



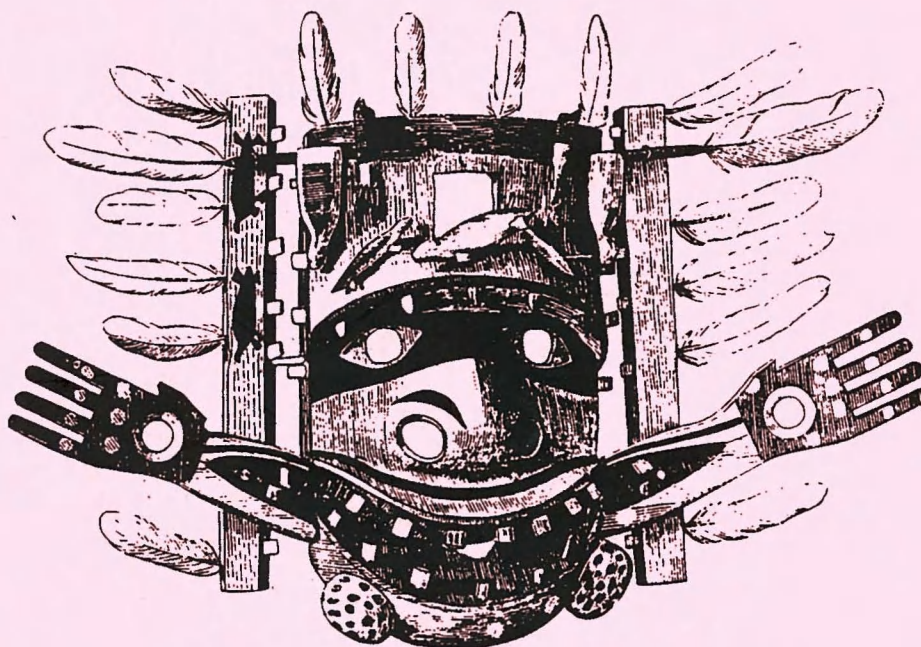
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Bureau of Land Management

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Alaska State Office
Division of Conveyance Management
222 West 7th, #13
Anchorage, Alaska 99513

ANCSA Handbook



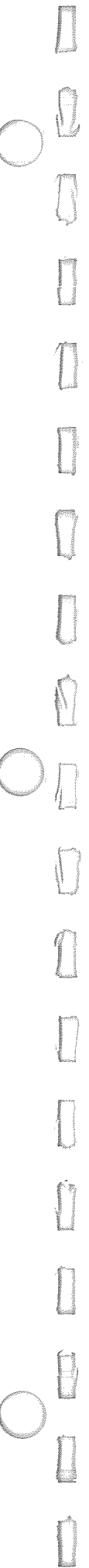
A MESSAGE TO THE USER

This draft handbook was developed with the idea of following the adjudicative process through its various phases so that an adjudicator can go to any one process and have all of the information within that part without having to refer to another section for portions of the information. Most of the chapters are independent of others and for convenience, can be kept in separate binders. The one exception is that chapters III and IV are dependent on Chapter II. Also, the Appendix and Illustrations pertain to all of the chapters.

The ANCSA program has become very complex and there are other processes and items that do not appear in this handbook. However, we have attempted to cover the major adjudicative concerns in this first release. It is intended that the adjudicative processes for items not covered in this draft be added as they are completed. This is to be considered a working draft that is being made available in hard copy and on the LAN Network for simplicity in updating and maintaining currency of the processes.

I also want to acknowledge the contributions of Ann Adams, Ralph Basner, Lori FitzSimmons, Judy Kramer, Pat Underwood and Barbara Opp in assisting with the compilation of the first draft. I would also like to express my special appreciation to Ron Royer for his review and editing of the entire document, Ron Hunt for the graphic data flow diagrams and Pam Eldridge for putting this all together into a final document.

Joe Labay
ANCSA Coordinator



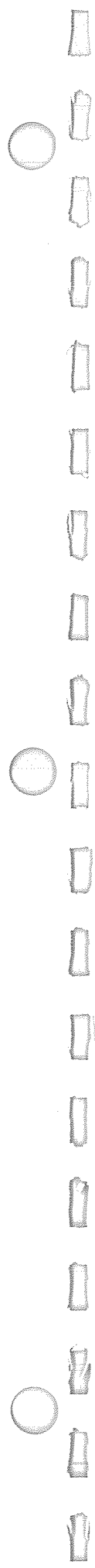
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ANCSA HANDBOOK

INTRODUCTION

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PREFACE

The Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA) and its amendments were legislated, in part, to extinguish aboriginal land claims in Alaska in exchange for monetary compensation and conveyance of specified land entitlements to eligible Native corporations and individuals.

