ (3) _____, duly organized and recognized as such, all in accordance with the laws of the State of Alaska, that it is in good standing and that it is empowered to enter into this Agreement, and any and all transactions contemplated hereunder.

c) Authorization. CORPORATION hereby represents and warrants that its Board of Directors has adopted a resolution at a meeting duly called, noticed and held at which a quorum was present and voting, which resolution authorized and directed the officers of the Corporation to execute this Agreement on its behalf. CITY represents and warrants that the execution of this Agreement has been duly authorized and directed by such action as may be required by municipal ordinances, state laws and regulations; and that all such action which is required to be taken by such ordinances, laws and regulations has been taken. Prior to the execution of this Agreement, each party has delivered a certified copy of said resolution, ordinance or authorization to the other party, receipt of which is hereby acknowledged; and each party respectively hereby represents and warrants that as of the date hereof, said resolution, ordinance or authorization is in full force and effect and has not been modified or revoked in any manner whatsoever.

9. Land Status. Except as provided in this Section, the CORPORATION hereby represents and warrants there are no liens, encumbrances, charges, or claims (other than those arising under the ANCSA and the rules and regulations promulgated thereunder, or those created in favor of CITY) affecting the surface rights to the land to be conveyed to the CITY pursuant to this

Agreement, which were created by or are the result of any action taken by the CORPORATION.

10. Arbitration of Disputes. All disputes arising in connection with this Agreement and conveyances hereunder, which cannot be settled by agreement between the parties thereto, shall be finally settled by arbitration in the City of Anchorage, Alaska, by a board of three (3) arbitrators, all in accordance with the Uniform Arbitration Act of the State of Alaska. CITY shall select one (1) arbitrator, the CORPORATION shall select one (1) arbitrator, and the two (2) arbitrators so selected shall select the third arbitrator.

11. Default. The failure of any party to keep or perform any obligation on its part to be kept or performed according to the terms and provisions of this Agreement shall, at the election of an injured party, constitute a breach of this Agreement unless such default be cured as hereinafter provided. In the event of such default, the injured party shall first deliver to the defaulting party written notice of its intention to declare such a breach of this Agreement, specifying the particular default or defaults relied upon. The defaulting party shall have a reasonable time under the circumstances in which to cure such specified default or defaults; if such default or defaults are cured, there shall be no breach hereunder with respect to the same. If the allegedly defaulting party disputes that a default has occurred, it shall deliver to all of the other parties written notice to that effect within thirty (30) days of receipt of the notice from the non-defaulting party and the question shall be determined by arbitration. If the decision of the arbitrators is that the allegedly defaulting party is in default, then the defaulting party shall have a reasonable time as determined by the arbitrators in their decision in which to cure the default or defaults;

and if such default or defaults be cured there shall be not breach hereunder with respect to same. If notice of default is given to a party and if that party either: (a) does not give notice that it disputes the existence of such default; or (b) disputes the default but the decision of the arbitrators is that a default has occurred, and in either case such default is not cured within the period specified above, then the other party or parties, at their option, may obtain specific performance of this Agreement. In any arbitration or court proceedings involving default, the prevailing party shall be entitled to reasonable attorneys' fees.

12. Termination. This Agreement may be terminated only by mutual consent of the parties.

13. Force Majeure. If any party to this Agreement shall be prevented or delayed from performing any of the obligations on its part to be performed hereunder, or from exercising any of its rights hereunder by reason of acts of nature, weather conditions, strike or threat of strike, earthquake, fire, flood, interruption or delay in transportation or communication, war, insurrection or mob violence, requirement or regulation of governmental authority, unavoidable casualties, shortage of labor or equipment or material, plant breakdown, or any other disabling cause which is beyond the control of the party and which cannot be overcome by the party through the exercise of normal means at a reasonable expense, then in such event any such failure to perform shall not be deemed a breach of this Agreement and performance of said obligation shall be suspended during such period of disability and time for performance of such obligation shall be extended for a period equal to the period or periods of disability. The parties hereto hereby agree to use reasonable diligence to remove any such causes of disability as may occur from time to time.

14. Recording. This Agreement shall be recorded in the Recorder's Office for the _____ (4) _____ Recording District. The cost of recording shall be paid by CITY.

15. Assignment. The rights and obligations of each party to this Agreement may be assigned in whole or in part at any time to a party capable of performing, except as otherwise provided in this Section 15. Should the CITY assign its rights hereunder, CORPORATION shall be under no obligation or duty to issue a conveyance to a party other than the CITY, or a conveyance for any land to be transferred hereunder, in a parcel smaller than that surveyed by the BLM pursuant to its obligations under the provision of ANCSA or by a licensed surveyor engaged at the sole expense of CITY. No assignment shall be binding upon the non-assigning party until written notice thereof is given to such non-assigning party. This Agreement shall inure to the benefit of and bind the parties hereto, and their respective successors, assigns, heirs, administrators, executors, and personal representatives.

16. Notice and Delivery. All notices contemplated by this Agreement shall be in writing. Any notice or other document contemplated by this Agreement shall be deemed sufficiently delivered if mailed by United States certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

a) If to CITY:

b) If to CORPORATION:

Delivery by mail shall be deemed effective and complete only when received by the party to whom such notice is directed, as evidenced by the return receipt.

Any notice or other document contemplated by this Agreement may be delivered by personally serving said notice or other document upon the designated agent of the party at the address indicated above, or the registered agent of the party. In the event of delivery by personal service, delivery shall be deemed effective and complete on the date of said personal service. In the event of delivery by personal service, a courtesy copy shall be mailed to the party at the address above.

The address to which a party desires that notices and other documents be delivered may be changed at any time by giving written notice thereof to the other party.

17. Indemnification. CITY shall indemnify, defend and shall hold and save CORPORATION, its officers, agents and employees, harmless from liability of any nature and kind, including costs and expenses for or on account of any or all suits or damages of any character whatsoever as the result of this Agreement or any conveyance made hereunder, except for such liability as may be the result of the sole negligence or fault of CORPORATION.

18. General Provisions

a) Modification of Agreement. This Agreement may only be modified by a document in writing executed by all parties to the Agreement.

b) Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties and supersedes all prior agreements and understandings relating to the subject matter thereof, including but not limited to the Former Agreement.

c) Waiver. The failure of any party to this Agreement to insist upon the strict performance of any provision of this Agreement or to exercise any right, power, or remedy consequent upon a breach thereof, shall not constitute a waiver by said party of any such provision, breach, or subsequent breach of the same or any other provision.

d) Remedies. Except as otherwise provided in this Agreement, parties hereto shall be entitled to any or all remedies provided by law.

e) Severability. If any provision in this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such provision shall not be affected thereby.

f) Headings. Descriptive paragraph headings throughout this Agreement are for convenience and reference only; the words contained therein shall not be held to expand, modify, amplify, or aid in the interpretation, construction, or meaning of this Agreement.

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 198__, before me, the undersigned Notary Public, personally appeared _____, to me known and known to me to be the City Clerk of the City of _____ (1), the municipal corporation named in the foregoing Agreement, and he acknowledged to me that he had in his official capacity aforesaid executed the foregoing Agreement as the free act and deed of the corporation for the uses and purposes therein stated.

WITNESS my hand and notarial seal on the day and year in this certificate first above written.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the _____ day of _____, 198__, before me, the undersigned Notary Public, personally appeared _____, to me known and known to me to be the _____ of _____, the corporation named in the foregoing Agreement, and he acknowledged to me that he had in his official capacity aforesaid executed the foregoing Agreement as the free act and deed of the corporation for the uses and purposes therein stated.

WITNESS my hand and notarial seal on the day and year in this certificate first above written.

Notary Public in and for Alaska
My commission expires: _____

APPENDIX A

(Attached to and Part of that certain Agreement
between _____ (1) and _____ (2)
dated as of _____, 19__)

SUBJECT LANDS

[Insert a description of the surface estate
of the Subject Lands or if a map is to be
used then use the following language and
attach the map to this Appendix A:

For the purposes of this Agreement,
the Subject Lands shall be those
lands depicted upon the map
attached to this Appendix A and
incorporated herein by reference.]

DEED
Municipal Trust Land
_____, Alaska

This Deed is made by and between the _____, an Alaskan Corporation, the Native village corporation for the village of _____, Alaska, hereinafter GRANTOR, and the State of Alaska, Department of Community and Regional Affairs, as Trustee for any future municipal corporation that may be established in the village of _____, Alaska, hereinafter GRANTEE. The mailing address of the GRANTEE is P.O. Box B, Juneau, Alaska 99811.

The GRANTOR, as provided by AS 44.47.150(a) and 19 AAC 90.025, for and in consideration of partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA) does hereby quitclaim and convey unto the GRANTEE, all present and after-acquired right, title and interest, if any, in and to the surface estate of the tract of land generally described as follows;

The surface estate of that certain real property located in Township _____, Range, _____, Meridian, Alaska, being situated in the Native village of _____, Alaska, more particularly described in Appendix A, attached hereto.

The GRANTOR warrants that it has not made any prior conveyance of the land and that there are no liens, encumbrances, charges, or claims (other than those arising under ANCSA) affecting the surface rights to the land being conveyed herein which were created by or are the result of any action taken by the GRANTOR.

It is stipulated, that any net revenues derived from the sale of surface resources harvested or extracted from these lands shall be paid to the Village Corporation by the GRANTEE or future Municipal Corporation; provided, however, that the word "sale," as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the GRANTEE or future Municipal Corporation, nor shall it include the issuance of free use permits or other authorization for such purposes.

The grant of the above described lands is subject to the issuance of a deed confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands pursuant to 43 CFR 2650.5-4(b).

Attachment

- 1. Appendix A. Property Plan and Legal Description

GRANTOR

ATTEST: _____
Secretary

BY: _____
President (or Vice President)

(Corporate Seal)

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY THAT ON THE _____ day of _____, 19____, before me, the undersigned Notary Public for the State of Alaska, or U.S. Postmaster, duly commissioned and sworn as such, personally came _____, President (or Vice President), and _____, Secretary, respectively, of _____, a corporation organized and existing under the laws of the State of Alaska, to me known to be said officers, affixed within this deed is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by the authority of its Board of Directors and _____, President (or Vice President), and _____, Secretary of _____, acknowledged said instrument to be the free act and deed of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

(SEAL)

Notary Public for Alaska
(or U.S. Postmaster)
My Commission Expires: _____

ACCEPTANCE

In accordance with AS 44.47.150(a) and 19 AAC 90.015(5), this grant is hereby accepted by the STATE OF ALASKA, in trust for any municipal corporation established in _____ in the future.

GRANTEE
STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

By: _____
Commissioner

ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss
_____ JUDICIAL DISTRICT)

THIS IS TO CERTIFY THAT ON THE _____ day of _____, 19____, before me, the undersigned Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, Commissioner of the Department of Community and Regional Affairs, the STATE OF ALASKA as trustee for any municipal corporation which may be established in the future at _____, Alaska.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

(SEAL)

Notary Public for Alaska
My Commission Expires: _____

INTERIM LEASE

This interim lease is entered into this _____ day of _____, 19____, between _____, hereinafter called the lessor, and _____, hereinafter called the lessee.

The parties recognize that since the land encompassed by this lease will be used for community use or expansion, such land will eventually be reconveyed under the provisions of Section 14(c)(3) of the Alaska Native Claims Settlement Act. The purpose of this lease is to serve as an interim measure until such reconveyance takes place.

The parties agree as follows:

1. The Premises. The lessor agrees to lease to the lessee the exclusive right to construct, operate, and maintain a _____ on the surface estate of the following real property which is located in the State of Alaska.

The legal description may change to conform to a survey or surveys.

2. Term of Lease. The lease term shall be _____ years from the date that this lease is signed by both parties.
3. Termination Upon ANCSA Conveyance.
 - (a) When the lessor conveys the title to the premises pursuant to Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA), this lease shall terminate. Neither the lessor nor the lessee shall be entitled to compensation of any kind whatsoever due to termination of this lease pursuant to this paragraph.
 - (b) In the event that no such conveyance is accomplished during the term of this lease, the lessee shall have sixty (60) days within which to exercise an option to renew this lease for an additional _____ year term.
4. Rent. The lessee agrees to pay the lessor a rent for the premises in the sum of _____ per year payable in annual installments at such office of the lessor or its agent in the village of _____ as the lessor may from time to time designate, on or before the _____ day of _____ in each and every year during the said term.
5. Reservation of Rights. The lessor reserves the right to grant to others the rights and privileges to use the premises not specifically and exclusively granted to the lessee. The rights and privileges granted to the lessee in this lease are the only rights and privileges granted to the lessee by this lease. The lessee has no easements, rights or privileges, expressed or implied, other than those specifically granted by this lease.
6. Valid Existing Rights. This lease is entered into and made subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in the premises, in existence on the date the lease is entered into.
7. Encumbrance of Premises. During the term of this lease, the lessee may not assign this lease or sublet the premises, nor enter into any lease, easement, or other obligation of the lessor's title without the prior written approval of the lessor. Any such act, without prior written approval of the lessor, is void as against the lessor's title to the premises.
8. Subleases. The lessee shall provide the lessor with copies of all applications for subleases, assignments, proposals for development, and construction as-builts, as they become available.
9. Successors Bound. All covenants and provisions in this lease extend to and bind the legal representatives, successors, sublessees, and assigns of the parties.
10. Access to Premises. The lessor or its authorized representatives reserves the right to ingress and egress the premises.
11. Operation and Maintenance. At no cost to the lessor, the lessee will provide all utilities, services, and maintenance necessary for the lessee's use of the premises. The lessee will take reasonable steps to protect the surface of the leased area and natural resources and improvements thereon and maintain the premises in a reasonably neat and clean condition.

12. Surface Reservation. Unless otherwise stated in this lease, the lessee may not sell or remove for use elsewhere any of the surface resources of the premises.

13. Breach and Remedies.

(a) The premises are to be used only for the purpose of a _____, and for no other purpose without specific written authorization of the lessor. The lessor retains the right to terminate this lease upon thirty days' written notice if the premises are used for unauthorized purposes, or if they cease to be used for a _____.

(b) Time is of the essence in this lease. If the lessee breaches any provision of this lease, other than a breach for improper use of the premises which is governed by subparagraph (a), and the breach is not remedied within 30 days after written notice of it has been served on the lessee, the lessee is subject to any legal action that the lessor considers appropriate, including the termination of this lease. The lessor is not liable for any expenditures made by the lessee in the event of the termination of this lease.

(c) If this lease is terminated by summary proceedings or in any other manner, or if the premises or any part of it is abandoned by the lessee during the term of this lease, the lessor, after written notice to the lessee, may immediately, or at any time afterwards, enter or re-enter and take possession of the premises, or any part of it, without liability for any damage, and may remove all persons and property from it either by summary proceeding or by legal action. The words "entry" and "re-entry" are not restricted to their technical legal meaning.

14. No Waiver. The failure of the lessor to insist on any one or more instance upon the strict performance by the other party of any provision in this lease may not be considered as a waiver for the future; the provision will continue in full force.

15. Indemnity of Lessor. The lessee shall indemnify and hold the lessor harmless from:

(a) all claims and demands for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the premises by the lessee or his successor, or at his invitation; and

(b) any accident or fire on the premises; and

(c) any nuisance on the premises; and

(d) any failure of the lessee to keep the premises in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and

(e) any assignment, sublease, or conveyance, attempted or successful, by the lessee which is contrary to the provisions of this lease.

The lessee will keep all goods, materials, furniture, fixtures, equipment, machinery, and other property on the premises at his sole risk, and will hold the lessor harmless from any claim of loss or damage to them by any cause.

16. Notice of Claim. The parties agree to immediately notify each other of any claim, demand, or lawsuit arising out of or affecting the lessee's occupation or use of the premises. Both parties will fully cooperate in the investigation and litigation of any claim, demand, or lawsuit affecting the premises.

17. Laws and Taxes. At no expense to the lessor, the lessee will conduct all activities authorized by this lease in compliance with all federal, State, and local laws, ordinances, rules and regulations now or hereafter in force which apply to the activities authorized herein or to the use, care, operation, maintenance, and protection of the _____, including but not limited to matters of health, safety, sanitation, and pollution. The acquisition of any necessary licenses or permits and payment of any taxes and special assessments accruing against the premises during this lease term will be the responsibility of its sublessees and not that of the lessor.

18. Notices. All notices and writings required or permitted by this lease must be sent by registered or certified mail, postage prepaid, to the parties at the following addresses. A party must notify the other in writing of any change in address.

lessor: _____

lessee: _____

19. Denial of Warranty Concerning Title or Conditions. The lessor make no specific warranties, expressed or implied, concerning the title or condition of the premises, including survey, access, or suitability for any use, including those uses authorized by this lease. The lessee leases the premises subject to any and all of the covenants, terms, and conditions affecting the lessor's title to the premises.

- 20. Integration and Modification. This lease, including all documents which by reference are incorporated in it or made a part of it, contains the entire agreement within the parties. This lease may not be modified or amended except by a document signed by both parties to this lease. Any amendment or modification which is not in writing and signed by both parties is of no legal effect.
- 21. Severability of Clauses of Lease. If any provision of this lease is adjudged to be invalid, that judgement does not affect the validity of any other provision of this lease, nor does it constitute any cause of action in favor of either party as against the other.
- 22. Headings. The heading of the numbered paragraphs in this lease shall not be considered in construing any provision of this lease.

BY SIGNING THIS LEASE, the lessor and the lessee, agree to be bound by its provisions as set out above.

Attachment

Appendix A: Resolutions authorizing signing [from both Lessor and Lessee]

Lessor:

By: _____

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

This is to certify that on _____, 19____, before me appeared _____, known by me to be the _____, of _____, who is authorized to sign this lease by the _____ as shown by the attached resolution (Appendix A), and who executed this lease and acknowledged voluntarily signing it on behalf of _____ as lessor.

(SEAL)

Notary Public in and for the
State of Alaska
My commission expires: _____

Lessee:

By: _____

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

This is to certify that on _____, 19____, before me appeared _____, known by me to be the _____, of _____, who is authorized to sign this lease by the _____ as shown by the attached resolution (Appendix A), and who executed this lease and acknowledged voluntarily signing it on behalf of _____ as lessor.

(SEAL)

Notary Public in and for the
State of Alaska
My commission expires: _____

BOARD RESOLUTION NO. _____

WHEREAS, _____ (hereinafter as CORPORATION) is the Native village corporation for the village of _____, having incorporated and organized in accordance with Section 8 of the Alaska Native Claims Settlement Act (hereinafter as ANCSA) and the laws of the State of Alaska; and

WHEREAS, the CORPORATION is required to transfer land for community use and expansion pursuant to Section 14(c)(3) of ANCSA to a municipal corporation or to the State in trust for a future municipal corporation; and

WHEREAS, the CORPORATION is not yet prepared to begin its 14(c)(3) reconveyance process; and

WHEREAS, the _____ needs to secure an interest in land in order to meet site control requirements for a community project; and

WHEREAS, the Board has reviewed this proposed lease which will serve as an interim measure until 14(c) reconveyances can be accomplished; and

WHEREAS, the Board believes the best interests of the CORPORATION would be served by issuing this lease; therefore

IT IS NOW RESOLVED by the Board of Directors of the CORPORATION that it approves the attached lease, and that the President or Vice President of the CORPORATION is hereby authorized and empowered to sign said lease on behalf of the CORPORATION.

ADOPTED AND DATED this _____ day of _____, 19____, and _____, Alaska.

ATTEST:

by _____
its Secretary

by: _____
its: _____
President or (Vice President)

CERTIFICATE

The Undersigned, _____, Secretary of _____, an Alaskan Corporation, does hereby certify that at a meeting of the Board of Directors of said Corporation duly called and held on the _____ day of _____, 19____ at which a quorum was at all times present and voting, the foregoing resolution was duly adopted.

Dated this _____ day of _____, 19____, at _____.

(Corporation Seal)

by: _____
its Secretary

BOARD RESOLUTION NO. _____

WHEREAS, the _____ needs to secure an interest in land in order to meet site control requirements for a community project; and

WHEREAS, the _____ has reviewed this proposed lease which will serve as an interim measure until 14(c) reconveyances can be accomplished; and

WHEREAS, the _____ believes the best interests of the _____ would be served by issuing this lease; therefore

IT IS NOW RESOLVED by the _____ that it approves the attached lease, and that the _____ is hereby authorized and empowered to sign said lease on behalf of the _____.

ADOPTED AND DATED this _____ day of _____, 19 _____, and _____, Alaska.

The foregoing resolution was adopted at a duly convened meeting of _____ on _____, 19 _____.

by: _____
(Chief or President)

Attest: _____
Secretary/Treasurer

NANA REGIONAL CORPORATION, INC.

4706 HARDING DRIVE, ANCHORAGE, ALASKA 99517
TELEPHONE (907) 248-3030



September 17, 1987

Mr. Francis D. Eickbush
Deputy State Director for Cadastral Survey
Bureau of Land Management
701 C Street, Box 13
Anchorage, Alaska 99513

Dear Mr. Eickbush:

NANA Regional Corporation, Inc. is pleased to submit the enclosed final Plan of Survey for Deering, Alaska. This Plan of Survey depicts all of the reconveyances to be carried out by NANA in Deering under the terms of Section 14(c) of the Alaska Native Claims Settlement Act. The Plan of Survey has been reviewed and approved by formally adopted resolutions by both NANA and the City of Deering. The Plan of Survey has been signed by both NANA and the City. To the best of NANA's knowledge, there are no unresolved conflicts concerning any of the property lines shown on the Deering Plan of Survey.

The Deering Plan of Survey consists of the following:

<u>Sheet #</u>	<u>Coverage</u>
1	Title sheet, signature block, village of Deering on an aerial photo base of 1" - 50' scale.
2	Deering vicinity, nearby outlying tracts on an aerial photo base at a scale of 1" - 200'.
3.	Deering vicinity, outlying tracts and road right-of-way on a USGS 1:63,360 quad (Kotzebue A-2).
4.	Deering airport on sheet 1 of 2 of DOT/PF Deering Airport Property Plan.
4A.	Deering airport on sheet 2 of 2 of DOT/PF Deering Airport Property Plan.



Member Villages: Ambler, Buckland, Candie, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak

5. Deering vicinity, outlying tract on USGA 1:63,360 quad (Bendeleben D-3).
6. Detail of outlying tract shown generally on sheet 5 above.

As required by BLM's Amended Policy Statement for Preparation of the Plan of Survey under 14(c) ANCSA, dated April 21, 1986, and as requested by your staff, we are also submitting the following documents:

1. Corporate resolution, duly adopted, approving the Plan of Survey and designating the corporate officer authorized to sign the Plan of Survey on behalf of the Corporation;
2. Corporate resolution, duly adopted, authorizing the Corporation to execute an agreement with the City of Deering concerning reconveyances of less than 1280 acres of land under terms of Section 14(c)(3) of ANCSA, as amended;
3. Agreement between NANA and the City of Deering concerning reconveyances of less than 1280 acres of land under terms of Section 14(c)(3) of ANCSA, as amended; and
4. City of Deering resolution, duly adopted, authorizing the Mayor to sign the Plan of Survey and the 14(c)(3) agreement.

NANA submitted a copy of that portion of the Deering Plan of Survey depicting the airport 14(c)(4) reconveyances to the Alaska Department of Transportation and Public Facilities for review and concurrence. DOT/PF's written concurrence with the Deering airport reconveyances as shown on the Plan of Survey is attached for your information. This letter also contains a copy of the metes and bounds legal description of the airport 14(c)(4) reconveyances prepared by DOT/PF.

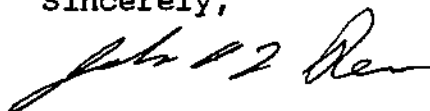
We are also attaching for your information a copy of a property description written by the BIA for the BIA Deering school site and a copy of a survey plat for a housing development at the eastern end of the village.

We trust that this Plan of Survey satisfies BLM's submittal and survey requirements and that the one year statute of limitations as specified in Section 902(b) of ANILCA will begin upon your receipt of these documents. It is NANA's desire to have Deering surveyed in the summer of 1988 if at all possible.

If you wish additional information or clarification of any matters regarding the Deering Plan of Survey, please contact either myself or Ed Busch at 248-3030.

Thank you for your assistance. We look forward to a successful completion of the Deering 14(c) reconveyances.

Sincerely,

A handwritten signature in cursive script, appearing to read "John A. L. Rense".

John A. L. Rense
Vice President, Resources

JALR:11b09

cc: Willie Hensley
Walter Sampson
Martin Karmun

(Date)

(Name)

Deputy State Director for Cadastral Survey
United States Department of the Interior
Bureau of Land Management
Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513-0099

Dear (Name),

Under separate cover, _____ submitted its final 14(c) Map of Boundaries and supporting materials. According to BLM's most recent Patent Plan Master Survey List, _____ is scheduled for survey of 14(c) parcels the _____.

In order to accomplish the survey this summer, _____ agrees to bear the cost of additional survey work that may be required as a result of amendments to the approved plan of survey that occur after BLM has performed the survey. _____ understands that the 1-year statute of limitations will still be in effect as required by ANILCA Section 902(b).

Thank you for your assistance and cooperation.

Sincerely,

President

NANA REGIONAL CORPORATION
 BOARD OF DIRECTORS
 RESOLUTION NO. 87-14

WHEREAS, the Corporation is the successor in interest to the rights and obligations of Deering Ipnatchiak Corporation and as such is obligated to make certain conveyances of land to the City of Deering pursuant to the provisions of Section 14(c)(3) of ANCSA; and

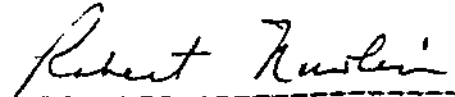
WHEREAS, the Corporation has tentatively reached an agreement with the City of Deering as to the lands to be conveyed to the City by the Corporation under Section 14(c)(3) of ANCSA; and

WHEREAS, the Board of Directors has reviewed the proposed agreement and the lands to be conveyed pursuant thereto and believes such agreement to be in the best interests of the Corporation;

THEREFORE IT IS NOW RESOLVED by the Board of Directors of NANA Regional Corporation that the President be and hereby is authorized, directed and empowered to execute on behalf of the Corporation that certain Agreement with the City of Deering for the conveyance to the City pursuant to Section 14(c)(3) of ANCSA of the surface estate of certain lands in the vicinity of Deering.

ADOPTED this 29th day of May, 1987, at a duly called meeting, at which a quorum was present, held in Kotzebue, Alaska by a vote of 21 for, 0 against and 0 not voting.


 Secretary
 NANA REGIONAL CORPORATION


 Chairman
 NANA REGIONAL CORPORATION

Resolution 87- 15

WHEREAS, NANA Regional Corporation, Inc., (NANA) is the successor in interest to Deering Ipnachiak Corporation, the village corporation originally established under Section 8 of the Alaska Native Claims Settlement Act (ANCSA) for the Natives of Deering, Alaska; and

WHEREAS, NANA is vested with title pursuant to Section 14(a) of ANCSA to the surface estate of certain lands in the vicinity of Deering as evidenced by conveyance documents issued by the United States Bureau of Land Management (Interim Conveyance Numbers 730, 732, and 735 dated September 29, 1983, and Interim Conveyance Number 1082 dated September 9, 1985); and

WHEREAS, NANA is required to reconvey certain lands in and near Deering in accordance with Section 14(c) of ANCSA; and

WHEREAS, NANA in consultation with Deering residents, the City of Deering and the State of Alaska, has identified all tracts of land to be reconveyed in accordance with ANCSA Section 14(c); and

WHEREAS, regulations of the Bureau of Land Management (BLM) at 43 CFR 2650.5-4 require NANA to prepare and submit to BLM a Plan of Survey depicting the exterior boundaries of the lots to be reconveyed in and near Deering; and

WHEREAS, the Amended Policy Statement for Preparation of the Plan of Survey under 14(c) ANCSA issued April 21, 1986 by BLM requires NANA to submit with the Plan of Survey a corporate resolution authorizing the Plan of Survey and designating the corporate officer to sign and submit said Plan of Survey; therefore,

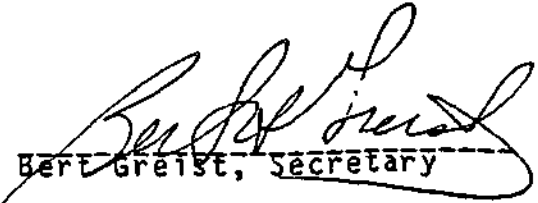
BE IT RESOLVED, the Board of Directors of NANA Regional Corporation, Inc. hereby approves the attached ANCSA 14(c) DEERING PLAN OF SURVEY and authorizes NANA to submit said approved PLAN to BLM; and

BE IT FURTHER RESOLVED, the Board of Directors designates William L. Hensley, the corporate officer authorized to sign and submit said PLAN OF SURVEY to BLM; and

BE IT FURTHER RESOLVED, the Board of Directors certifies that to the best of its knowledge all conflicts concerning property lines shown on said approved PLAN OF SURVEY have been resolved.

Adopted this 29 day of May, 1987 at a duly called meeting held in Kotzebue, Alaska by a vote of 21 for, 0 against and 0 not voting.


ROBERT NEWLIN, Chairman


BERT GREIST, Secretary

VILLAGE CORPORATION 14(c) POLICY - TWO SAMPLES

Note: The following information has been shared by The Kuskokwim Corporation and Akiachak, Limited. They are included to give village corporation boards an example of how they may establish procedures for their own reconveyance program. The procedures established by The Kuskokwim Corporation, and Akiachak, Limited are based on the land use patterns of their local areas.

The Kuskokwim Corporation
Policies and Procedures for Land Conveyances
pursuant to
Section 14(c)(1) and 14(c)(2)
of the
Alaska Native Claims Settlement Act.
Approved by The Kuskokwim Corporation Board of Directors
February 15, 1984
Revised March 1, 1988

A. INTRODUCTION.

1. Background. Section 14(c)(1) of the Alaska Native Claims Settlement Act (ANCSA), Public Law 92-203, 85 Stat. 688, requires The Kuskokwim Corporation (the "Corporation"), as successor in interest to the ANCSA village corporations of Lower Kalskag, Inc., Upper Kalskag, Inc., Aniak Ltd., Chuathbaluk Co., Napamute Ltd., Georgetown, Inc., Kipchaughpuk Ltd., Red Devil Inc., Sleetmute Ltd., and Stony River Ltd., to convey to any Native or non-Native occupant, without payment, title to the surface estate of a tract of land occupied by that person as of December 18, 1971 and used as a primary place of residence, or as a primary place of business, or as a subsistence campsite or as a reindeer headquarters site.

Section 14(c)(2) of ANCSA requires the Corporation to convey title to the surface estate to any non-profit organization for a tract occupied by that non-profit organization as of December 18, 1971. Section 14(c)(2) of ANCSA gives the Corporation the choice of whether to require payment for the land conveyed to a non-profit organization.

Both of these duties to convey land arise when the Corporation receives title to its various land selections by interim conveyance or by patent from the United States.

2. Duties of the Corporation. By law, the Corporation's Board of Directors has a trust responsibility to the shareholders of the Corporation not to dispose of corporate assets, including land, for less than adequate payment in money or money's worth. Section 14(c) of ANCSA creates an exception to this duty. The policies and procedures adopted by the Board to meet and carry out the legal requirements of Sections 14(c)(1) and 14(c)(2) of ANCSA reflect both the Board's trust responsibilities to the Corporation's shareholders and its responsibility to Section 14(c) claimants under federal law.
3. Ineligible Claims. In instances where a claim to land under Sections 14(c)(1) and 14(c)(2) is determined according to these policies and procedures to be ineligible for conveyance under ANCSA, the Corporation will consider the applicant for other land programs which are developed by the Corporation. No guarantee can be made, however, that an invalid Section 14(c) application will be eligible for such other programs.

B. STANDARDS AND CRITERIA FOR DETERMINING VALIDITY OF CLAIMS.

1. Date and Period of Possession. A tract of land claimed under Sections 14(c)(1) or 14(c)(2) of ANCSA must have been, on and before December 18, 1971, in the actual, open, visible, well known and exclusive possession of the person making the claim, or of his predecessor in interest. Such possession must have been regular and continuous, including regular seasonal use for traditional purposes, for the period before December 18, 1971 which is prescribed for each type of claim, and subject to the recognized exceptions for non-use which are stated in paragraph 8 below. Any land use which commenced after December 18, 1971 shall not be the basis of a valid claim.

2. Primary Place of Residence. An applicant must show that each of the following facts was true, as of December 18, 1971, to be eligible for a land conveyance for a primary place of residence:
 - (a) that he possessed and actually occupied the claimed tract on a regular basis, throughout the year ending December 18, 1971;
 - (b) that he maintained, occupied and claimed to own a habitable dwelling-house which is located on the claimed tract and which is suited to year-round occupancy according to usual and customary standards for dwelling-houses in the area;
 - (c) that he occupied the tract as his actual, primary, fixed, and principal dwelling-place, and that the claimed tract is the only tract which he occupied in this manner at the time;
 - (d) that occupancy was not intermittent, temporary, transient, casual, or occasional, or secondary to occupancy at another location.

3. Primary Place of Business. An applicant must show that each of the following facts was true as of December 18, 1971, to be eligible for a land conveyance for a primary place of business:
 - (a) that he possessed and actually used the claimed tract on a regular basis as the site of his primary occupation and business for profit throughout the year

ending December 18, 1971, unless the nature of the business was seasonal, in which case regular use for the season preceding December 18, 1971 and the season preceding December 18, 1970 shall be demonstrated;

(b) that his occupation and business for profit at the claimed location was his primary occupation, trade or profession, and that it was the one to which he devoted the majority of time and effort during the year ending December 18, 1971, or during the years ending December 18, 1971 and December 18, 1970, with regard to a seasonal business;

(c) that he maintained and claimed to own improvements placed on the claimed tract, including, but not limited to man-made structures, and that the improvements were substantially intended and used for the purposes of conducting his primary occupation and business for profit at that location;

(d) that he used the claimed tract as his primary, principal and main site for the conduct of his occupation and business for profit;

(e) that he demonstrates that his occupation and business was intended to be operated on a for-profit basis for the year ending December 18, 1971, whether or not a profit was actually realized during that year, based upon tax records, business licenses and other evidence which the applicant shall provide.