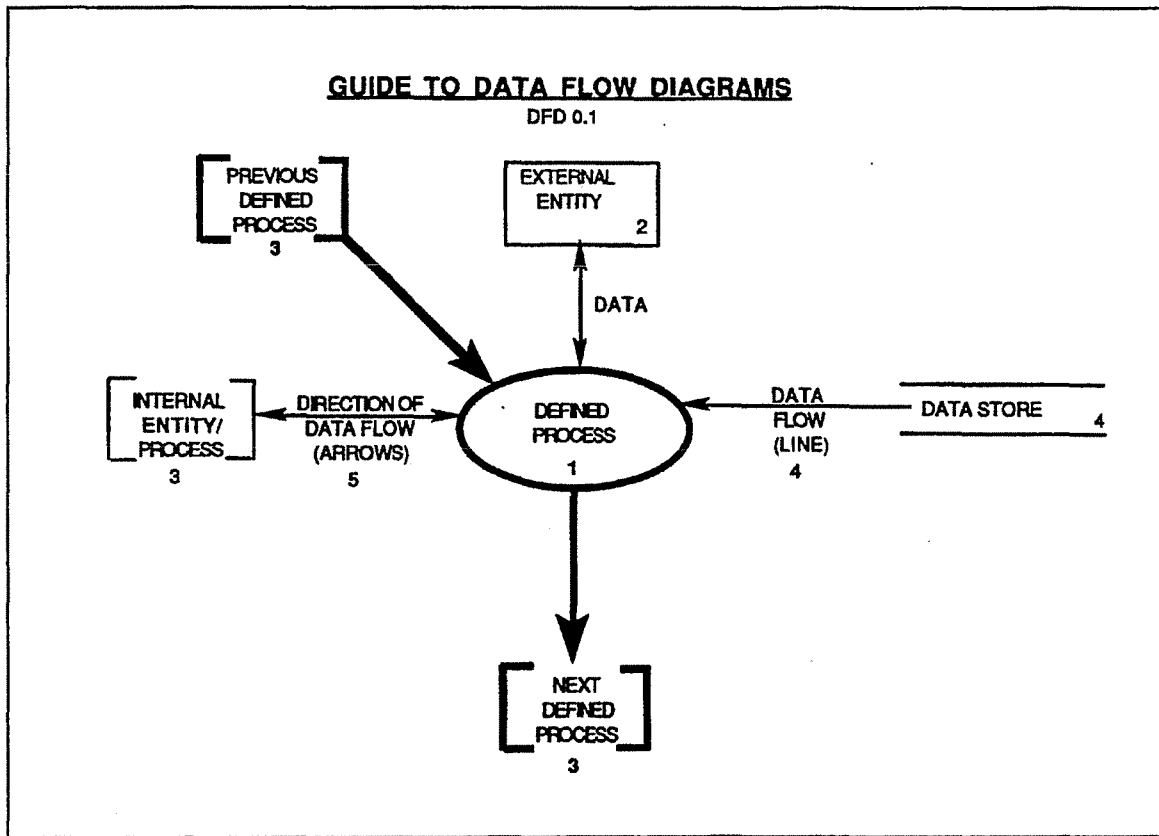
In 1987, the Bureau of Land Management (BLM) Alaska State Office prepared a handbook designed to provide guidance on adjudication and conveyance of Native selections for land law examiners and others responsible for implementing ANCSA.

From inception, it was recognized that the handbook should and would be updated in response to newly identified problems and needs and to include the latest information concerning the statutes, regulations, and current policy and guidance necessary to properly adjudicate selections.

During the past few years, adjudicators have expressed numerous suggestions for handbook updates. A primary concern has been the need for greater detailed emphasis of the step-by-step adjudicative process.

As a result, the updated handbook is presented not only as a compendium of statutory, regulatory and policy information but also as a detailed, step-by-step, process-oriented guide for adjudicating ANCSA claims.

The handbook is arranged by processes (steps) in a sequential manner and uses both a graphic format and a narrative. The narrative is arranged in outline format for the processing of the applications under each entitlement. The graphics are in the form of data flow diagrams (DFDs) that show the major sources and destinations of data. This provides an opportunity to visualize the steps as well as to use the written text. By using this approach it is hoped that the complexities of the ANCSA conveyance program can be better understood by adjudicators with varying experience.



The standard figures used in the DFDs are:

1. an ellipse (circle) is a process that is being outlined;
2. a rectangle is an external entity (generally outside of BLM control);
3. a set of brackets is an internal entity (generally thought of as another process that could be expanded upon);
4. a line is a data flow;
5. arrows at the ends of lines indicate the direction data is flowing;
6. two parallel lines are a data store (generally representing groupings of data rather than individual records or data components).

When using this handbook to assist in determining the proper disposition of a given parcel, it is important to note that there are potentially many unique situations that may require deviation from the normal adjudicative process. It is not intended that this handbook hinder such case-specific decision-making when rendered consistent with law and precedent.

Although it is anticipated that this handbook will be incorporated in the Local Area Network and continually updated to reflect changes in the law, regulations, and policy, users must take responsibility for reviewing amendments and supplements to policy and regulations not yet added as handbook updates.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA), was legislated in response to the need for a fair and just settlement of aboriginal land claims in Alaska. As compensation for extinguished claims of aboriginal title based on use and occupancy, Alaska Natives would receive 44 million acres of land and \$962.5 million.

As the basis for distributing money and land benefits, the Act directed the enrollment of all Natives living as of December 18, 1971. The roll was to show, among other things, the region and village in which each Native resided on the date of the 1970 census enumeration.

The Act also established corporations, to be created and governed under Alaska state law, as vehicles for distributing lands and monetary benefits to Alaska Natives.