4. Subsistence Campsite. An applicant must show that each of the following facts was true as of December 18, 1971 to be eligible for a land conveyance for a subsistence campsite:

(a) that he possessed and actually occupied the claimed tract of land on a regular basis, including regular seasonal use as a campsite and base for engaging in subsistence activities during the year ending December 18, 1971 and during at least one additional prior year;

(b) that he has claimed only the land actually and reasonably used as a campsite and base of operations, and has not included any adjacent or nearby lands which may have been used for subsistence activities such as fishing, hunting, trapping, berry picking, wood gathering, and other activities associated with a traditional subsistence way of life;

(c) that he has traditionally engaged in subsistence activities and was engaged in such activities on a

yearly or seasonal basis during the year ending December 18, 1971;

(d) that he claims to own any man-made structures, and that these structures, if any, or other evidence of occupancy on the claimed tract are consistent with the use of the land by the applicant or his immediate family as a campsite for subsistence purposes;

(e) that each of these requirements is met for each campsite claimed by the applicant.

5. Reindeer Husbandry Headquarters Site. An applicant must show that each of the following was true as of December 18, 1971 to be eligible for a land conveyance for a reindeer headquarters site:

(a) that he has possessed and actually used the claimed tract on a regular basis for his reindeer management during the year ending December 18, 1971;

(b) that he used the claimed parcel as the principal location for his reindeer management activities;

(c) that he possessed, claimed to own and maintained any man-made structures including fences, corrals, sheds, and barns located on the claimed tract as his own property, and that such structures are consistent with reindeer herding activities and were in fact used for reindeer management;

(d) that his use of the claimed tract for reindeer management purposes was not intermittent, temporary, casual, or occasional as of December 18, 1971;

(e) that he possessed a valid reindeer grazing lease from the United States during the year ending December 18, 1971;

(f) that he owned or had exclusive rights to a reindeer herd during the year ending December 18, 1971.

6. Non-profit Organizations. A non-profit organization, through its duly-authorized president, secretary, or agent must show that each of the following facts was true as of December 18, 1971 and other dates specified below to be eligible for a land conveyance under Section 14(c)(2) of ANCSA as a site of the non-profit organization:

(a) that the organization was a non-profit corporation which possessed, as of December 18, 1971, a certificate

of incorporation issued by the State of Alaska or another state;

(b) that the non-profit corporation was in good standing with the state in which it was incorporated and with the State of Alaska as of December 18, 1971, and on the date application was made for a tract of land, and on the date of any land conveyance which may be made to it pursuant to Section 14(c)(2);

(c) that the non-profit corporation has demonstrated its actual possession, occupancy and use of the claimed tract throughout the year which ended December 18, 1971, for those uses directly related to the organization's objectives and purposes, as stated in its Articles of Incorporation.

7. Guidelines for Tract Size. The size of any tract conveyed pursuant to Section 14(c)(1) or Section 14(c)(2) shall be only so large as is reasonably necessary to permit the continued use of the tract for the purposes for which it has been claimed. Except for good cause shown, including prevention of undue hardship, no tract shall be conveyed which exceeds the applicable size, as follows:

(a) primary place of residence tract: 1-1/2 acres
(approximate nominal dimensions 255 feet by 255 feet);

(b) primary place of business tract: 2-1/2 acres
(approximate nominal dimensions 330 feet by 330 feet);

(c) subsistence campsite tract: 1 acre (approximate nominal dimensions 208 feet by 208 feet);

(d) reindeer husbandry headquarters tract: 10 acres
(approximate nominal dimensions 660 feet by 660 feet);

(e) non-profit organization tracts: 2-1/2 acres
(approximate nominal dimensions 330 feet by 330 feet).

8. Allowable Circumstances for Non-use. An applicant must produce facts to show he has actually used his claimed tract for the required period of time immediately preceding December 18, 1971 to demonstrate the validity of his claim under Sections 14(c)(1) or (2). If an applicant did not use the claimed tract during the required period, his claim will be considered invalid for conveyance under Sections 14(c)(1) or (2) unless he can show by clear and convincing evidence that any non-use of the tract was in fact temporary.

In determining if a period of non-use was temporary, the

Corporation will consider whether the applicant has resumed using the tract since the non-use, whether the applicant used the tract regularly from December 18, 1971 until the date of application, and whether the applicant has maintained any existing improvements on the tract during the period of non-use. The applicant's reasons for any temporary non-use of the tract must be due to one or more of the following circumstances:

- (a) military service, excluding career military service;
- (b) attendance at a primary, secondary, post-secondary or vocational school;
- (c) hospitalization or placement under a doctor's care;
- (d) unforeseen economic circumstances which required the applicant to temporarily move away from the vicinity of his claimed tract;
- (e) any other similar extraordinary and unexpected circumstance, including but not limited to customary cultural practices, unusual situations beyond the applicant's control, and unusual or unseasonal extreme weather or other natural conditions.

9. Payment for 14(c)(2) Claims. The Corporation will decide on a case-by-case basis whether to require payment for a tract approved for conveyance to any non-profit organization, based upon consideration of the organization's purpose and the composition of its membership.

The Corporation will require no payment if it finds that the organization's purposes and goals involve assistance to and improvement of the community generally, including educational, health, and social welfare objectives for both members and non-members; and if the organization's membership is open generally to all persons who share such goals.

The Corporation will require fair or reasonable payment, as it determines, for the conveyance of a tract to a non-profit organization if that organization's purposes are primarily devoted to the interests and benefits of its members, or if its membership is comprised of persons having limited or specialized common interests and goals which primarily enhance their own vocations or avocations.

10. Non-qualifying Uses. (a) The following uses shall not qualify for land conveyance under Sections 14(c)(1) or (2):

- (i) hiking, dog sledding, snow machining, skiing,

must contain the name, address and telephone number of the aggrieved person, a statement of the reasons for the appeal, and a statement that the person shall appear at and participate in any hearing. The notice of appeal shall be signed under oath and notarized.

8. Appeal Hearing. An appeal hearing shall be conducted by an impartial hearing officer appointed by the Board of Directors. The hearing officer shall not be a shareholder of the Corporation. The hearing officer shall make arrangements for the hearing to be held at a time and place convenient to the parties, but it should be held no later than 60 days after the notice of appeal is filed, except if good cause exists for delaying the hearing. The hearing officer shall conduct the hearing and shall make a recommendation to the Board of Directors within 90 days after the hearing.
9. Appeal Hearing Procedures. The aggrieved person and a Corporation representative must be present at the hearing. The hearing shall be tape recorded and retained for use by the Board and in any subsequent appeals. The aggrieved person has the burden to demonstrate to the satisfaction of the hearing officer that, based upon the record and any initial hearing before the 14(c) Committee, the Committee reached its decision in error.

No new evidence will be permitted at the appeal hearing, except for newly discovered evidence which by reasonable diligence could not have been timely presented previously. The hearing officer will determine all questions regarding the admissibility of such evidence, and will make his recommendations to the Board of Directors regarding the weight to be given any newly presented evidence and the testimony of the parties at the appeal hearing.

10. Board of Directors' Review. The Board of Directors of the Corporation will review the hearing officer's recommendations. It may approve, reject or modify those recommendations. The Board of Directors' decision shall be the final administrative determination of validity of any Section 14(c)(1) or (2) claim.

insure reasonable access to a tract conveyed under Section 14(c)(1) or (2). The Corporation shall consider traditional, historical and customary means of access, including air, water and overland access, in determining the reasonable access to be authorized.

13. Claims by Successors in Interest. If an applicant is not the person through whose use a claim arose, the applicant must show that all rights and claims of the original possessor, who may now be deceased, to the claimed tract have been validly transferred to the applicant. This may be by will, by intestate succession, or by valid grant.

If an applicant is the successor in interest to an occupant other than the original possessor, then the applicant must show a continuous, demonstrated chain of valid transfers which links his claim to that of the original possessor. Such a chain may be shown by written documentation, or, if the transfers of interest were done orally, by affidavits or the sworn testimony of either the original possessor, a predecessor in interest or any unrelated, disinterested third-party witness to the transaction.

14. Proxy Applicants. If an applicant files a claim based upon another person's use and occupancy of the claimed tract of land, and such applicant neither claims to be a successor in interest to the original possessor nor is he in fact the original possessor's successor in interest, the Corporation shall (if the claim is valid) convey the tract to the original possessor, or, if such person is deceased, to his heirs or to his estate, as applicable.

15. Competing Applications. When two or more persons file applications for the same land, the following factors will be considered in determining the validity and priority, if any, of the applications:

(a) the person who first commenced the use of the tract and was using it through December 18, 1971;

(b) the manner in which the tract was used and the frequency of use;

(c) the extent to which the tract was used after December 18, 1971 and whether there was a voluntary abandonment of the use;

(d) whether permission was sought from any person for the use of the tract;

(e) the perception of the community as to which person

had superior rights to the tract on December 18, 1971.

16. Shared Use Tracts. More than one applicant may be eligible to receive conveyance to the same tract on the basis of demonstrated shared use of the tract with other applicants. When more than one applicant files for and are found to be entitled to receive conveyance to the same tract, the Corporation shall convey the tract as follows:
- (a) if a joint application is made by a husband and wife, the Corporation will convey title to the tract to the husband and wife as tenants by the entirety, with rights of survivorship, unless requested by the applicants to do otherwise;
 - (b) if an applicant married after December 18, 1971, the Corporation shall convey title to the tract only to the applicant as of December 18, 1971, unless the applicant requests otherwise;
 - (c) if a husband and wife were entitled to receive a conveyance based upon their joint occupancy of a tract as of December 18, 1971 but have since divorced, the Corporation will convey title to the tract to the applicants as tenants in common, unless the Corporation is provided with a copy of a court approved property settlement or court order dividing the marriage property in a different manner;
 - (d) if separate applications are filed upon the same tract by two or more members of a household unit which possessed and occupied a claimed tract as a household unit, and no agreement can be reached between the applicants with regard to whom title should be conveyed, the Corporation will convey title to that person or those persons who are determined to have been the head or heads of the household on December 18, 1971, or to their heirs or estates;
 - (e) if separate applications are filed upon the same tract by persons unrelated by marriage and not of the same household unit, the Corporation will convey title to the tract to the applicants as tenants in common;
 - (f) if five or more persons apply for the same tract of land, and the applicants demonstrate to the satisfaction of the Corporation that they used the tract in common for a permissible purpose, and exclusive of use by others, the Corporation may subdivide and convey an equal portion of the tract to each claimant. If the Corporation determines that it

is impractical to subdivide the tract, the Corporation, depending upon the circumstances, may convey the tract to the applicants as tenants in common, or may convey it to an association comprised of persons with valid claims to the tract, or may deny the applications and retain the tract for community use.

(g) if applications are made by one or more persons who were less than 18 years of age or were otherwise dependent members of a household as of December 18, 1971, the Corporation shall determine the validity of such a claim on the demonstrated use of the claimed tract by the household unit. If the claim is approved, title to the tract will be conveyed to the head or heads of the household on December 18, 1971, or to their heirs or estates.

C. FILING AND PROCESSING OF APPLICATIONS.

1. Application Forms. Each person wishing to file a claim under Sections 14(c)(1) or (2) of ANCSA must complete his application on a standard form prepared by the Corporation and made available to applicants on their request.
2. Application Periods. All applications must be submitted to the Corporation during the filing periods specifically designated by the Board of Directors. Application periods shall be designated and publicized by various means throughout the The Kuskokwim Corporation region with the intention of providing all potential applicants with an adequate and reasonable opportunity to apply. An application period shall be publicized a minimum of 90 days in advance of the filing deadline by publishing notices in a newspaper of statewide distribution, one of regional distribution (The Tundra Drums) and one of local distribution (The River) and by posting notices in each of the communities within the Corporation's land area. Applications received by the Corporation shall be kept at the Corporation's Aniak office and shall be open to the public. Corporation staff shall be available to assist applicants in the preparation of the applications.
3. Incomplete Applications. If an application is properly submitted within a designated application period, but is determined to be incomplete, the application shall nevertheless be considered timely filed. However, it is the applicant's responsibility to provide timely and adequate information to complete or clarify his application, after being requested in writing to do so by the Corporation. The applicant's failure to respond will result in denial of his application.
4. Additional Information. In addition to the information requested in the standard application form, a claimant may be required to provide additional information which may be needed by the Corporation to evaluate the application in accordance with these policies and procedures. Each request for additional information shall be in writing and a reasonable period of time shall be allowed for response by the applicant. A failure to respond within the period provided shall result in denial of the application.
5. Initial Application Processing. The Corporation staff will be responsible for reviewing each application received, and for contacting each applicant for any additional information that may be needed to evaluate the application. When each application is determined to be complete, or, if it is

incomplete, it cannot be further supplemented to make it complete, Corporation staff will initially evaluate it for validity. An application which claims land which will not be conveyed by the United States to the Corporation, or which is based upon use and occupancy which began after December 18, 1971, will be held for rejection as an invalid claim. The staff will contact the applicant by certified mail, stating the reasons why the application appears to be invalid on its face, requesting additional information from the applicant which could make the application valid, and providing a reasonable time for the applicant to respond. If the applicant fails to timely respond, or if the applicant's response fails to cure the invalidity which was apparent in the initial application, the staff will reject the application for failure to meet the basic requirements of Section 14(c) of ANCSA, and shall notify the applicant. Summary rejection by the staff under this paragraph will be the final administrative action of the corporation with regard to a claim rejected as being invalid on its face. Such a claim may be considered for other available Corporation land programs, if appropriate. The Corporation staff will report its findings, including any summary rejections, to the 14(c) Committee.

6. Second Round Processing. The Corporation staff will research and evaluate in greater detail each application which has passed initial review, to include completion of a field investigation. The Corporation staff will prepare a report on each application for the 14(c) Committee.
7. Discretionary Consideration of Possible 14(c) Entitlements. The 14(c) Committee may, in its discretion, consider and act upon later-discovered possible entitlements under Section 14(c)(1) or Section 14(c)(2) for the purpose of clearing title to Corporation land, without obligation regarding any other such later-discovered possible entitlement and notwithstanding any filing deadline established pursuant to Section C.2. of these Policies and Procedures.

D. ADJUDICATION, DECISION, AND APPEAL.

1. The 14(c) Committee. The Board of Directors of the Corporation shall appoint a 14(c) Committee consisting of five Board members to make validity decisions on Section 14(c)(1) and (2) applications. The Committee will meet as required to consider applications and staff recommendations, to take testimony (if a hearing is timely requested under the procedures set forth in this policy statement), and to decide the validity of all applications received by the Corporation. Four members of the Committee shall constitute a quorum. All action by the Committee shall be taken by majority vote of the quorum.
2. Staff support. The Corporation staff will provide staff support for the 14(c) Committee, in addition to accomplishing its own investigation and review responsibilities as outlined in this policy statement.
3. 14(c) Committee Findings. After reviewing each application, the 14(c) Committee will decide whether sufficient information and evidence have been presented to enable a validity decision to be made on the application. If the Committee finds that the evidence is sufficient to determine the validity or invalidity of the application, it shall prepare a written finding in which it reviews the evidence in support of the claim and reaches a preliminary decision.

This finding shall be sent by certified mail or by personal delivery to the applicant. If the preliminary decision denies all or part of the claim, the applicant thereafter has 45 days after its receipt to make a written request for a hearing before the Committee, or to submit additional written documentation for the Committee's consideration.

Under no circumstance will the Committee reach any final decision denying the application, in whole or in part, without first providing the applicant with the opportunity for a hearing before the Committee under the procedures in paragraph 6 below, or alternatively, by providing the applicant a reasonable period within which to submit any additional written documentation which may support his claim.

4. Conditional Approvals. If the evidence of a claim's validity is favorable, but additional steps must be taken before a final decision can be reached regarding validity and determination of the tract's boundaries, the 14(c) Committee

shall inform the applicant of its conditional approval of his application, but it shall postpone issuing its findings and validity determination until all necessary steps have been completed.

5. 14(c) Committee Hearings. If requested by an applicant within 45 days after his receipt of the Committee's written finding that his application has been denied in whole or in part, a hearing will be scheduled at a time and place convenient to the applicant and the Committee. The applicant must personally appear at the hearing. The applicant may be accompanied by legal counsel or some other representative. The applicant may testify, call witnesses and present evidence in support of his claim. The Corporation staff and, if desired by the Corporation, its legal representative shall also appear and present evidence. Oral argument will be allowed. The hearing will be tape recorded and retained for future reference and consideration by the 14(c) Committee and for use in any subsequent appeal.
6. 14(c) Committee Decisions. If no right of hearing applies, or if applicable, no timely hearing has been requested, the Committee, after considering the record and any additional information submitted in response to its written request, shall make a decision on the application. If a hearing has been timely requested, the Committee shall make its decision after the conclusion of the hearing, based upon all evidence previously submitted, and the evidence produced at the hearing. The Committee's decision shall be made in writing, and a copy of it shall be sent to the applicant. If the decision is adverse in whole or in part to the applicant, then the applicant has a right to appeal to the Board. A notice of the Committee's decision shall be posted during the appeal period in a public place in Aniak, and within other communities near the claimed tract.
7. Notice of Appeal. Any party aggrieved by a decision of the Committee has a right to appeal the decision to the Board. A person desiring to appeal a decision of the Committee shall file a written notice of appeal in the Corporation's Aniak office whose mailing address is General Delivery, Aniak, Alaska 99557 or the Corporation's Anchorage office, whose mailing address is 429 D Street, Suite 307, Anchorage, Alaska 99501.

A notice of appeal by the applicant must be filed no later than 45 days after the decision has been served upon the applicant. A notice of appeal filed by any other aggrieved person shall be filed by the date stated in the posted public notice, which shall extend at least 45 days from the date the notice of decision was posted in Aniak. A notice of appeal

snowshoeing, or the use of off-road vehicles;

(ii) fishing, hunting, berry picking, wood gathering, or other similar activities, except that these activities may be used as evidence in support of a claim of subsistence campsite or primary place of business;

(iii) use and maintenance of trap lines, except that the existence of trap lines may be used as evidence to support a claim of subsistence campsite or primary place of business;

(iv) community cemetery unless it is within a tract which has been applied for and qualifies for conveyance under Section 14(c)(2) and these policies;

(v) an individual or family burial plot unless it is within a tract which has been applied for and qualifies for conveyance under Section 14(c)(1) or (2) and these policies.

(b) The following uses may not in and of themselves qualify for a conveyance of land under Section 14(c)(1) or (2) of ANCSA, but may qualify when the land so used relates to the use and occupancy of a tract claimed as a primary place of residence, a primary place of business, a subsistence campsite, a reindeer husbandry headquarters, or a site used by a non-profit organization and when the land is immediately adjacent to the claimed tract:

(i) disposal of waste, garbage, refuse, trash, offal, entrails of fish, fowl or game, or similar uses;

(ii) storage of goods, vehicles, boats, materials, tanks, containers, boxes, and similar items.

(iii) individual or family burial plot.

11. Mining Claims. A mining claim will not be considered a valid reason for a land conveyance as a primary place of business under Section 14(c)(1) or (2) because such a claim, if otherwise valid, is protected as a valid existing right under Section 22(c) of ANCSA. If a mining claim is invalid, a primary place of business claim is not applicable since only surface rights can be conveyed under Section 14(c) of ANCSA.

12. Access. The Corporation shall, by easement or license, authorize in its conveyance deed such means of access over land owned by the Corporation which may be necessary to

E. CONVEYANCES.

1. Deeds. After a claim is finally determined to be valid under Section 14(c)(1) or (2) of ANCSA, the Corporation shall convey the surface estate of the approved tract to the applicant(s) by quitclaim deed. Such a deed shall be issued only after the Corporation has received title to the subject land (either by patent or by interim conveyance), and the tracts have been surveyed by the United States.

2. Unsurveyed Tracts. An approved but unsurveyed Section 14(c)(1) or (2) tract situated within lands which have been conveyed by patent or interim conveyance to the Corporation will be leased without payment to the successful applicant until a survey of the tract is performed in accordance with an approved plan of survey, the survey is approved by the United States and a quitclaim deed can be issued. The leased tract will be described as precisely as possible, but each applicant is put on notice that the exact legal description of an approved tract will not be stated until the tract is surveyed.

With the Corporation's prior approval, an applicant may have his approved tract surveyed at his own expense. Such private surveys must follow a plan of survey prepared by the Corporation and approved by the United States Department of the Interior Bureau of Land Management (BLM), and the final plat of survey also must be approved by BLM. At such time as a tract's survey is properly completed and approved by BLM, the Corporation shall replace the interim lease with a quitclaim deed as described in paragraph 1 of this section.

3. Access. To the extent access to an approved tract is required to be obtained across Corporation lands, the lease or quitclaim deed will describe the location, form, and size of the access and will state any use limitations imposed upon the access.

4. Reservations. Each lease and quitclaim deed issued under these procedures shall be subject to the following: (a) all reservations arising pursuant to the provisions of ANCSA and (b) the issuance of corrective leases and quitclaim deeds upon completion of land surveys performed by the United States pursuant to ANCSA.

F. OTHER PROVISIONS.

1. Non-Discrimination. The Corporation shall not discriminate in the adjudication of any application under these policies and procedures on the basis of race, sex, religion or ethnic origin of the applicant. No distinction shall be made under these policies and procedures as to whether the applicant is a shareholder of the Corporation.

2. Waiver of Policies and Procedures. The Corporation may, at its discretion, waive any nonstatutory requirements of these policies and procedures. When the rights of third parties will not be impaired, and when the rapid and certain fulfillment of the Corporation's responsibilities under Section 14(c) of ANCSA will be assisted, minor procedural and technical exceptions to these policies and procedures shall be waived by the Board of Directors or the 14(c) Committee, as appropriate. The Corporation may relax these rules in the interest of resolving unforeseen problems, in extraordinary situations, or in the event of undue hardship to the applicant or another person.

AKIACHAK, LIMITED

RULES AND PROCEDURES
FOR LAND CONVEYANCES UNDER
SECTION 14(c)(1) AND (2) OF THE
ALASKA NATIVE CLAIMS SETTLEMENT ACT

I. INTRODUCTION AND PROCEDURES

1.01 Purpose

These rules and procedures are designed to:

(a) Carry ANCSA 14(c)(1) and 14(c)(2) into effect;

(b) Determine which tracts of Corporation Land were occupied as a Primary Place of Residence, Primary Place of Business, Subsistence Campsite, or Headquarters for Reindeer Husbandry, or by a Non-Profit Organization, on December 18, 1971;

(c) Convey those tracts to the occupants or their successors-in-interest quickly and in an orderly fashion; and

(d) Treat all people who apply for 14(c) conveyances fairly and equally.

1.02 Definitions

(a) "ANCSA" means the Alaska Native Claims Settlement Act of December 18, 1971 (43 USC 1601 et seq.), as amended.

(b) "Corporation" means Akiachak, Limited, the village corporation under ANCSA for the Native village of Akiachak, Alaska.

(c) "Board of Directors" or "Board" means the board of directors of Akiachak, Ltd.

(d) "Corporation Land" means land which the Corporation has applied for, and which will be or has been conveyed to the Corporation pursuant to ANCSA. Corporation Land includes land selected by the Corporation which is subject to a Native Allotment application, but only to the extent the Corporation receives title. (See Section 1.16 of these rules.)

(e) "Lands Staff" means the employees of the Land Department of the Corporation whose job it is to manage Corporation Land and process applications submitted under these rules.

(f) "Non-Profit Organization" means a validly existing, duly organized, not-for-profit corporation which has a tax-exempt status under the Internal Revenue Code.

(g) "Primary Place of Business" means the primary site upon which an individual or a corporation conducted its for-profit business as of December 18, 1971. The business must have been conducted on a permanent or seasonal basis for a substantial period of time. A person may have only one Primary Place of Business at any one time, except as provided in Section 3.04 (concerning residential rental property).

(h) "Primary Place of Residence" means the tract which served as the primary place of residence of an individual on December 18, 1971. The individual must have regularly resided on the tract on a permanent or seasonal basis for a substantial period of time. A person may have only one Primary Place of Residence at any one time.

(i) "Subsistence Campsite" means the tract used by an individual or family on a seasonal basis, or as a temporary dwelling place, while engaged in food gathering, or other activities which are reasonably related to a Subsistence Lifestyle. The individual or family must have used the tract on a regular or seasonal basis for a substantial period of time. A garden site is considered to be a subsistence campsite.

(j) "Subsistence Lifestyle" means that customary and traditional lifestyle of Alaska Natives whereby an individual is dependent upon and uses the land, its products and wildlife, as a source of, or means of obtaining, a substantial portion of the necessities for his life.

1.03 Publication/Notification

In order to advise all potential applicants of this conveyance program, the Corporation shall give notice of the program as follows:

- A. By publishing a notice in the closest local newspaper and a newspaper of general statewide distribution, once a week for four consecutive weeks;
- B. By posting notices at prominent places in each of the villages in the area, including but not limited to the villages of Akiak, Kwethluk, Bethel, and Tuluksak. Posting places may include the city/village office, the post office, the health clinic, the airport, and the telephone building;
- C. By mailing a copy of the notice to each shareholder of the Corporation; and
- D. By mailing a copy of the notice to each party who may be entitled to land under these regulations of whom the Corporation has actual knowledge.

These notice requirements shall be completed at least ninety (90) days prior to the application deadline provided in Section 1.04(d).

1.04 Applications

(a) All applications for land conveyances must use the official application form. (See attachment.) Application forms shall be available from the Corporation. Each application shall be completed under oath and be mailed to or filed with the Corporation at its principal office.

(b) The Corporation shall maintain a log of all applications which it distributes. This log shall show:

- (i) the name and address of the applicant;
- (ii) the date the application was sent out;
- (iii) the date the Corporation received the completed application; and
- (iv) the date the Corporation received any supplemental information.

(c) Any application filed by a corporation shall include:

- (i) a certificate of good standing issued by the State of Alaska;
- (ii) a certificate of good standing issued by the state of incorporation, if not Alaska;
- (iii) a certified copy of its Articles of Incorporation; and
- (iv) a certified copy of the resolution authorizing the filing of the application.

(d) All applications shall be received no later than the close of business on _____.

1.05 Staking

Each applicant shall stake or mark on the ground each corner of the tract for which an application is filed. The purpose of the staking is to help locate the tract on the ground. The Corporation, in deciding applications, is not obligated to follow the staked boundaries.

1.06 Processing of Applications

(a) Initial Processing: All applications received by the Corporation shall be processed by the Lands Staff. The Corporation shall keep the applications at its office, and they shall be open to the public. Members of the Lands Staff shall be available to assist applicants prepare the applications. The Lands Staff shall, to the extent possible, independently review and verify the information contained in each application.

(b) Incomplete Applications: Where an application is incomplete, the Lands Staff shall notify the applicant of the missing information. The applicant shall have a reasonable time, but not more than thirty (30) days, to supply the needed information.

(c) Preliminary Decisions: The Lands Staff shall make the preliminary decision on the application. If the preliminary decision is adverse to the applicant, the Staff will notify the applicant. A decision is adverse if any portion of the application is denied, or if the decision awards less acreage than claimed on the application. The notice shall set out the reasons for the adverse decision. The applicant will then have thirty (30) days to submit any additional information he may desire. The Lands Staff shall review any new information the applicant submits. The Lands Staff may change their preliminary decision should the facts so warrant. The Lands Staff shall advise the applicant of any such change.

(d) Final Determination by Board of Directors: After the Lands Staff has completed its review of the application, they shall forward the application, any additional information that has been submitted, and their preliminary decision to the Board of Directors. The Board shall review the application and the Lands Staff's preliminary decision and make the final determination of the application. The Board may accept or reject any application in whole or in part. When an application is accepted, the Board shall determine the acreage to be conveyed in accordance with these rules. It shall notify all applicants of its decisions.

1.07 Requests for Reconsideration

(a) If the Board decision is adverse, the applicant shall have forty-five (45) days after the date the decision was mailed to file a request for reconsideration with the Board. In support of his request for reconsideration, the applicant may submit to the Board additional information in support of his application and/or a written statement of reasons why he believes the Board's decision was wrong.

(b) The Board shall review and decide all requests for reconsideration. The Board may, in its sole discretion, hold a hearing on a request for reconsideration if it finds that there

are disputed facts or that it needs additional information. The Board may also submit any request for reconsideration to the Lands Staff for study and recommendation. Upon decision, the Board shall notify the applicant submitting a request for reconsideration of its decision regarding the request.

1.08 Burden of Proof

(a) Applicant shall have the burden to show by clear and convincing evidence that he meets the requirements of the statute and these rules.

1.09 Waiver

The Board of Directors may in its discretion waive any rule or procedure not required by ANCSA. Minor procedural and technical requirements should be waived when the waiver will not impair the rights of third parties and will assist the rapid, certain fulfillment of the Corporation's responsibilities under ANCSA §14(c). The Corporation may waive other requirements of these rules to avoid manifest injustice to an applicant.

1.10 Conveyances

(a) All conveyances of Corporation Lands under these rules shall be in the form of a Statutory Quitclaim Deed. Deeds shall be expressly subject to:

- i) all reservations arising pursuant to the provisions of ANCSA; and
- ii) the issuance of a corrective deed upon the completion of the survey to be performed by BLM to correct the approximate description of the property as set forth in the conveyance.

(b) The conveyance shall be for the surface estate only and shall be made only to the applicant or to the applicants in accordance with Section 1.13. The Corporation shall not be required to recognize any assignment of the applicant's rights prior to conveyance.

(c) The Corporation shall issue a conveyance only after the Corporation has received title to the land, and only one year after the Corporation has submitted a map of boundaries for the tract to the BLM. Receipt of title includes the receipt of an interim conveyance.

(d) There shall be no charge for any conveyance issued under these rules.

1.11 Accepting a Lease in Place of Title

(a) Any person or corporation entitled to the conveyance of a tract of land under these rules may, in place of receiving title, choose to lease the land from the Corporation. In order to receive a lease:

- (i) the person (or corporation) and the Corporation must both agree to the terms of the lease; and
- (ii) the person (or corporation) must, in exchange for the lease, sign a waiver of all rights to receive any conveyance of title under ANCSA §14(c) and these rules.

(b) This Section shall only apply if the Board of Directors adopts a resolution implementing a leasing program. The Corporation has absolute discretion on whether to adopt, and the terms of, any leasing program. In the event the Corporation does enact a leasing program, leases must be offered to all persons similarly situated on a non-discriminatory basis.

1.12 Rights of Successors-in-Interest

(a) Inheritance: Where the applicant did not occupy the land personally on December 18, 1971, but is claiming title by virtue of inheritance, the applicant shall file with the application a copy of the will or the court judgment under which his right to the property arises. If a will or estate has not yet been probated, the Corporation reserves the right to withhold determination of the application until a court has determined the applicant's rights of inheritance.

(b) Purchase, Assignment, etc.: Where the applicant claims the property by purchase or other transfer of rights from the party whose use of the land gave rise to the claim, the applicant shall file with the application copies of all documents showing such transfer of title. Examples of documents include bills of sale, quitclaim deeds, assignments, etc. Should there be more than one transfer in applicant's chain of title from the original occupant, then each transfer shall be documented and proven. Where there is no written record of a transfer, the applicant shall submit an affidavit by a disinterested party not related to the applicant which supports the transfer claim.

(c) Other Proof Required: If an applicant is claiming as a successor-in-interest, he shall also provide the information needed to prove the use and occupancy of the party who occupied the land in 1971.

1.13 Joint Claimants/Joint Use/Married Couples

(a) A husband and wife may jointly apply for and receive title to the same tract of land if they occupied the land together on December 18, 1971. The Corporation will convey title to the husband and wife as "tenants-by-the-entirety with rights of survivorship" unless requested by the applicants to do otherwise.

(b) If an applicant married after December 18, 1971, the Corporation will convey title to the applicant occupying the land on December 18, 1971. The Corporation will convey title to both spouses only if right to title has been transferred to both spouses under Section 1.12.

(c) If a couple is entitled to receive a conveyance based upon their December 18, 1971 occupancy but have later divorced, the Corporation will convey title to them jointly as "tenants in common." However, if the Corporation is provided with a court order disposing of the property interests in a different manner, the Corporation will follow the court order.

(d) If two or more persons other than spouses are entitled to the same parcel of land and jointly apply for it, the Corporation will convey title to the property to them as "tenants in common."

(e) No application for property shall be accepted if the property was used by the community generally in 1971.

1.14 Abandonment

(a) If the property being claimed has been abandoned by the applicant (or by a party through whom the applicant is claiming), then the applicant shall have no rights to such property.

(b) If the alleged abandonment by the applicant (or a party through whom the applicant is claiming) occurred prior to December 18, 1971, then the applicant has the burden of proving that abandonment did not occur. If the abandonment allegedly occurred after December 18, 1971, then the Corporation or the party asserting the claim of abandonment shall have the burden of proving that the abandonment did occur.

1.15 Conflicting Claims

Where there are conflicting claims for the same tract of land, the Corporation will consider the following factors in determining the validity and priority of the applications:

- (a) the party which first occupied and used the tract and was occupying it December 18, 1971;

- (b) the manner the tract was used and the frequency of the use;
- (c) the extent the tract was used after December 18, 1971, whether a party abandoned use of the tract, and the extent to which any claim arose from post-1971 use;
- (d) whether permission was sought from one of the claimants for the use of the tract;
- (e) the perception of the community as to which party had superior rights to the tract on December 18, 1971.

The concurrent use of a tract by an individual with the permission of the applicant shall not result in the denial of the claim of an applicant.

1.16 Native Allotments

The Corporation shall accept applications for land upon which the applicant or another person has a pending, unadjudicated application for a Native Allotment. These applications shall be determined in accordance with the rules. If the Corporation determines that the application should be granted, no conveyance shall be made until the Native Allotment application is denied and the property is conveyed to the Corporation. If the Native Allotment is granted, the application shall then be denied, except if the application is for lands not included in the granted Allotment. The applicant receiving the Allotment may not apply for other land from the Corporation if the deadline for filing has passed.

1.17 Adjustment of Boundaries

Where applicants for adjoining tracts of land have agreed to a common boundary between their tracts, they may request the Corporation to use that Boundary. The Corporation shall attempt to comply with any such request. However, the Corporation need not use the boundary where its use would lead to adverse consequences, or defeat the requirements of these rules.

1.18 Non-Discrimination

The Corporation shall not discriminate in the adjudication of any application on the basis of the race, sex or religion of the applicant. Likewise, the Corporation shall make no distinction based on whether the applicant is a shareholder.

1.19 Reservation of Rights

Nothing herein shall be deemed to limit the right of the Corporation to otherwise dispose of Corporation Land.

II. PRIMARY PLACE OF RESIDENCE

2.01 General

A person may apply under these rules for land he or she occupied as a Primary Place of Residence on December 18, 1971. A couple married as of December 18, 1971 may file a joint application. Additionally, a person may apply for land that has been purchased, inherited, or otherwise acquired from someone who used the tract as a Primary Place of Residence on December 18, 1971.