The Act directed that twelve profit-making regional corporations be established, one for each geographic region comprised of Natives having a common heritage and sharing common interests. A thirteenth regional corporation was later established for nonresident Alaska Natives. Each enrolled Native received 100 shares of stock.

In addition, the Act directed the Native residents of each Native village to form village corporations (either profit or nonprofit). For the first five years, each village corporation's articles of incorporation and annual budget were reviewed and approved by the regional corporation for the region in which the village was located. Originally, there were 213 village corporations. As a result of mergers, there are now 173 corporations representing shareholders in 213 villages. The following is a brief summary of key ANCSA provisions:

Section 2(b)

Congress declared that the settlement should be accomplished rapidly, with certainty, in conformity with real economic and social needs of Natives and with maximum participation by Natives in decisions affecting their rights and property;

Section 3(e)

Defines public lands to include (among others) all Federal lands in Alaska except the smallest tract actually used in connection with the administration of any Federal installation;

Section 11

Withdrew public lands surrounding the villages listed in the Act, subject to valid existing rights, from all forms of appropriation. Authorized the Secretary of the Interior (Secretary) to withdraw additional public lands in the event the lands originally withdrawn were insufficient for a village or regional corporation to select its full entitlement. Made provisions for withdrawing lands for unlisted villages later determine eligible;

Section 12

Provided for a three year period for village corporations to select lands to which they were entitled under Sec. 14 of ANCSA. Authorized village corporations to select additional lands reallocated by regional corporations to fulfill village entitlements within the region. Authorized regional corporations to select lands to which they were entitled within the region;

Section 14

Directed the Secretary to issue surface estate patents to qualified village corporations. With the exception of the villages listed in Sec. 16, land entitlement was based on village Native population as shown on the 1970 census enumeration. With specific exception, regional corporations were to receive patent to the subsurface estate. Section 14 also authorized the Secretary to withdraw and convey an additional 2 million acres of land for: (1) cemetery sites and historical places; (2) Native groups; (3) Natives of Sitka, Kenai, Juneau and Kodiak; (5) primary places of residence; (6) the reserved minerals beneath Native allotments approved between 1971 and 1975; and (8) any remaining acreage to be divided among the regional corporations on the basis of population;

Section 16

Referred to as "the Tlingit-Haida Settlement" this section identified ten villages in southeast Alaska entitled to select and receive conveyance to lands withdrawn for their selection;

Section 17

Authorized the Secretary to identify and reserve public easements across Native selected lands and at periodic points along major waterways which are reasonably necessary to guarantee international treaty obligations and provide access to public lands. Also directed the Secretary to withdraw up to 80 million acres of public lands deemed suitable for inclusion in the National park, forest, wildlife refuge or wild and scenic rivers

systems;

Section 18

Repealed the Indian allotment acts in Alaska, giving Natives with pending applications the option of having their allotment processed or filing for a primary place of residence under Sec. 14 of ANCSA;

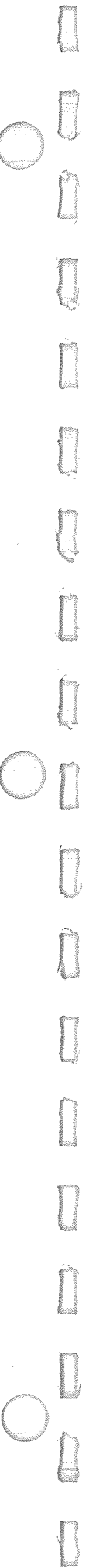
Section 19

Revoked existing Native e reserves in Alaska (with the exception of Metlakatla). Natives could elect to retain reserve status or apply for land and monetary benefits under ANCSA. Six villages in four reserves (Elim, Venetie, St. Lawrence Island, and Tetlin) elected to retain reserve status;

Section 22(f)

Authorized the Secretaries of Interior, Defense and Agriculture to exchange Federal lands or interests in lands with village or regional corporations on the basis of equal value.

Shortly after the passage of ANCSA, the Department of the Interior (Department) developed regulations for implementing ANCSA and the Natives organized corporations, enrolled members and identified lands for selection. In 1972, the Department published proposed regulations, and in 1973, the final regulations were published. The corporations had until December 18, 1974 to file selections for lands under Sec. 12(a) and until December 18, 1975 for lands under Secs. 12(b) and 12(c) of ANCSA.



ANCSA HANDBOOK

CHAPTER 1

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CHAPTER I

I VILLAGE SELECTIONS: (12(a & b))