2.02 Acreage to be Conveyed

The Corporation shall convey to the applicant a single tract of Corporation land actually occupied and used as a Primary Place of Residence in 1971. No Residence tract shall exceed one and one-half (1.5) acres, except the Corporation may convey a larger tract where it finds it would be manifestly unjust to the applicant to convey less.

2.03 Primary Place of Residence Criteria

"Applicant" as used in these criteria means the applicant himself or the party occupying the tract in 1971 through whose use the claim arises.

(a) The applicant shall show that as of December 18, 1971,

- (i) the applicant occupied the tract on a regular basis (either permanent or on a seasonal basis) for substantial periods of time;
- (ii) the applicant used the tract as his principal place of dwelling and that he had no other primary place of residence; and
- (iii) there was a dwelling on the tract which was habitable and used by the applicant for living purposes.

(b) In adjudicating an application under this Article, the Corporation may also consider the following factors:

- (i) the existence of other structures on the tract;
- (ii) the reasons the applicant was absent from the tract for any extended periods;
- (iii) the applicant's address in 1971 for purposes such as voter registration, income tax

returns, ANCSA enrollment, driver's licenses, and hunting and fishing licenses; and

- (iv) the extent to which the applicant used the tract for storage, if a portion of the tract applied for was used for storage of personal effects in conjunction with a primary place of residence.

III. PRIMARY PLACE OF BUSINESS

3.01 General

A person or corporation may apply under these rules for land the applicant occupied as its Primary Place of Business on December 18, 1971. "Person", as used in this Article, includes a partnership.

3.02 Acreage to be Conveyed

The Corporation shall convey to the applicant a single tract of Corporation Land actually occupied and used as a Primary Place of Business in 1971. No Business tract shall exceed one and one-half (1.5) acres.

3.03 Primary Place of Business Criteria

"Applicant" as used in these criteria means the applicant himself or the party occupying the tract in 1971 through whose use the claim arises.

- (a) The applicant shall show that as of December 18, 1971,
 - (i) the applicant occupied the tract for conducting business for profit on a regular basis (either continually or on a seasonal basis) for substantial periods of time;
 - (ii) the applicant used the tract as his principal and most important place of conducting his business for profit;
 - (iii) the applicant was actually conducting business for profit as evidenced by a 1971 business license; and
 - (iv) to the extent the business required it, there were physical structures located on the tract.

(b) In adjudicating an application under this Article, the Corporation may also consider the following factors:

- (i) the existence of structures on the tract used for the business; and
- (ii) the existence of business records, tax returns, federal employers identification numbers, and the address and location of the business as reflected on such forms.

3.04 Residential Rental Property

In addition to any other Primary Place of Business for which an applicant may be eligible, an applicant shall be entitled to receive as a Primary Place of Business a tract occupied by a residential rental unit on December 18, 1971. No applicant shall be entitled to receive more than one (1) Primary Place of Business which was used for the business of residential rental property.

IV. SUBSISTENCE CAMPSITE; HEADQUARTERS FOR REINDEER HUSBANDRY

4.01 General

A person may apply under these rules for land he or she occupied as a Subsistence Campsite or as a Headquarters for Reindeer Husbandry on December 18, 1971.

4.02 Acreage to be Conveyed

The Corporation shall convey to the applicant as a Subsistence Campsite or Headquarters for Reindeer Husbandry those tracts actually occupied and used in 1971. No such tract shall exceed 10,000 square feet. However, the Corporation may convey a larger tract where it finds it would be manifestly unjust to the applicant to convey less.

4.03 Subsistence Campsite Criteria

(a) The applicant shall show that as of December 18, 1971,

- (i) the applicant (or the party through whose use the claim arises) occupied and used each tract applied for as a Subsistence Campsite on a regular, seasonal basis for substantial periods of time; and
- (ii) there were improvements located on each tract relating to the subsistence activity which centered on the tract. Examples of improvements are line cabins, caches, fish racks, tent frames, etc. Where no such improvements existed, the applicant shall submit sworn statements by at least two persons not related to the applicant or to each other

substantiating the applicant's use of the tract and his claim to it.

(b) In adjudicating an application under this Section, the Corporation may also consider the following factors:

- (i) the cash income of the applicant and his family (or of the party through whose use the claim arises) in 1971 and its relationship to the applicant's livelihood and dependence upon subsistence food gathering; and
- (ii) the residence of applicant (or the party through whose use the claim arises) during the use of the tract.

(c) A tract of land used exclusively for recreational purposes or for berry picking shall not be eligible for conveyance as a Subsistence Campsite. However, a cultivated garden site shall be eligible for conveyance.

4.04 Applicant for Subsistence Campsites
Where a Subsistence Campsite was used by a family, the applicant shall be the person who was the head of the household in 1971.

4.05 Headquarters for Reindeer Husbandry
The applicant shall show that as of December 18, 1971,

- (i) the applicant (or the party through whose use the claim arises) occupied and used each tract applied for as a Headquarters for Reindeer Husbandry on a regular basis for substantial periods of time;
- (ii) there were improvements located upon each tract including corrals, sheds, fences, and barns used in reindeer husbandry; and
- (iii) the applicant (or the party through whose use the claim arises) had a reindeer herd.

V. NON-PROFIT ORGANIZATIONS

5.01 General
A Non-Profit Organization may apply under these rules for the land it occupied on December 18, 1971.

5.02 Acreage to be Conveyed
The Corporation shall convey to the applicant the tract actually occupied and used by it. No such tract shall exceed one (1) acre.

5.03 Non-Profit Organization Land Criteria
The applicant shall show that as of December 18, 1971,

- (i) it was a duly organized and validly existing non-profit corporation organized under the laws of the State of Alaska or registered in Alaska as a foreign corporation;
- (ii) it was treated by the Internal Revenue Service as a non-profit tax-exempt organization;
- (iii) it occupied and used the tract on a regular basis for a substantial period of time; and
- (iv) there were improvements located on the tract which it used and which directly related to its non-profit status.

Post-71 Occupancy Alternatives

ANCSA Section 14(c)(1) and (2) is clear that individuals which occupied land on December 18, 1971 for certain purposes are entitled to receive the land from the village corporation under 14(c).

Individuals who occupied corporation lands after December 18, 1971 are not entitled to a 14(c) conveyance under the law. In fact, if the occupancy was done without the consent of the corporation, it is trespass irrespective of the date upon which began after 1971 -- even, if the conveyance (IC or patent) was not granted to the corporation until many years after 1971.

The most common type of post-71 occupancy is by people who built homes after 1971 and prior to the conveyance of the land by the village corporation. Many are the result of a lack of knowledge on the part of the individual as to what needed to be done to receive permission to the land, complicated by conflicts with traditional means of appropriating land. Most were not made with any conscious intent to deprive the corporation of its lands. These conflicts all resulted in many corporations now finding themselves in the difficult position of having to protect their assets and at the same time avoid unnecessary conflict with shareholders and others who thought their occupancy was proper.

Corporate Responsibilities

The ultimate responsibility and decision making for the Corporation rests with its Board of Directors. As directors charged with the responsibility of managing corporate affairs, the board is responsible for determining how to handle the post-71 occupancies. This decision is an important one since the board must exercise due care in their responsibility to the corporation to avoid liability that might arise if they fail to assert a claim on behalf of the corporation.

Alternative Action

The first and foremost obligation of the Board of Directors is to protect the assets of the corporation until it has determined what the best use for them will be. A Corporation does not have the luxury of "doing nothing." By doing nothing, the time for vesting of title under adverse possession continues to run; the Corporation loses the rental income from the property being occupied, and the occupants are given the misimpression they have some rights to the land. Thus, in addition to asserting its claim of ownership, the Corporation has four options:

1. Bring Trespass Ejectment Action: This is a legal proceeding whereby the Corporation asserts its ownership rights to the land and seeks the removal of the trespasser from the property. The end result of this

course of action would be a termination of the occupancy and compensation to the Corporation for any damage done to the property. The legal money costs, in addition to the political costs of conflict with a group which may be largely composed of shareholders may be unacceptable in most instances.

2. Negotiate lease/permit for use: This option is based on the corporation's agreement to allow the occupant to remain in possession under such terms and conditions as are agreeable to both parties. This protects the Corporation's title and fixes the occupant's rights. Should negotiations not be successful then the Corporation's only recourse to protect its title would be trespass action. The terms of the lease would be subject to the Corporation's wishes for the management of the property. A rental fee should be charged. Such fee should be equal to the fair market rental value of the property. Should a lesser amount be charged, the Board would be granting an economic benefit to the occupant at the expense of the shareholders and the Corporation. The amount of the rent and terms of the lease is the responsibility of the corporation board using their good faith judgement for what they believe is in the best interest of the corporation, unless specifically exempted by a vote of 2/3 of the shareholders.

3. Direct Conveyance to Occupant: Should it be consistent with the policies of the Corporation, the Corporation may sell the occupant the land. In

deciding whether to sell, the Corporation should consider other uses for the land, as well as its location. Such sale would have to be at fair market value for the property unless specifically exempted by a shareholder vote, as stated above in Number 2. A distinction should be made between pre-conveyance occupants and post-conveyance occupants. By allowing a person to buy the land they settled on before it was conveyed to the Corporation, the Board is resolving a difficult problem. However, applying this policy to trespassers who settle on the land after the Corporation has received title, encourages trespassers and results in the trespassers not the Board making land use decisions for the Corporation.

4. Conveyance to Municipality or MLT: Pursuant to Section 14(c)(3) of ANCSA, the Corporation is required to make conveyances to the Municipality of certain lands. Included in those lands are the "improved land on which the Native village is located." Unlike Sections 14(c)(1), (2), and (4) of ANCSA, there was no vesting date for rights under (c)(3). Thus, the Corporation, if it wishes, could transfer some or all of the lands occupied in the village after 1971 and prior to the conveyance to the Municipality. It would then be up the Municipality to determine the manner in which it will deal with the occupants. While Municipalities are prevented by State law from disposing of land except by public auction, there are several proposed changes to the law which would allow them to sell the land on a negotiated basis to these

occupants. If there is not an incorporated Municipality, the Corporation would convey to the Municipal Land Trustee (MLT) who has the present authority to enter into negotiated sales with such occupants.

Another option which has been suggested is the utilization of Section 1407 of ANILCA which deals with shareholder homesites. It is not advisable at this time to utilize this vehicle. Section 1407 deals only with the tax consequences of such conveyances and does not address the corporation law aspects. At present, the research which has been done would indicate that in order to be in compliance with the general provisions of corporate law, any homesite program would have to be structured so as to give all shareholders an equal opportunity to receive land. If a homesite program is used as a means of trying to resolve the post-71 occupancy problem, then it would have to give preference to those shareholders who settled on the land in violation of law over the other shareholders.

Thus, the real problem facing the Board of a Corporation with post-71 occupants on its lands is walking the tightrope of protecting the rights of the Corporation and meeting the director's responsibilities, while at the same time being fair to the occupants without rewarding and encouraging trespass.

TOWNSITES

In Alaska a townsite usually refers to a community which has received a subdivisional survey under the federal townsite laws. The Townsite laws are a group of laws which enabled residents to petition for the withdrawal and survey of public land in a community, after which qualified or vested individuals were deeded lots and the remainder of the lands were held in trust for future occupants. Because most of these townsites were petitioned for in the 1960's and earlier, many of the people now in the villages have lost track of just who petitioned for them and why, and even what a townsite is all about. Townsite presence or absence has little relationship to municipalities--many townsites are in unincorporated communities even today. Townsite and township are two terms often confused because of their sound alike similarity, but they are completely different--the township being a square unit measure of land six miles on a side.

History of Townsites

The townsite laws were part of a body of settlement laws--including the homestead, the headquarters and trade and manufacturing site, and the Native allotment--which were extended to or modified for Alaska in the late 1800's and early 1900's. The townsite law was first extended to Alaska in 1891 and on May 25, 1926 the Native Townsite Act was passed ". . . for the benefit of Indian or Eskimo occupants in trustee townsites in Alaska . . ." (Both of these are also known as a trustee townsite.

There are two other kinds of townsites in Alaska which are similar to each other in that they have no trustee and were established by, or as a result of, an executive (presidential) Order. These are the Alaska Railroad and the Presidential Townsites. The ARR townsites were established at likely points along the railroad and include Seward, Moose Pass, Portage, Girdwood, Anchorage, Talkeetna, and Nenana among others. Presidential townsites, similarly, were established at road junction points along the highway system likely for settlement and include Tok, and Delta Junction, and Glenallen (which was never sold). Fairbanks, Anchorage east addition, Juneau, Ketchikan, Skagway, Sitka and Kodiak, to name a few, are among the trustee townsites under the 1891 law, while most Alaska bush townsites are Native townsites under the 1926 law. All the townsite laws were repealed by the passage of the Federal Land Use Policy and Management Act (FLPMA) in 1976.

How does or did, the townsite law work?

1. FIELD EXAMINATION AND SCREENING: Typically, once a petition for a townsite survey was received by BLM it would be screened and field examined to see if the petition fairly represented the residents and that the community was likely to be a viable one in the future, and that the land status was clear.
2. SURVEY PLAN: When a petition was deemed adequate, a plan of survey was made by working with the residents to identify ownership of each group of improvements and provide each future lot with a means of access. In the plan of survey, all the occupied lots are subdivided on paper into individual lots and groups of lots called

blocks, together with utility easements and streets for access to each lot, plus public reserves for existing and future public purposes (i.e. school, community hall, parks, airports, etc.). For future expansion purposes, an extra one third or so of subdivided but vacant lots, plus unsubdivided areas or blocks were usually planned for.

3. SURVEY: A survey was made at government expense according to the plan of survey with the overall size of the townsite based on the population: a 160 acre maximum for 100 inhabitants or less, a 320 acre maximum for 100-200 inhabitants, and for 200 or over up to a maximum of 640 acres.

If most of this sounds a bit familiar, it should, since it is almost the identical process as was later enshrined by Congress in § 14(c) of ANCSA to give land titles or deeds to existing occupants for residences, businesses, subsistence sites, etc.

4. TRUSTEE, PROOF, AND PATENT: Once the survey was completed and the subdivisional survey plat was approved, a trustee was designated (the trustee typically was a local judge or other official, but has been a BLM employee for many years). The trustee applies for patent and submits "proof" which also involves posting in the village and elsewhere--the entire proof process highly reminiscent to proving up on a homestead, homesite, or a trade and manufacturing site. BLM then issues a patent to the trustee.

5. LOTS AWARDS BY TRUSTEE: Once patented, the trustee proceeds to exercise his/her trust duties by disposing of the lots to individuals which occupied townsite land as of the date the survey plat was formally approved. If a townsite survey plat was still pending approval when the townsite law was repealed on October 21, 1976, that becomes the cut-off date for entitlement to a townsite lot. Native occupants get the land free of charge and can elect to receive either a restricted or unrestricted deed, non-Native occupants by payment of charge based on a pro-rated lot assessment designed to recover the costs of survey and administration.

6. PROVISIONS FOR POPULATION INCREASE: After the first lot award, if the population increased (up until the repeal of the townsite laws in 1976) new Native occupants could move onto any unclaimed lots and either Native and non-Native occupants could move into the surveyed but unsubdivided blocks designated for expansion. (One of the major criticisms of the federal townsite laws was that neither the community nor the trustee had any substantial control over who settled or where they settled.) Occupants on unsubdivided blocks could then petition the trustee for additional subdivisional surveys to enable them to get a deed. When population expanded beyond the surveyed townsite limits, a townsite addition could be petitioned for--hence the Anchorage east addition--the Nenana St. Marks addition, etc.

7. OTHER TRUSTEE FUNCTIONS: Depending on the community needs and desires, the trustee may also hold a public auction sale of unclaimed lots to the highest bidder. Usually, however, if a municipality exists, they will opt for the unclaimed unoccupied lots and blocks to be deeded to the city. Tracts designated as public reserves usually must go to the city. In unorganized communities, that is, those without a city, the trustee may sell lots also, but normally just holds the land in trust until a city is formed and (until 1976) with lots available by settling on them. When all the land is disposed of the trustee "closes out" the townsite and sends the records into storage. However, if a city is never formed, the trustee cannot deed all the land and cannot "close out."

8. FUTURE CONSIDERATIONS FOR TOWNSITE TRUST LANDS: To help eliminate this problem and others it is being actively proposed by BLM that the federal trustee duties be transferred to the state municipal land trustee (MLT). It is being actively proposed by others that the lands in unincorporated townsite villages should be deeded to an IRA or traditional village council.

The passing of ANCSA in 1971 effectively rendered the townsite program obsolete because virtually all the lands in and around Native communities became subject to village selection and, as stated earlier, were essentially replaced by the provisions of 14(c). However, there were about 110 townsites in various stages of the petitioning/survey/lot awards process at the passage of ANCSA where rights had vested to the occupants. A number of villages have

Townsites

Page 6

attempted to retract their petition since 1971 in favor of ANCSA but have found it is difficult to reverse--mostly because rights have been vested in the occupants in the meanwhile. Further, past policy allowing original petitioners to relinquish the unoccupied and unclaimed portions so the village corporation may pick up the land was not possible since the village selection period expired three years after ANCSA.

The eventual ownership of these unoccupied, but often highly valuable lands have certainly been the subject of much interest. A lawsuit filed in 1977 titled Aleknagik Natives, Ltd., et al. v. United States of America concerns this issuance of future disposition.

The central legal issue in the Aleknagik case was whether vacant and unsubdivided blocks of land set aside for future townsite expansion should have been considered as federal public land and selectable under ANCSA, or not.