BACKGROUND INFORMATION

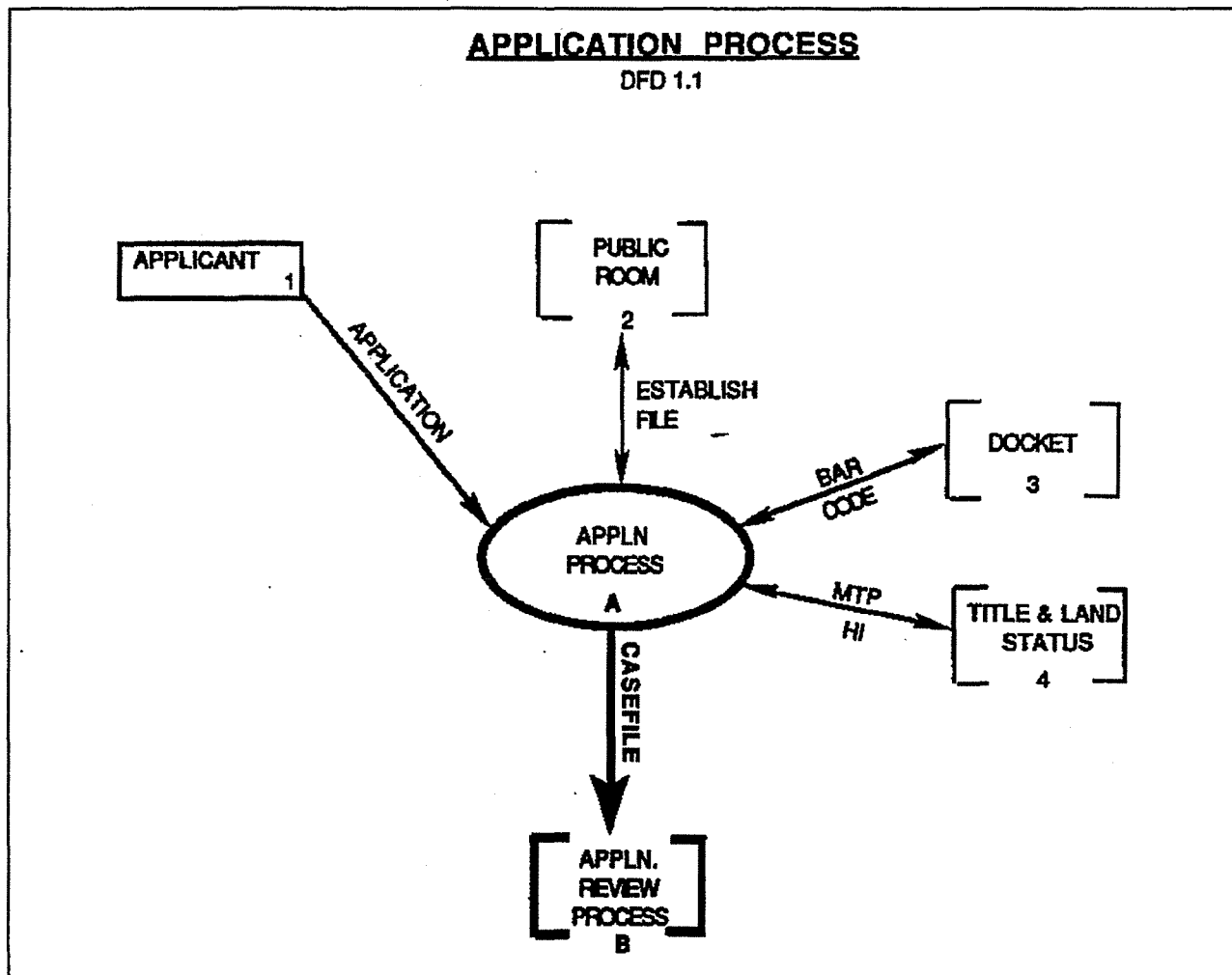
The Alaska Native Claims Settlement Act (ANCSA) defined and directed the creation of village corporations and prescribed the manner in which they were to select and receive land conveyances. The following is a summary of key ANCSA sections that apply to village selections:

Table 1

Key ANCSA Provisions

Sec. 8	Directed the Native residents of each village to organize as a business under the laws of the State before receiving lands and benefits under the Act.
Sec. 11	Withdrew certain public lands in the immediate vicinity of the village, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection by the State. If there were insufficient lands for a village to select the acreage to which it was entitled, the Secretary was authorized to withdraw three-times the deficiency from the nearest available public lands. Made provisions for withdrawing lands for unlisted villages later determined eligible.
Sec.12 (a) (1)	Within three years after enactment, village corporations must select all of the township(s) in which any part of the village is located, plus additional acreage to make the total selection equal to the acreage to which the village is entitled. A corporation cannot receive conveyance to more than 69,120 acres of land validly selected by or tentatively approved (TAd) to the State of Alaska as of December 18, 1971, nor more than 69,120 acres located within the boundaries of wildlife refuges and national forests as they existed on December 18, 1971.
Sec.12 (b)	Village corporations are authorized to select additional lands reallocated to them by the eleven regional corporations (excluding southeast Alaska) to fulfill Native village entitlements within the region. The total 12(b) entitlement is 2.5 million acres. The <u>combined</u> 12(a) and (b) acreage conveyed to a village cannot exceed 69,120 acres of lands validly selected by or TAd to the State of Alaska as of December 18, 1971, nor more than 69,120 acres located within the boundaries of wildlife refuges and national forests as they existed on December 18, 1971.

Sec.14 (a),(b)	Each village corporation will receive patent to the surface estate of the lands to which it is entitled. Entitlements are based on village enrollment and range from 69,120 acres (25-99 enrollees) to 161,280 acres (600 enrollees or more). Thus, 173 corporations are entitled to receive a total of 19.4 million acres.
Sec.14 (c)	Upon receipt of patent, village corporations are to reconvey lands to individuals who occupied the land in 1971 as well as to Federal, State, or municipal entities for public purposes.
Sec.16	The "Tlingit-Haida Settlement" identified ten villages entitled to select lands in southeast Alaska. During the three-year period following enactment, each of the ten village corporations was entitled to select 23,040 acres from lands withdrawn for their selection, for a total of 230,400 acres.



A Application Process

The application process begins when a village corporation submits an application to BLM pursuant to Secs. 12(a), 12(b) or 16 of ANCSA and BLM establishes a case file and notes the land records.

1 Applicant

The applicant is a village corporation defined in 43 CFR 2650.0-5(e) as a profit or nonprofit Alaska Native village corporation eligible under 43 CFR 2651.2 to select land and receive benefits under the Act, and is organized under the laws of the State of Alaska in accordance with the provisions of Sec. 8 of the Act.

a Application

A selection application is filed by the applicant on Form 2650-2 (Village Selection Application).

b Application Requirements

The applicant must submit the following documents with its initial application. If any are missing, request the information from the corporation.

(1) Land Description

The application must include a written legal description of the selected lands and a map depicting the selection. If there is a discrepancy between the written description and the selection shown on the map, the map is controlling.

If the selected lands are surveyed, the legal description must conform to the official plat of survey.

If the selected lands are unsurveyed, the applicant must describe the lands by protraction diagram. A protraction diagram is prepared by BLM and defined as the approved diagram of the BLM mathematical plan for extending township, range, and section lines. A protraction diagram does not constitute an official BLM survey. In the absence of approved diagrams, State of Alaska protraction diagrams which have been authenticated by BLM may be used.

Protraction diagrams plotted on published United States Geological Survey (USGS) topographical quadrangle (quad) maps at the 1:63,360 (inch to the mile) scale are preferred. For areas in which a 1:63,360 quad map has not been published, the applicant must use a protraction diagram plotted on a published 1:250,000 scale USGS quad map.

(2) Certificate of Incorporation

A certificate is issued by the State of Alaska verifying that the corporation has filed articles of incorporation pursuant to the provisions of the Alaska Business Corporation Act in conformance with State law. For details see B-8(a) of the Application Review Process.

(3) Articles of Incorporation

The Articles of Incorporation list the name of the corporation, its term of existence, purpose, etc. The articles and evidence of approval by the appropriate regional corporation must be submitted with the application. For details see B-8(a) of the Application Review Process.

(4) Signing Authority

Each Native corporation must submit a resolution naming the individual(s) authorized to sign applications, priority lists, etc., 43 CFR 2650.2.

c Amendments

With the exception of applications filed by underselected village corporations, the time frame for filing applications for new land has expired. Amendments can be made only to correct errors or for clarification purposes. All amendments must be signed by an authorized individual of record.

2 Public Room

The Public Room performs many duties, among them the initial processing of new applications. Once an application has been received, it is date-stamped and forwarded to the Public Room to be serialized, codified (casetype), and a case file established. The Public Room also enters the case data into the Interim Land Information System (ILIS).

Most land status and survey information needs can be found in the Public Room. The aperture card files contain microfilm copies of the most current master title plats (MTPs), historical indices (HIs) and survey plats. Other information, including Public Land Orders (PLOs), USGS quad maps, patents, deeds, interim conveyances (ICs), field survey notes, serial pages, easement quads, mineral surveys, etc., can also be found there.

Each village was initially assigned a specific withdrawal case file number. Village selection applications were serialized using the withdrawal serial number in combination with standardized suffixes as shown below:

Example:	<u>Serial No.</u>	<u>Suffix</u>
Withdrawal File	AA-6671	No Suffix
Selections under Secs. 12(a), 16(b) and 16(d) of ANCSA:		
First 12(a) or 16 Sel.	AA-6671	A
Second 12(a) or 16 Sel.	AA-6671	B
Subsurface, First 12(a) or 16 Sel.	AA-6671	AZ *
Subsurface, Second 12(a) or 16 Sel.	AA-6671	BZ *
Selections under Sec. 12(b) of ANCSA:		
	<u>Serial No.</u>	<u>Suffix</u>
First 12(b) Selection	AA-6671	A2
Second 12(b) Selection	AA-6671	B2
Subsurface, First 12(b) Sel.	AA-6671	AS *
Subsurface, Second 12(b) Sel.	AA-6671	BS *

* No physical case file exists. The subsurface selection file is established in ILIS.

Ancillary Files:	<u>Serial No.</u>	<u>Suffix</u>
Easement File	AA-6671	EE

3 Docket

After serialization, the Public Room sends the case file to Docket where it is bar-coded and logged into the case file tracking system. From this point on, Docket retains ultimate responsibility for the file. Anytime the file is sent to another BLM office or to the Public Room for public view, the file must be routed through Docket.

4 Title and Land Status (T&LS)

Title and Land Status is responsible for updating and maintaining BLM's MTPs and HIs. Mylar originals of MTPs and HIs are filed in T&LS and updated whenever the status within a township changes. When requesting plat notations from T&LS due to a change in, or correction of status, fill out a T&LS request form (AK 1275-20) and send to T&LS with the case file. Normally, it will take approximately 1 to 2 weeks for the changes to be made.