On March 19, 1985, the U.S. District Court upheld the actions of the Secretary of Interior in ruling that Alaska townsite lands were unavailable for selection by ANCSA village corporations and available for settlement by new occupants up until the date of the repeal of the townsite laws in the Federal Land Policy & Management Act on October 21, 1976. A motion to appeal the ruling was filed and oral arguments before a three-judge panel of the Ninth Circuit Court of Appeals were heard on September 4, 1986. The decision of the Ninth Circuit affirmed the District Court's ruling. Intervenors in the Aleknagik lawsuit, English Bay and Port Graham Village Council claimed that although the vacant land in their townsite wasn't subject to corporation selection, it should go to them. The District Court ruled in their favor. The case, however is on appeal with the Ninth Circuit at the time of this writing.

For further information contact the BLM Townsite Trustee: Bureau of Land Management, Department of Interior, 701 C Street, Box 13, Anchorage, Alaska 99513. Located on the 4th floor of federal building. Phone 271-5638.

Memorandum of Agreement

AFN-LMA/DOTPF Policy Guidelines on Airport Conveyances

The Alaska Federation of Natives Land Managers Association (AFN-LMA) and the Alaska Department of Transportation and Public Facilities (DOT/PF) agree to the following guidelines concerning the implementation of Section 14(c)(4) of Alaska Native Claims Settlement Act (ANCSA).

1. It is understood that each village corporation and municipality is a separate entity and that the AFN-LMA cannot make any commitments on behalf of any village corporation or municipality. Likewise, these are guidelines for DOT/PF and the parties understand that in individual cases the factual situations will vary. In addition, the signatories for the State do not act for nor bind the State as trustee for future municipalities in any way. These guidelines are recommended by AFN-LMA and DOT/PF as a starting point for 14(c)(4) negotiations between the village corporations and DOT/PF.
2. The surface estate land conveyance required by Section 14(c)(4) of ANCSA applies to each airport as it existed on December 18, 1971. DOT/PF will not acquire additional property interests that may be required for present or future airport operations by means of a 14(c)(4) conveyance.
3. Additional lands required for present or future airport operations may be obtained by DOT/PF by lease from the local municipality or the state-in-trust for future municipality or other normal methods of acquisitions.
4. DOT/PF and AFN-LMA have developed four standard templates for airport size which are to be used by the involved parties as a starting point and guideline for negotiations concerning the land requirements for airports. (Attached as Exhibit A.)
5. DOT/PF will relinquish any property interests in excess of its present or anticipated future needs which it may claim under 14(c)(4) at an airport. (Subject to FAA consent, if required.)
6. It is DOT/PF's objective to cooperate with local municipalities for the future management and operation of the local airport.
7. DOT/PF will confer with the local municipality or village government as well as the village corporation so that all parties know which lands are necessary for current or future airport operations.
8. In lieu of a direct conveyance from village corporations under 14(c)(4), DOT/PF is willing to accept title to the same land from municipalities or the State-in-trust with a reversionary clause, so that title would revert to the municipality or future municipality in the even the lands are not used for airport purposes or the municipality later becomes the airport operator. DOT/PF and the municipality or the State-in-trust may instead negotiate a mutually satisfactory, long-term lease for the same property. This lease may include other lands needed for present or future airport purposes.

9. AFN-LMA and DOT/PF agree that airports in rural communities significantly impact the citizens and that prompt implementation of a rural airport improvements program is in the best interest of the people of the State of Alaska.

(s)

Robert B. Ward, Commissioner
Department of Transportation and
Public Facilities

February 12, 1981

(s)

Frank Ferguson, President
Alaska Federation of Natives

March 11, 1981

(s)

Wilson L. Condon
Attorney General

January 27, 1981

(s)

Dan Alex, Chairman
Alaska Federation of Natives, Land
Managers Association

February 25, 1981

ANCSA 14(c)(4) Options Outline

Option 1:

- a) Village Corporation negotiates with DOT/PF and reconveys the appropriate airport acreage to the State under ANCSA 14(c)(4). DOT/PF will own in whole or part and operate the airport. Village corporation consults with DOT/PF and reconveys the remainder or post 1971 airport property to the local government under 14(c)(3) on the condition that such property is leased to DOT/PF to operate the airport.
- b) The local government and DOT/PF would forge a cooperative management agreement for future planning and management of airport properties.
- c) DOT/PF will acquire additional lands as needed by purchase from the corporation or a long term lease from the local government.

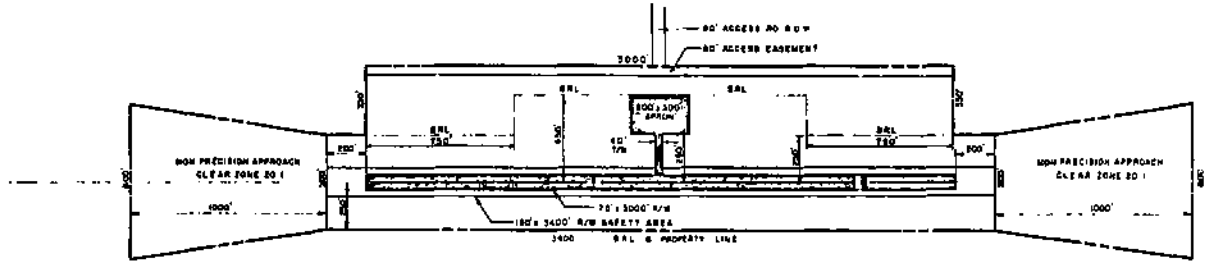
Option 2:

- a) Village Corporation consults with DOT/PF and reconveys the entire airport acreage to the local government body under ANCSA 14(c)(3) and 14(c)(4). The local city or "future city" will then convey at zero or nominal charge such acreage to the State. Such conveyance would include a reversionary clause stating that whenever any airport property ceases to be used for airport purposes ownership of that property would revert to the local government. DOT/PF would operate and own the airport subject to the reversionary clause.
- b. Same as 1(b) above.
- c. Same as 1(c) above.

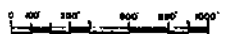
Option 3:

- a) Village Corporation consults with DOT/PF and reconveys the entire airport acreage to the local government body under ANCSA 14(c)(4) and 14(c)(3).
- b) The local city or "future city" will negotiate a long term lease with DOT/PF to manage the airport property complete with cooperative management provisions. The local government would own the property and the State would operate the facility under the protections of the lease.
- c. Same as 1(c) above.

TYPICAL SECONDARY AIRPORT



- NOTES
1. PURPOSE: PRIMARY MEANS OF ACCESS TO A RURAL COMMUNITY - NOT A HUB AIRPORT FOR OTHER COMMUNITIES - MAY ALSO BE MAJOR RECREATIONAL AIRSTRIP
 2. AIRCRAFT TYPES: LIGHT TWINS AND SMALLER
 3. DESIGN STANDARDS: NON-PRECISION INSTRUMENT
 4. FAA DESIGN STANDARDS: "GENERAL UTILITY" - SEE FAA ADVISORY CIRCULAR NO. 130/2305-4B
 5. MINIMUM LAND REQUIREMENTS: LANDING AREA - 20 ACRES, APPROACH AREA - 10 ACRES, BUILDING AREA 24 ACRES, TOTAL - 30 ACRES. THE ACTUAL BUILDING AREA SIZE AND CONFIGURATION WILL VARY DEPENDING ON COMMUNITY NEEDS AND TOPOGRAPHY

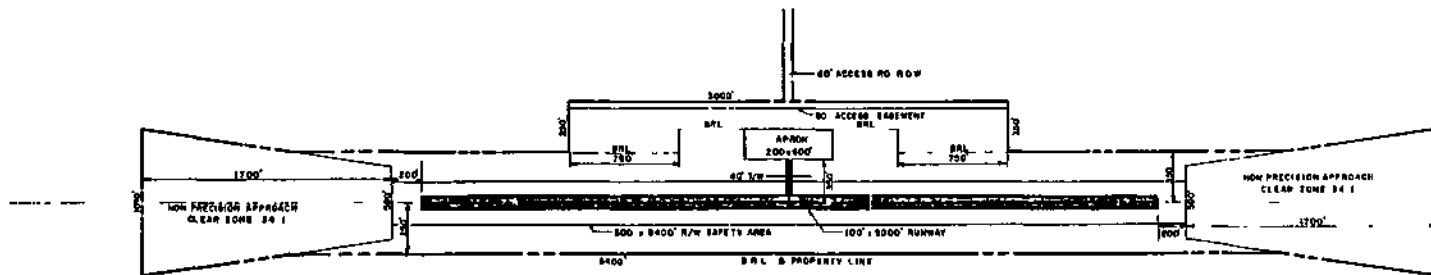


STATE OF ALABAMA
 DEPARTMENT OF TRANSPORTATION
 AND PUBLIC FACILITIES

TYPICAL SECONDARY AIRPORT

APPROVED BY: *[Signature]*
 TITLE: *[Title]*
 DATE: *[Date]*

TYPICAL TRANSPORT AIRPORT



NOTES:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. PURPOSE 2. AIRCRAFT TYPES 3. TAXIWAY STANDARDS 4. CROSSING RUNWAY 5. MINIMUM LAND REQUIREMENTS | <p>PRIMARY MEANS OF ACCESS TO A REGION SPECIFIC AIRPORT (COMMUNITY) MAY SERVE AS A SMALL HUB AIRPORT FOR NEARBY COMMUNITIES</p> <p>MULTI ENGINE PISTON</p> <p>*NON-PRECISION GENERAL TRANSPORT - SEE FAA ADVISORY CIRCULAR NO. 150/5300 G</p> <p>AIRPORT PROBABLY WILL INCLUDE A G-WIND RUNWAY DUE TO SECONDARY STANDARDS</p> <p>LANDING AREA - 87 ACRES, APPROACH AREA - 82 ACRES, BUILDING AREA - 24 ACRES, TOTAL - 173 ACRES THE ACTUAL BUILDING AREA SIZE AND CONFIGURATION WILL VARY DEPENDING ON COMMUNITY NEEDS AND TOPOGRAPHY</p> |
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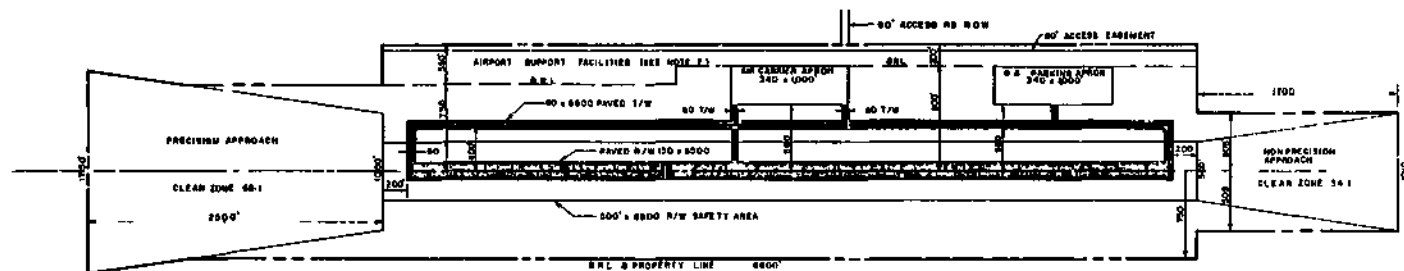
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

TYPICAL TRANSPORT AIRPORT

APPROVED BY: *[Signature]*
TITLE: *[Signature]*
DATE: *[Signature]*

TYPICAL TRUNK AIRPORT

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NOTES

- 1 **PURPOSE:** PRIMARY MEANS OF ACCESS TO A RURAL COMMUNITY ALSO SERVES AS A HUB AIRPORT FOR NEARBY SMALLER COMMUNITIES
- 2 **AIRCRAFT TYPES:** JETS UP TO B727 SIZE AND SMALLER AIRCRAFT
- 3 **WEATHER REQUIREMENTS:** PRECISION INSTRUMENT APPROACH
- 4 **FAR DESIGN REQUIREMENTS:** "FAA STANDARD - 8000 FTOD 1107" - 1107 FAR ADVISORY CIRCULAR NO. 154/526 1A
- 5 **LOCAL CONDITIONS:** ACTUAL LAYOUT WILL VARY DEPENDING ON LOCAL CONDITIONS
- 6 **CONVINCING SURVEY:** AIRPORT PROJECTS WILL INCLUDE A 3 HUND SURVEY BUILT TO TRANSPORT STANDARDS
- 7 **MINIMUM LAND REQUIREMENTS:** LANDING AREA 750 ACRES APPROACH AREA 120 ACRES BUILDING AREA 55 ACRES TOTAL 430 ACRES THE ACTUAL BUILDING AREA SIZE AND CONFIGURATION WILL VARY DEPENDING ON COMMUNITY NEEDS AND TOPOGRAPHY AND IN ORDER TO ACCOMMODATE THE USES DESCRIBED IN FAR 8320 (A)(1)



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

TYPICAL TRUNK AIRPORT

APPROVED BY: *[Signature]*
TITLE: *[Signature]*
DATE: *11/10*



United States Department of the Interior

IN REPLY REFER TO

BUREAU OF LAND MANAGEMENT

9666 (923)

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

October 16, 1987

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

The purpose of this policy statement is to provide guidelines for the preparation of the Map of Boundaries as required by 43 CFR 2650 5-4. The submission of a uniform Map of Boundaries will enable the Bureau of Land Management's (BLM) Division of Cadastral Survey to execute an efficient survey program for the 14(c) lands which will meet the applicants' requirements in a more timely manner.

The Map of Boundaries should be submitted in total. Recognizing that some potential 14(c) tracts may be encumbered by a question of title at the time the map is submitted, the submission should provide for survey of such areas. This avoids the need for a new survey after any title dispute is resolved.

1. The map is intended to include all 14(c) tracts which are to be surveyed. The map should be prepared on an enlargement of the best and latest aerial photography available or on a reproducible media such as a mylar or acetate photo overlay at the same scale. A scale of 1 inch = 50 feet or 1 inch = 100 feet is best for 14(c) (1) AND (2) lots in a crowded village situation, but 1 inch = 200 feet or larger is usually adequate for 14(c) (3) grants or outlying subsistence tracts. In some cases BLM's Branch of Photogrammetry may have the best photography available; in other cases the photography may have to be purchased from another government agency or a private aerial photo contractor. In either case, BLM is usually able to refer one to the best available source for aerial photographs. If the available photographs do not encompass all the tracts involved, a supplemental sheet of the same scale as the photo may be added to cover the immediate surrounding area. Delineated thereon will be the majority of:
 - a. 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 municipal lands which are in the vicinity of occupied lots or in the improved area of the village - 14(c) (3).

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

Any enlarged drawing and written description for each individual tract or group of tracts will be shown on a separate sheet. These supplemental drawings will include the scale, date, north arrow, topographic features (lakes, rivers, swamps, ridges, etc.) how corners are marked, approximate bearings and distances of boundary lines, applicant's name, and their reference number corresponding to the site location as shown on the USGS quadrangle maps. Attachments A-1 through A-7 show examples of the foregoing requirement.

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

- a. Subsistence campsites and headquarters for reindeer husbandry sites - 14(c) (1).
 - b. That portion of the municipal lands not included in the village photo - 14(c) (3).
 - c. Any other tracts identified under Section 14(c) not included in the village photo.
3. In accordance with 43 CFR 2650.5-4, the BLM will survey all lands qualified as ANCSA 14(c) reconveyances, e.g., land occupied as of December 18, 1971, and land identified for community use and expansion, and airports. For the convenience of the village corporations and the surveyors, the Map of Boundaries may include vacant lots, lots occupied after December 18, 1971, and other non-14(c) lots. Non-14(c) lots must be clearly identified as such and will not be surveyed by BLM.
 4. BLM's rules and regulations state that the boundaries of all Section 14(c) reconveyances shall be identified (staked or marked) on the ground, as well as shown on the Map of Boundaries. The location of the individual corners should be marked on the ground with durable materials to eliminate the possibility of boundary conflicts with adjacent tracts and to assure the actual location of the tract. Each tract should also be identified as to location by one of the following means:
 - a. A tie to an existing survey monument of record.
 - b. Natural features.
 - c. Occupancy (ties to improvements thereon).
 - d. A tie to an adjacent (located) 14(c) tract.
 - e. Written description such as aliquot parts of a section or a metes and bounds description.

5. Roads, trails, and street centerlines, either planned or to be modified (realigned), will be staked or marked on the ground.
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 Map of Boundaries. Alaska National Interest Lands Conservation Act (ANILCA), Section 902(b) provides a one (1) year "Statute of Limitations" for such actions that may require judicial review. (See Appendix)
7. Any Map of Boundaries will have a title block wherein the name of the municipality (village) will be identified together with the village corporation. Also shown within the title block will be a certification statement "To the best of our knowledge, all conflicts concerning property lines shown on this Map of Boundaries have been resolved." In addition to this, the Map of Boundaries will contain the certification, "This Map of Boundaries represents the final discharge of all the Corporation's obligations under ANCSA 14(c)."

The Map of Boundaries will be accompanied by a corporate resolution authorizing the Map of Boundaries and designating the corporate officer to sign and submit the map.

Separate signature lines shall be included to state the Map of Boundaries has been reviewed and accepted by BLM and another to show it has been approved.

8. Upon receipt of a Map of Boundaries from the Village Corporation, BLM will examine and review this map for completeness and to see if the map and instructions are complete enough so that a survey is physically possible. This review and examination should be completed within 30 calendar days and the Map of Boundaries will either be accepted by BLM or returned to the village for additional information.
9. Upon acceptance of the Map of Boundaries, BLM will notify the village corporation and circulate or post such notifications for village residents. The one year statute of limitations identified in Section 902(b) of ANILCA will begin with the filing date of the Map of Boundaries, which is the date BLM accepts this Map of Boundaries.
10. A village corporation which has no 14(c) obligations should submit a letter to the BLM certifying that fact. This letter will serve as a "Final Map of Boundaries", and should be signed by the appropriate designated corporate officer and accompanied by a corporate resolution authorizing the submission. The date of the receipt of this letter will be considered the Date of Filing, which will formally start the one year statute of limitations. Upon receipt of such a letter BLM will publish this information.

11. Some villages may elect to hire a private surveyor to survey all or a portion of their land for reconveyance purposes. In such cases, the village must pay the entire cost of such contract survey with no present or future reimbursement by the BLM's 14(c) survey program.

The BLM strongly recommends that any village electing to utilize this option to expedite their reconveyances, submit a Map of Boundaries or Partial Map of Boundaries to the BLM so that a filing date can be established according to the same procedure outlined in Item No. 9.

The only certain method by which a village corporation can receive protection under ANILCA 902(b) is to file such a map of boundaries.


12. Survey of the 14(c) parcels will not be scheduled until the Final Map of Boundaries has been received and approved by BLM.

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

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

Changes or amendments which clarify or alter a description on the approved map of boundaries will be incorporated into the plan of survey by the BLM prior to the actual field survey. These changes or amendments will be submitted as amended maps of boundaries and will not require any posting of Public Notice by the BLM or any changes in the one year statute of limitations, unless the affected parties do not agree with the changes.

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


Francis D. Eickbush
Deputy State Director
for Cadastral Survey

DEFINITION OF TERMS

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

Date of Filing: The date BLM accepts the map of boundaries. This filing commences the one-year statute of limitations contained in ANILCA Section 902(b).

Date of Acceptance: The date the BLM accepts a Map of Boundaries as complying with the requirements of the Policy Statement. The date of acceptance is the date of filing for ANILCA Section 902(b) statute of limitations purposes.

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

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

Final Map of Boundaries: A map of boundaries submitted by a village corporation that contains all known obligations to reconvey land pursuant to ANCSA Section 14(c).

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

Plan of Survey: The approved final map of boundaries becomes the plan of survey used to survey the ANCSA Section 14(c) reconveyances.

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

ANCSA - December 18, 1971

ANILCA - December 2, 1980

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

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

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

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

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

APPENDIX

ANILCA Sec. 902 (b)

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 the filing of the map of boundaries as provided for in regulations promulgated by the Secretary.



KONZABIE SOUND

20 ROW

14 (11) HARRY KARNUM
ALFRED EARNUM

14 (10) THELMA R.
ORRIS

14 (10) RUTH M. MOO

14 (12) FRIENDS CHURCH
MEAN HIGH-WATER LINE BEHINDER
(TYPICAL)

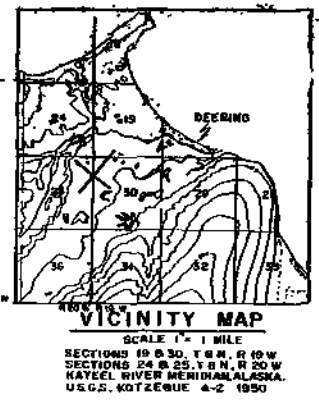
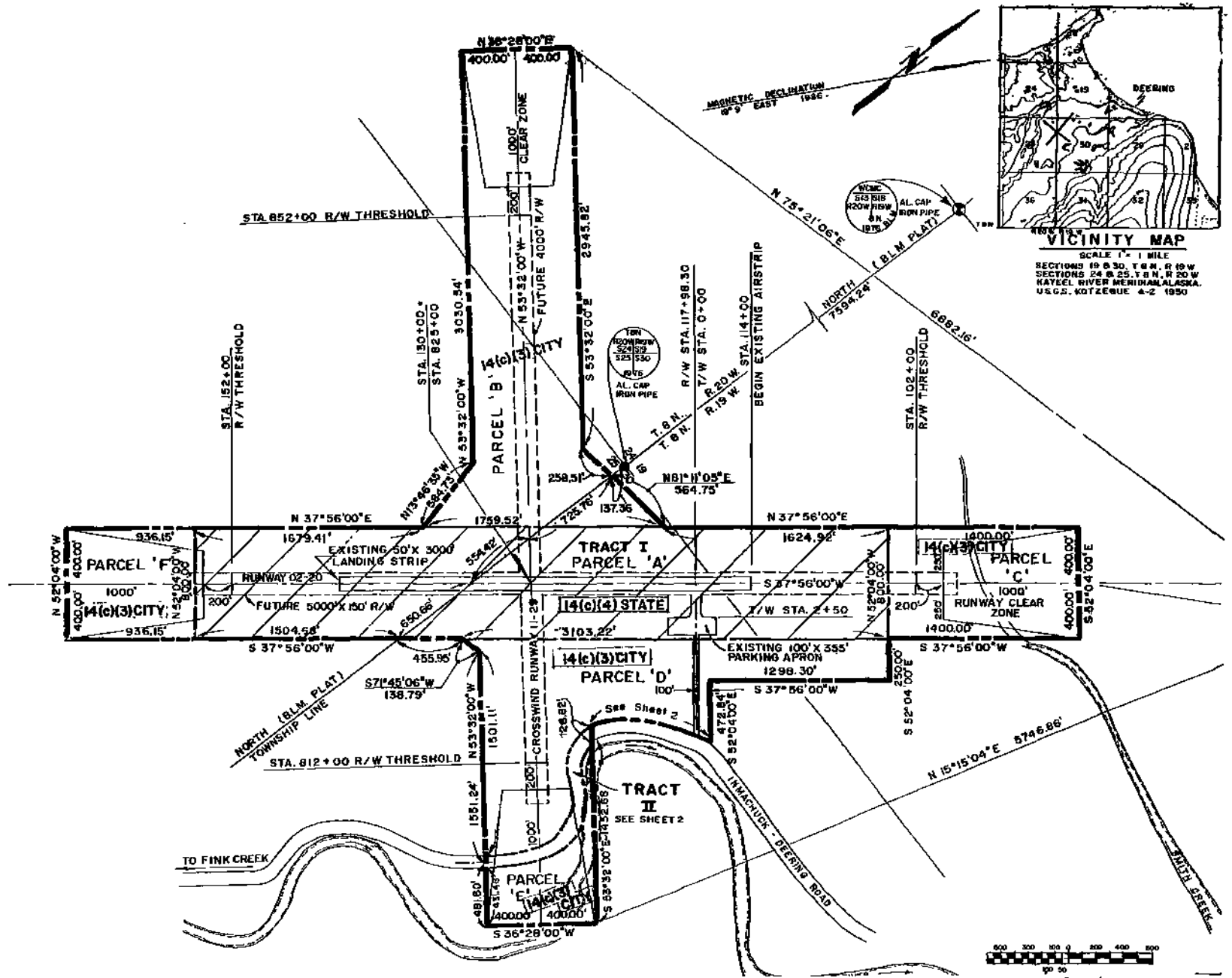
14 (11) CITY

20 ROW

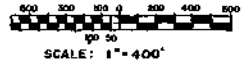
14 (13) CITY

247

THE MAP OF KANAWHA COUNTY, WEST VIRGINIA, SHOWS THE LOCATION OF THIS PROPERTY.



A portion of the Deering map of boundaries showing the 14(c)(4) reconveyance for the airport as it existed in 1971 and the 14(c)(3) reconveyances for future airport expansion. This map of boundaries has been accepted by BLM.



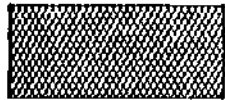
ANCSA 14 (c)

KOLIGANEK MAP OF BOUNDARIES

LEGEND



ANCSA 14(c)(1)



ANCSA 14(c)(2)



ANCSA 14(c)(3)



ANCSA 14(c)(4)

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NOTE: This map has been prepared from uncontrolled aerial photographs. Scale is approximate and minor distortion may exist.



APPROXIMATE SCALE: 1" = 100'

This Map of Boundaries depicts all tracts of land to be conveyed under Section 14(c) of the Alaska Native Claims Settlement Act (85 Stat. 688) and represents the complete fulfillment of the Koliganek Natives Ltd's obligations under Section 14(c) of ANCSA.

The boundaries of the 14(c) tracts shown hereon are approved by Koliganek Natives Ltd. No conflicts between claimants are known to exist.

This Map of Boundaries is accepted and is hereby filed with BLM under Section 902(b) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371).

Name	Title	Date

Deputy State Director for Cadastral Survey,	Date

The boundaries of the 14(c)(3) tracts shown hereon are approved by the State of Alaska in trust for the future city of Koliganek.

This Map of Boundaries is hereby approved as the 14(c) Plan of Survey under Section 902(b) of ANILCA.

Name	Title	Date

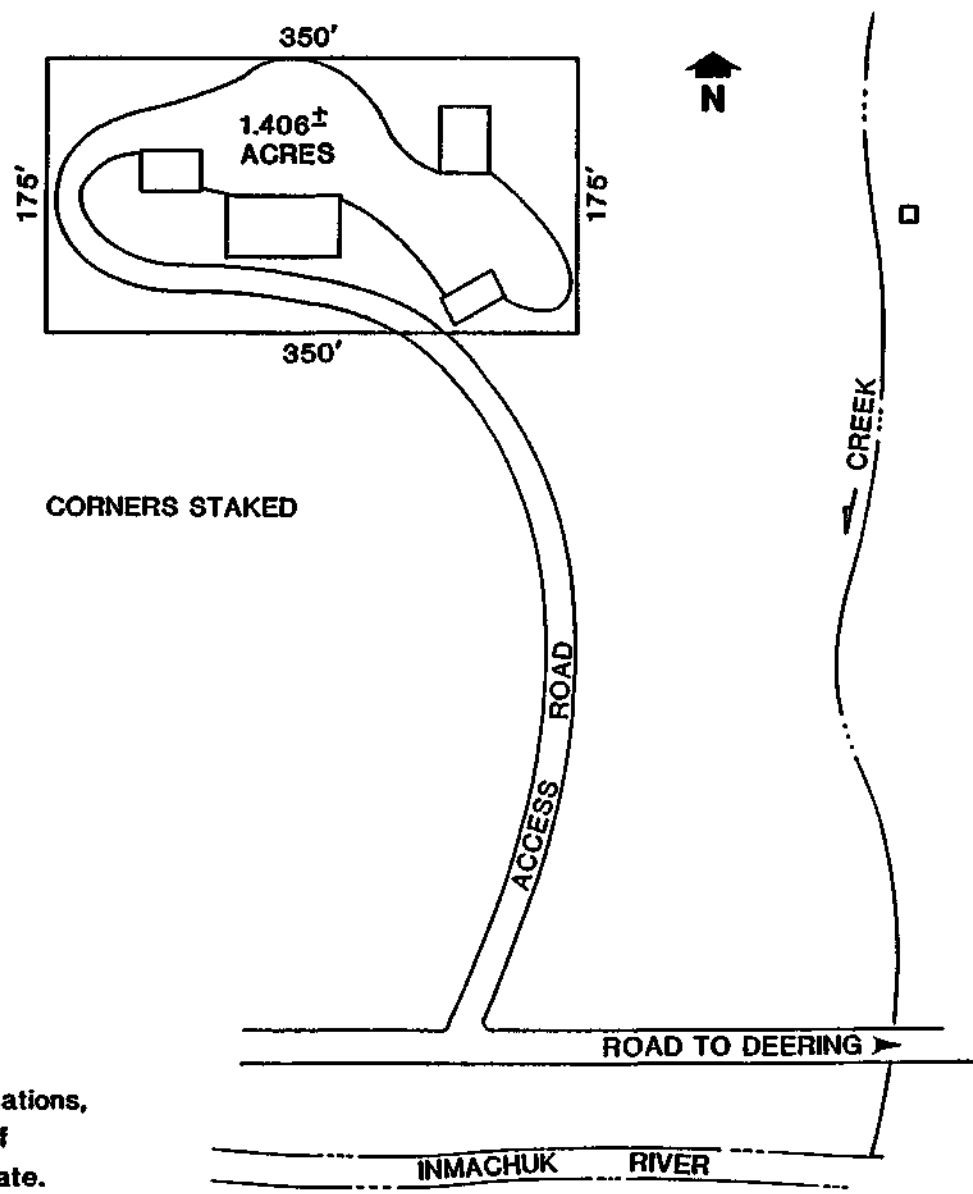
Deputy State Director for Cadastral Survey,	Date

DATE OF PHOTOGRAPHY:
8 / 14 / 74

SHEET 1 OF 2

Sample map of boundaries title block, prepared by the MLT Program for a trust village. For an incorporated village, the State of Alaska in Trust approval language would be changed to: "The boundaries of the 14(c)(3) tracts shown hereon are approved by the City of _____."

250



NOTES:
Scale (approx.) 1"=100'
Scale, building and road locations,
proportions and locations of
physical features approximate.

HOOGENDORN 14(c)(1) CLAIM
IN SEC. 32, T6N, R21W, KRM
SHEET 6 OF 6

A portion of an accepted map of boundaries showing one way to depict a remote 14(c)(1) claim.

ANCSA SECTION 14(c)(1) & (2) COURT CASES

The following pages summarize various cases arising out of challenges to the proper application of the reconveyance provisions of ANCSA Section 14(c)(1) and 14(c)(2). They include those cases which have been settled and those still pending in State Court and Alaska Federal District Court or the Alaska Supreme Court.

14(c)(1) CASES BEING HANDLED BY DAVID WOLF
OF THE LAW FIRM OF COPELAND, LANDYE, BENNETT AND WOLF
420 L STREET, SUITE 302, ANCHORAGE, ALASKA 99501 (276-5152)
ON BEHALF OF THE VILLAGE CORPORATION INVOLVED
IN EACH CASE

1. United States of America v. Joseph F. Donnelly, Case No. A75-27, United States District Court for the District of Alaska.

Therese U. Donnelly, Personal Representative of the Estate of Joseph F. Donnelly, deceased, v. United States of America; Secretary of the Interior; Director, Bureau of Land Management and Eklutna, Inc., and James W. Lee v. United States of America; Secretary of the Interior; Director, Bureau of Land Management; Eklutna, Inc.; Cook Inlet Region, Inc., No. 86-4428, United States Court of Appeals for the Ninth Circuit.

Donnelly sued the United States, Eklutna, and Cook Inlet Region claiming that he was entitled to land as a homestead. His homestead application had been denied by the Department of Interior prior to the passage of the Alaska Native Claims Settlement Act. Donnelly claimed that the denial was improper. The U.S. District Court ruled that Mr. Donnelly could not sue the United States for his homestead claim because he had waited too long to bring the case. Mr. Donnelly appealed that decision and the Ninth Circuit Court of Appeals upheld the District Court decision and dismissed Mr. Donnelly's homestead claims.

Mr. Donnelly also claimed that he was entitled to the land as a primary place of residence under § 14(c)(1) of the Alaska Native Claims Settlement Act. The U.S. District Court held that trespassers and failed homesteaders did not have rights under § 14(c)(1) even if they were physically on the land on December 18, 1971. The U.S. District Court also held that Mr. Donnelly was a trespasser and therefore he did not have any rights under §

14(c)(1). Mr. Donnelly appealed this decision to the Ninth Circuit Court of Appeals. The Ninth Circuit Court of Appeals agreed with the U.S. District Court that trespassers and failed homesteaders do not have rights under § 14(c)(1). However, the Ninth Circuit Court of Appeals also held that Mr. Donnelly did not have any right to bring his claim against Eklutna, Inc. for lands as a primary place of residence under § 14(c)(1) when his claim involved his failed homestead without also suing the United States. Since Mr. Donnelly had not sued the United States within twelve years of knowing of his claim, he had no right to sue the United States. Therefore, since Mr. Donnelly could not include the United States in his suit against Eklutna, he could not sue Eklutna. As a result, the Ninth Circuit Court of Appeals said that Mr. Donnelly had no right to bring a 14(c)(1) claim, and the court did not have to decide whether, in fact, Mr. Donnelly was a trespasser. This ruling has created some confusion as to whether or not the federal court will have jurisdiction over some 14(c) claims. Eklutna has a counterclaim pending against Mr. Donnelly asking the court to order Mr. Donnelly to get off the land. The next stage in this case is for Eklutna to ask the court for an order to order Mr. Donnelly to get off the land and to pay damages for having been on the land since December 18, 1971. The court will then have to decide whether or not it has the jurisdiction to enter such an order. If the U.S. District Court decides it does not have jurisdiction to enter such an order, then that decision will have

to be appealed to the Ninth Circuit Court of Appeals. If on the other hand the U.S. District Court decides it has jurisdiction to enter such an order, then it will probably proceed to order Mr. Donnelly to get off the land and Mr. Donnelly would most probably appeal to the Ninth Circuit Court of Appeals.

2. Carmel J. McIntyre v. United States of America; Cecil D. Andrus, Secretary of the Interior, in his official capacity; Frank Gregg, Director, Bureau of Land Management, in his official capacity; Curtis V. McVee, Alaska State Director, Bureau of Land Management; Alaska Native Claims Appeal Board, United States Department of the Interior; Eklutna, Inc.; and Cook Inlet Region, Inc., Case No. A79-391 Civil, United States District Court for the District of Alaska.