TWPALL - A TWPALL, or township data retrieval, shows any current and historical applications that affect land status within a specified township and range down to the section level. The TWPALL contains case file information that does not appear on the MTP (such as leases, permits, etc.).

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Docket

Request the appropriate village selection case file(s) from Docket using a case file request form (AK 1274-20).

3 Status Records

With respect to any particular parcel of land, the Department defines land status as its legal description, its survey status, the non-federal rights or privileges which attach to it or its resources, the withdrawals or special laws which apply to it, and other pertinent information which may influence the operation of the public land laws so far as its use or disposition is concerned. Much of this information can be found in the following records:

a Master Title Plat (MTP)

The MTP is a graphic record of current ownership and status of lands within the public domain. The Public Room maintains a current set of MTP aperture cards in a card file. The aperture cards are filed in range order, then in township order within the ranges. Supplemental plats are filed following the aperture card for the township they affect. To obtain a copy of a MTP and supplemental plats (if any), go to the Public Room and select the appropriate aperture card from the card file and complete a request for ordering paper copies or aperture cards.

Upon receipt of the plat, write the "current to" date in the lower right hand corner using the date the plat was pulled. Review the plat(s) closely with the case file and verify that the village selection has been correctly noted and whether there are withdrawals, conflicting applications, or other interests that will preclude conveyance. If not correctly noted, send to T&LS with corrections using Form AK 1275-20 for updating. Place the corrected MTP in the case file. It is also suggested that the folded plats be noted on the lower right hand corner with the "current to" date, township and range, and survey status.

b Historical Index (HI)

The HI is a narrative summary of, and an index to, actions which affect, have affected, or will affect the title to, disposition of, or land use status within an individual township. To obtain a copy of the HI, follow the same procedures used for requesting a MTP. Review the HI closely to ascertain that there are no withdrawals, conflicting applications, or other interests that will preclude conveyance. The HI contains essential information for the adjudicative process and is filed in the case file with the MTP.

c Miscellaneous Documents Index (MDI)

The MDI is a narrative summary of documents, consisting primarily of Public Land Orders (PLOs) and Executive Orders, affecting lands not specifically described, on which conditions restricting disposal or use may exist. The MDI should be reviewed prior to any adjudicative action; however, it is usually not necessary to file a copy in the case file.

d Survey Plat

If the land being reviewed is surveyed, obtain a copy of the survey plat(s) and any U.S. Surveys or supplemental plat(s), following the same procedure used for requesting a MTP. The survey plats are filed in the case file with the MTP(s) and will help in determining whether the selected lands can be Interim Conveyed (ICd) or can go directly to patent.

4 Cadastral Survey

As a part of the review process, go to the Division of Cadastral Survey, Branch of Examination and Records (AK-922) and obtain a plan of survey (group map) if available. If a plan of survey is not available, obtain a blueline copy of the protraction diagram map(s) covering the lands selected. Before requesting a protraction diagram, obtain the protraction diagram number from the upper left corner of the MTP or from the index map of approved protraction sheets posted in AK-922. Outline the selection area and any previous conveyances on the map; note any selection conflicts and verify that the selection is compact and contiguous. Village priorities may also be noted if available. Depending upon the size and location of the village selection area, it may be necessary to request more than one map. The map then becomes a part of the case file and may be used for future reference and processes.

5 Legal References

The legal references pertaining to village selections are found in ANCSA and its amendments, subsequent laws, regulations, and public land orders. Acts, agreements, or orders affecting a specific village corporation are listed in Legal References, Appendix A.

As an application is reviewed, any special situations should be taken into consideration. For example, when adjudicating a selection made by Eklutna, Incorporated, in the Cook

Inlet Region, it is important to refer to the North Anchorage Land Agreement to determine what unique situations may affect the adjudicative process.

6 Acreage Control

Land conveyances made pursuant to ANCSA must be closely monitored to ensure that legislative entitlements are met but not exceeded. In this review process the adjudicator needs to become familiar with the entitlements listed below:

a Sec. 12(a)

Sec. 14(a) of ANCSA provides that an eligible village corporation is entitled to patent to a specific acreage selected pursuant to Sec. 12 of ANCSA. The amount is dependent on the population of the village as shown below:

If the village had on the 1970 census enumeration date a Native population between---	It shall be entitled to a patent to an area of public land equal to---
25 and 99.....	69,120 acres
100 and 199.....	92,160 acres
200 and 399.....	115,200 acres
400 and 599.....	138,240 acres
600 or more.....	161,280 acres

Entitlement figures for each village were published on February 2, 1977, in the Federal Register, 42 Fed. Reg. 6419 (1977) and amended November 15, 1978, 43 Fed. Reg. 53062 (1978).

b Sec. 12(b) Reallocation

The difference between the total acreage entitlement under Sec. 12(a) and 22 million acres was divided between 11 regions (excluding Sealaska) on the basis of the number of Natives enrolled in each region. Allocations to the regional corporations were published in the Federal Register on July 15, 1982, 47 Fed. Reg. 30874 (1982). Acreage entitlements under Sec. 12(b) are reallocated by the regional corporation to the village corporations based on historic use, subsistence needs and population, and are not subject to judicial review. To date, not all regional corporations have made their reallocations to the village corporations.

c Sec. 16

Due to the Tlingit-Haida Settlement, each village in Southeastern Alaska listed in Sec. 16(a) of ANCSA received an acreage entitlement of 23,040 acres under Sec. 16(b) of ANCSA. The monies received from the settlement were in-lieu of the additional acreage conveyed to villages selecting under Sec. 12. On October 4, 1976, Public Law (P.L.) 94-456 amended ANCSA to add Sec. 16(d) which provided for the village of Klukwan to receive an entitlement as a village corporation.

7 Easement Conveyance Progress Report (ECPR)

The ECPR is a computer printout used for tracking and monitoring ANCSA conveyances. The report contains information used for acreage control and is also used as a source of general information for the public, the State, and other Federal agencies regarding the status of ANCSA conveyances. Each Branch in the Division of Conveyance Management has a copy of this report. Upon conversion to ILIS the report will no longer be updated.

8 Applicant

After completing steps 1-7 above, review the application for filing requirements, eligibility requirements, selection limitations and, if appropriate, any requests for a waiver of the regulations (see the Pre-Decision Process C-7 for a detailed discussion of waivers). The major reason for this review is to determine if there are any problems with the application that can be corrected or clarified by requesting additional information from the applicant.

It may be possible to determine whether there are selected lands which are unavailable for conveyance based upon a review of the status and legal requirements. However, if some of the subject lands are available, do not take any action on the unavailable lands at this time. The unavailable lands will be addressed in the Decision to Issue Conveyance (DIC) Process.

a Filing Requirements

(1) Corporate Status

Pursuant to Sec. 8(a) of ANCSA, the corporation must be organized in compliance with the laws of the State of Alaska prior to receiving any land conveyances.

Review the application and verify that it contains the applicant's articles of incorporation and evidence of approval by the appropriate regional corporation, the certificate of incorporation issued by the State and the corporate resolution designating signing authority. If any of these documents are missing, request them from the applicant.

NOTE: If an amended application is filed, verify that the corporation has not been dissolved and that the individual signing the amendment is authorized to sign documents on behalf of the corporation.

Background

Alaska corporations must pay State taxes and submit financial statements every 2 years. If the date of incorporation was in an even year, they are due on even years, etc. Although taxes are due by January 2, the corporations have until February 2 to pay and are allowed an 8-month grace period.

At the end of the grace period, the State will notify the corporation that it is in non-compliance and will be involuntarily dissolved at the end of 60 days. If no action is taken by the corporation, a Certificate of Dissolution is issued at the end of the 60 days.

The corporation then has two years during which it can be reinstated. If the corporation remains in non-compliance after the 2-year period, it must re-incorporate. Once a corporation has met all requirements, it will be issued a Certificate of Good Standing from the State.

To order a certificate, prepare an Advertising/Requisition Order form (AK 1510-9). The cost of a certificate is \$10.00. Send the completed form to the Procurement Section (953B) at the Anchorage District Office (telephone 267-1329). BLM has a blanket purchase agreement with the State and will be billed accordingly.

After obtaining a requisition number, call the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161 and request a certificate (hard copy) for the corporation. Be prepared to provide them with the requisition order number; or

If ordering a certificate by mail, prepare a Request for Good Standing Certificate form (AK 2650-13). Be sure to include a copy of the completed and signed requisition order before mailing to Juneau.

NOTE: Because there are other reasons for the dissolution of a corporation which may occur at any time, it will be necessary to verify corporate status periodically throughout the conveyance process.

(2) Legal Descriptions and Map(s)

The regulations at 43 CFR 2650.2(e)(1) through (5) state with specificity how to describe land selections and maps acceptable for depicting the area selected. These are to be submitted with the application form. If the written description differs from the map, the map will prevail; however, it is policy to request clarification from the corporation.

(3) Timely Filed

Secs. 12(a) and 16. The deadlines for selections under Secs. 12(a) and 16 were established in the respective sections of ANCSA as December 18, 1974, 43 CFR 2651.3. The deadline for these selections is statutory and cannot be waived. Selections filed after that date are invalid.

Sec. 12(b). The deadline for Sec. 12(b) selections was established as December 18, 1975 by the regulations at 43 CFR 2651.3.

Underselected Villages. Although the selection period is over, Sec. 1410 of the Alaska National Interests Lands Conservation Act of December 2, 1980, P. L. 96-487

(ANILCA) provides for the withdrawal and selection of additional lands for villages determined to be underselected. Sec. 1427(n) of ANILCA states that Sec. 1410 does not apply to Koniag, Incorporated and its villages. Underselection is described in greater detail in B-10 of this process.

b Eligibility Requirements

(1) Villages Eligible for Conveyance

All village corporations, including "unlisted villages", were certified by the Director, Juneau Area Office, Bureau of Indian Affairs (BIA), as to their eligibility to apply for conveyance of the surface estate under Secs. 12 and 16 of ANCSA, 43 CFR 2651.2. See Appendix B for a complete list of villages and for the effective date of withdrawal for unlisted villages. An application received from an ineligible village must be rejected.