Carmel J. McIntyre v. United States of America; Cecil D. Andrus, Secretary of the Interior, in his official capacity; Frank Gregg, Director, Bureau of Land Management, in his official capacity; Curtis V. McVee, Alaska State Director, Bureau of Land Management; Alaska Native Claims Appeal Board, United States Department of the Interior; Eklutna, Inc.; and Cook Inlet Region, Inc., No. 85-3861, United States Court of Appeals for the Ninth Circuit.

Mr. McIntyre sued the United States and Eklutna, Inc. claiming land as a homestead. The U.S. District Court ruled that it did not have jurisdiction to consider Mr. McIntyre's homestead claim since Mr. McIntyre had waited too long to bring the claim. Mr. McIntyre appealed that decision to the Ninth Circuit Court of Appeals. The Ninth Circuit agreed with the U.S. District Court. The case is now pending in the U.S. District Court on Eklutna, Inc.'s counterclaim that the court should grant Eklutna an order ordering Mr. McIntyre to get off the land. Mr. McIntyre is defending on the basis that he has a right to receive the land under 14(c)(1) of the Alaska

Native Claims Settlement Act. The court is considering whether or not it has jurisdiction to proceed with this case in light of the recent Ninth Circuit Court decision in the Donnelly case. In the Donnelly case the Ninth Circuit Court held that the federal courts did not have jurisdiction to consider 14(c)(1) claims against Native Corporations which are based on a failed homestead unless the United States is joined as a party. In the McIntyre case the United States cannot be joined since more than twelve years have gone by since Mr. McIntyre knew of his claim. Eklutna, Inc. has filed a memorandum with the court contending that the court has jurisdiction to hear Eklutna, Inc.'s request for an order ordering Mr. McIntyre to get off the land. The court has the matter under consideration.

3. DeWitt Fields v. Ouzinkie Native Corporation, Case No. A85-606 Civil, United States District Court for the District of Alaska.

Mr. Fields is claiming that he is entitled to land as a primary place of business. This case has not progressed to any decisions yet. One issue is whether the land involved was covered by a grazing permit. A person holding a permit does not have rights under § 14(c) of the Alaska Native Claims Settlement Act, but only the rights he was granted under his permit.

A second issue is whether or not Mr. Fields was a failed homesteader. A third issue is whether or not the activities Mr. Fields conducted on the land constituted a business.

4. Twin Hills Native Corporation v. Togiak Fisheries, Inc.,
Case No. A86-062 Civil, United States District Court for
the State of Alaska.

In this case Twin Hills Native Corporation is seeking an order ordering that Togiak Fisheries stop using some land adjacent to the patented land owned by Togiak Fisheries, Inc. This case has not progressed very far and all of the issues have not yet been identified. Togiak Fisheries is claiming that its use of lands next to its fish plant are being used as a primary place of business under § 14(c)(1).

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

BRUCE CROW and LUCY CROW v. BETHEL NATIVE CORPORATION, No. A83-400 CI

FACTS:

Lucy Crow, a Native and a shareholder of Bethel Native Corporation, and her non-Native husband, Bruce Crow, claim approximately 80 acres of land, off Airport Road in Bethel, under ANCSA Sec. 14(c)(1). The Crows' residence is not situated on this tract of land claimed, but on property to which they hold title (approximately five acres) adjacent to the property claimed. The five-acre parcel that the Crows now own was sold to them by the United States government, pursuant to an application that they filed under the Trade and Manufacturing Site Public Land laws (now repealed). Their application also requested the land now claimed under 14(c)(1). This part of their application was rejected by the government. The Crows did not appeal that decision of the government, but when ANCSA was passed, they filed an appeal with the Alaska Native Claims Appeal Board in an attempt to stop interim conveyance of this property to Bethel Native Corporation. The case was dismissed, by agreement of the parties. The Crows then presented a claim for the property, under 14(c)(1), to Bethel Native Corporation. The Board, pursuant to Bethel Native Corporation's Sec. 14(c) policy, rejected the claim for the full 80 acres, but in an attempt to settle the matter, offered to convey a lesser amount of land. That offer was refused by the Crows and the Crows filed suit in The United States District Court for the District of Alaska, at Anchorage. The case was filed on July 29, 1983, and has been going on all these years since. Numerous legal issues have been raised, and many pleadings have been filed in the federal court. The case number is listed above for anyone interested in pursuing the briefing that has been done to date. Judge Fitzgerald, with regard to a recently filed motion, solicited amicus briefs from the United States government, Togiak Fisheries, and Twin Hills Native Corporation. Amicus briefs were filed by the government, Togiak, and Eklutna Inc. A few of the issues raised by this case are outlined below.

ISSUES:

Is ANCSA Section 14(c)(1), as drafted, unconstitutional? Is it an invalid grant of legislative or judicial power to a private party? Is 14(c)(1) so vague as to be unconstitutional (as the result of a lack of definitions for the pertinent words and phrases in it)? What is the government's role in a 14(c)(1) dispute, if any? This issue becomes very pertinent as a result of the Ninth Circuit Court of Appeals decision in Lee and Donnelly, 841 F.2d 968 (9th Cir. 1988), which, under a broad reading, holds that the United States government is an indispensable party in any 14(c)(1) litigation. The most recent activity in the Crow case centers around this Ninth Circuit opinion and the role of the United States government in 14(c)(1) matters.

In an earlier motion filed by Bethel Native Corporation, the constitutionality question was raised, as well as the question with regard to what place Bethel Native Corporation's 14(c)(1) policies and procedures (carefully and thoughtfully designed by Bethel Native Corporation at fair cost to the Corporation) have in relation to 14(c)(1) litigation. Should the court examine those policies and procedures to determine whether they are consistent with the spirit and purpose of ANCSA? If so, is judicial review limited to whether the Corporation followed that procedure in this case or, in the alternative, is the statute unconstitutional? If Bethel Native Corporation's policies and procedures are ignored in litigation over 14(c) claims, and if the court reviews merely the facts and provides definitions for the terms under ANCSA, what do the statutory terms mean? In particular, terms such as "occupant," "tract," "primary place of business," and "primary place of residence" are critical. Additionally, does the use of property prior to and after December 18, 1971, make a difference?

Other issues are whether or not the government must make up lands conveyed under 14(c)(1) from additional government lands, or whether lands conveyed by the corporation under 14(c)(1) are counted in a corporation's acreage entitlement; and whether the withdrawal of federal lands prior to the passage of ANCSA will defeat a 14(c) claim.

Hakala and Kitchen vs. Atxam Corporation

Case No. S-1866 (Ak. Supreme Court)

On April 22, 1988 the Alaska Supreme Court issued a decision ruling that a hunting cabin used by two professional guides is a primary place of business under Section 14(c)(1) of ANCSA. The Court rejected the guides' claim that they were entitled to use hunting grounds surrounding the cabin, and upheld a permanent injunction directing the guides not to enter on these hunting grounds.

This case involves Atxam Corporation (the Village Corporation for the Aleut village of Atka), and Steven Hakala and George Kitchen, two professional guides. George Kitchen claimed he had guided hunters in the area since 1969 and had constructed a small cabin in 1969 as a base of operations for his clients. The Superior Court ruled that Mr. Kitchen and Mr. Hakala's 14(c)(1) claim was not valid, and had ordered them to stop trespassing on Atxam's lands. Mr. Kitchen and Mr. Hakala then appealed the Superior Court's decision to the Alaska Supreme Court.

Mr. Kitchen and Mr. Hakala's cabin is located on the Alaska peninsula several hundred miles from the village of Atka. Although Mr. Kitchen and Mr. Hakala constructed a large cabin at the site in 1976, no one from the village was aware that they had a smaller cabin on the land in 1971. Because of this, Mr. Kitchen and Mr. Hakala's 14(c)(1) claim never went through Atxam's administrative process for 14(c)(1) claims, and the lawsuit began as a simple trespass action by Atxam against Mr. Kitchen and Mr. Hakala.

In response to Atxam's trespass lawsuit, Mr. Kitchen and Mr. Hakala claimed that they were entitled under Section 14(c)(1) to the cabin, to an unspecified amount of land surrounding the cabin, and to access for hunting purposes to all Atxam's lands in the area.

The Alaska Supreme Court rejected Mr. Kitchen and Mr. Hakalas' claim that they were entitled under 14(c)(1) to access rights to all of Atxam's lands. The Supreme Court supported the Superior Court's issuance of an injunction directing Mr. Kitchen and Mr. Hakala not to enter on or cross over any of Atxam's lands surrounding the cabin, noting that an injunction was an "appropriate remedy for a continuing trespass" such as this. The Supreme Court, on the other hand, rejected Atxam's argument that a primary place of business must have a permanent structure and be used more than six months of a year. The court held that "since the cabin was the nucleus of his guiding business..., it was a primary place of business."

The Supreme Court also directed Atxam to convey the land immediately surrounding the cabin to Mr. Kitchen but enjoined the hunters from entering onto all of Atka's land surrounding the cabin. The Supreme Court directed the Superior Court to decide how much land was to be conveyed to Mr. Kitchen.

Although the case was settled, informal requests have been made to the court to change parts of its decision.

Huna Totem Corporation vs. Pedersen, Case no. 1 JU-85-111
Civil (AK Supreme Court)

Huna Totem Corporation (Hoonah) initiated this litigation to obtain an order to eject Gordan Pedersen from Corporation land. Pedersen claimed the cabin site was occupied as a primary place of residence on December 18, 1971 (14(c)(1)).

The Court acknowledged that the cabin had been constructed in the fall of 1971 but disagreed with Pedersen that it had been occupied as a primary place of residence on December 18, 1971. The Court granted Huna Totem's request for an ejectment order and gave Pedersen 180 days to remove any improvements and personal property he intended to keep.

With regard to Huna Totem's 14(c) adjudication, the court ruled that the Corporation did not meet the requirements of 43 CFR 2650.5-4(c)(1). This Interior Department regulations requires the Corporation to resolve 14(c) conflicts prior to the posting of 14(c) claims on the ground and submission of a map of boundaries showing the claims. The Court came to the conclusion based on the chronology of ANCSA Sections 16.11 (selections), 16.12 (survey) and 16.13 (issuance of patent). The Court interpreted Sections 16.11 through 16.13 to mean that the obligations of resolving 14(c) claims and submitting a 14(c) map of boundaries arise before, and must be completed prior to the issuance of patent.

Because Huna Totem's failure to resolve 14(c) claims prior to BLM's issuance of patent, the court ordered Huna Totem to pay for improvements made by Pedersen for the years of 1974 (the year the Corporation selected the land Pedersen's occupied) through 1978 (the year Pedersen acknowledged that Huna Totem had selected the land). Pedersen was asked to submit evidence indicating the costs of his improvements for the years of 1974 through 1978.

Nelson Lagoon Corporation vs. Peter and Patricia Kust Case
No. A 88-247 Civ ((U.S.D.C. AK)

The Nelson Lagoon Corporation has filed a complaint requesting relief from fisherman Peter Kust's unauthorized use of Corporation lands.

The Corporation contends that shortly after receiving interim conveyance to an area known as "Miners Hill", Peter Kust constructed a cabin without permission from the Corporation. According to the Corporation, Kust contracted with a private surveyor in 1985 who surveyed the portion of land that Kust had improved which was conveyed by interim conveyance to the Corporation. The Corporation Board of Directors denied Kust Miners Hill claim and a claim Kust made for an airplane tie down in the village of Nelson Lagoon. The Corporation has requested that the court issue a judgement in its favor and enjoin Kust from occupying Corporation land.

Kust claims that he purchased the site from a local, Charles Franz, in 1970 and that Franz had used the site for his commercial and subsistence fishing. Kust also claims that the airplane tie down was part of his ANCSA 14(c)(1) "primary place of business."

Kust requested that a judgement be issued against the Corporation ordering the Corporation to convey title of both sites to Kust based on his claims under ANCSA 14(c) and adverse possession.

The Corporation has filed a memorandum opposing Kust's motion to strike from the Court's file various letters which discuss an out of court settlement. No rulings have been issued at this time.

A disagreement between Kivilco Incorporated, the village corporation for Kasaan and Mark Buettner and Henry Hamar, Forest service permit holders on land patented to Kivilco, resulted in litigation which disallows permit holders to claim their permit sites as primary places of residency under Section 14(c)(1) of ANCSA.

The disagreement began when Kivilco, the new landlord for the permit holders, proposed to replace the permits with leases. The leases included an increase in annual fees and were for a shorter period than the permits. The permit holders refused to accept the lease offering and Kivilco Inc. began forcible entry and detainer proceedings. The permit holders responded by filing a quiet title suit based on their occupancy of the premises as their primary place of residence.

In basing their suit on ANCSA 14(c)(1) the plaintiff apparently chose to avoid or postpone trying to litigate a better lease with Kivilco under ANCSA 14(g). Kivilco Inc. patent to the lands claimed by the Plaintiffs included provisions which made the patent subject to valid existing rights including the special use permits issued by the Forest Service. The permits allowed for the construction of "residences of a community nature", however; they are nontransferable and are revocable. The permits contained expiration dates of December of 1990 but provided a mechanism for a possible issuance of a new permit. As provided in ANCSA 14(g), the Forest Service chose to waive its administration of the permit and informed permit holders that they must now deal directly with Kivilco.

In the resulting U.S. District Court decision, Judge James Fitzgerald cites Donnelly vs. the United States and Eklutna Inc. Et. Al.

Fitzgerald repeats the two major points made in Donnelly. The first point was that a homesteader who entered upon land while a withdrawal was in place can not rely on ANCSA 14(c)(1) as a remedy for acquiring land.

The second point was that "mere physical presence as a trespasser is not sufficient to constitute occupancy as that term is used under ANCSA 14(c)(1)."

A third point not related to the Donnelly decision is perhaps the real substance of this decision. Judge Fitzgerald pointed out that if the Plaintiffs interpretation of ANCSA 14(c)(1) was correct it would have the effect of allowing lease or permit holders to qualify for title under 14(c)(1). Thus, valid existing rights under ANCSA 14(g) would apply only where the lessor or permittee neither lived nor worked on the site.

Judge Fitzgerald concluded that the plain language of ANCSA 14(g) does not suggest such a narrow interpretation and that he did not believe Congress intended this section to be so limited.

Angaiak vs. Paug-Vik Inc. Ltd., Case No. F85-11 Civ.
(U.S.D.C.AK)

The dispute between Elizabeth Angaiak and Paug-Vik, Inc. centers around Elizabeth Angaiak's use of land as a base of operations for a set net fishing site. Angaiak claimed the land as her "subsistence campsite" and "primary place of business" under ANCSA 14(c)(1).

Paug-Vik, Inc. argued that Angaiak is not entitled to a 14(c) conveyance because the uplands were not her primary place of business for the set net site, there was one joint operation between herself and her mother and the mother received an adjacent parcel of land under 14(c)(1) and Angaiak's fishing operation was not her primary source of income and support. Paug-Vik, Inc. also argued that Angaiak did not occupy the land as a subsistence site.

Judge Andrew Kleinfeld ordered that the case be stayed until the Department of Interior completed its decision regarding a protest of John Savo's Native allotment. Paug-Vik Inc. discovered that the site claimed by Angaiak is subject to a Native allotment which if found to be valid will not be land Paug-Vik Inc. will possess for subsequent 14(c)(1) conveyances.



BLM

PUBLIC NOTICE TO VILLAGE RESIDENTS

Each village corporation listed below has now officially filed with the Bureau of Land Management (BLM) a map of the village boundaries. This map shows all or part of the parcels of land the village corporation has identified as qualifying for transfer of ownership, such as houses, businesses, etc., under Section 14(c) of the Alaska Native Claims Settlement Act (ANCSA). 43 USC 1613(c). This section of the act requires the village corporation to identify and convey to any Native or non-Native occupant, title to the surface estate in the tract occupied in 1971 as a primary place of residence, primary place of business, subsistence campsite, headquarters for reindeer husbandry, or for certain other specified purposes.

If you have an interest in such land, you should contact the village corporation to review the map of boundaries to be sure the map includes your claim.

VILLAGE CORPORATION Saint Marys: St. Mary's Native Corporation

The official filing date for the map of boundaries is:
July 3, 1986.

Federal regulations state that any conflicts among potential transferees or between the village corporation and such transferees are to be resolved before the map is submitted to BLM. 43 CFR 2650.5-4 (c)(1).

The Bureau of Land Management does not have any authority to adjudicate transfer decisions. Any disputes over 14(c) transfers must be resolved between the village corporation and the individual.

If you disagree with the village corporation's boundary decisions, you should contact the corporation. If the disagreement is not resolved, you must start a court action within one year of the date shown above. If you have a dispute and do not start a court action within one year, you will forfeit your claim. Alaska National Interest Lands Conservation Act (ANILCA), Sec. 902(b).



Text of ANCSA Section 14(c)

The amended section 14(c) of ANCSA, states:

Upon receipt of a patent or patents*: (1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

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

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal

* Interim conveyance or patent, whichever comes earlier, ANILCA 1410 and 1437(d).

Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free permits or other authorization for such purposes;

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

(5) for a period of ten years after the date of enactment of this 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.

References

Arnold, Robert D., Alaska Native Land Claims, The Alaska Native Foundation. Anchorage, Alaska. 1976.

Joint Federal-State Land Use Planning Commission for Alaska. Discussion of Legal Issues Related to 14(c) Reconveyances. Anchorage, Alaska. June, 1974.

Joint Federal-State Land Use Planning Commission for Alaska. "14(c) Handbook," Anchorage, Alaska, July 1975.