(2) Mergers of Corporations

Native corporations may merge or consolidate at any time with any other village corporation(s) or the regional corporation within the same region. These mergers will be in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act as authorized by Sec. 30 of the Act of January 2, 1976, 43 U.S.C. 1627 (1988). A copy of the merger documents and a new certificate of incorporation showing the surviving corporation should be placed in the appropriate selection files.

Individual village acreage entitlements under ANCSA are not affected by a merger or consolidation. Conveyances will be issued to the surviving corporation as "successor in interest to". If a Sec. 12(b) reallocation takes place after merger, conveyance will be issued to the new corporate entity.

c Selection Limitations

(1) Acreage limitations

With certain exceptions pertaining to certain villages in the Chugach Region as stated in Sec. 1428 of ANILCA, the total combined 12(a) and 12(b) land selections conveyed to any village may not exceed: 69,120 acres from land that, prior to January 17, 1969, has been validly selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act; and 69,120 acres of land from within the boundaries of the National Wildlife Refuge System as it existed on December 18, 1971; and 69,120 acres of land from within the boundaries of the National Forest System as it existed on December 18, 1971. See Solicitor's Opinion on Applicability of the 69,120-acre Limitation on Sec. 12(b) Selections dated August 12, 1986.

(2) Sec. 16 Selections

Due to the Tlingit-Haida Settlement, each village in Southeastern Alaska listed in Sec. 16(a) of ANCSA received an acreage entitlement of 23,040 acres under Sec. 16(b) of ANCSA. The monies received from the settlement were in-lieu of the additional

acreage conveyed to villages selecting under Sec. 12. On October 4, 1976, Public Law (P.L.) 94-456 amended ANCSA to add Sec. 16(d) which provided for the village of Klukwan to receive an entitlement as a village corporation.

(3) Priority List(s)

A village corporation may select lands in excess of its entitlement, 43 CFR 2651.4(f). To acquire the most desirable lands first, the corporation should identify its priorities numerically in the order it wishes them conveyed. When identifying priorities, the corporation should consider the requirements for compactness and contiguity. If no priority list has been filed, request one from the applicant. Prior to any conveyance, check with the applicant to see if the priority list on file is still current. The applicant may update its priorities any time prior to conveyance.

Many corporations filed Sec. 12(a) and 12(b) applications for the same lands. In these instances, the corporations must notify BLM under which entitlement it wishes the lands conveyed. It must also set priorities for each entitlement and list the sequence of conveyance.

(4) Core Townships

Sec. 12(a)(1) of ANCSA requires a village corporation to select all of the township or townships in which any part of the village is located. The township(s) in which the village is located is the core township(s). A village may have more than one core township (dual core). Any public lands not specifically listed in the selection application within the core township(s) will be deemed selected and must be conveyed to the village corporation, 43 CFR 2651.4(b).

(5) Valid State Selections

Sec. 22(h)(2) of ANCSA provides for a statutory termination of the Sec. 11(a)(2) withdrawals on December 18, 1974. Although 43 CFR 2651.4(a) provides for selection of those lands under Sec. 12(b), the selection is invalid if filed after December 18, 1974, for lands validly selected by the State and must be rejected. Sec. 1410 of ANILCA provides for the rewithdrawal of validly selected but not tentatively approved lands for underselected villages.

(6) Compact, Contiguous, and Whole Section Requirements

To meet its acreage entitlement as discussed under Acreage Control in B-6 above, village selections must be compact, contiguous, and with the exception of Sealaska villages, made in whole sections. The requirements apply equally for Secs. 12(a) and 12(b) selection. If any of these requirements do not appear to have been met, contact the corporation for further clarification.

(a) Compactness

Selections shall be in reasonably compact tracts except as separated by bodies of water or unavailable lands. The regulations in 43 CFR 2651.4(b) read in pertinent part:

The total area selected will not be considered to be reasonably compact if:

It excludes other lands available for selection within its exterior boundaries;

Lands which are similar in character to the village site or lands ordinarily used by the village inhabitants are disregarded in the selection process; or

An isolated tract of public land of less than 1,280 acres remains after selection.

(b) Contiguous

Selections shall be in contiguous tracts except where separated by bodies of water or unavailable lands. Two parcels of land with a common boundary line are contiguous. Tracts of land that are cornering are not considered contiguous. A selection may also be proper if it is contiguous to any other village or regional conveyance within the village withdrawal area.

(c) Whole Section Selection

Secs. 12(a) and (b) selections are to be made in whole sections where they are available. Villages in the Sealaska Region selecting lands under Secs. 16(b) and (d) of ANCSA are not required to select in whole sections. Regulations at 43 CFR 2651.4(c) state that Sec. 16 selections "shall conform as nearly as practicable to the U.S. land survey system". Policy has been to allow these villages to select in quarter-quarter sections (40 acres). Sec. 1402 of ANILCA provides for procedures in granting waivers to the whole section requirements for Sec. 12(a) selections and Sec. 1415 of ANILCA provides for relinquishment of portions of sections within ANILCA designated Conservation System Units (CSUs).

(7) Home Rule or First Class Cities

Sec. 22(l) of ANCSA prohibits village and regional selections within two miles from the boundary, as it existed on December 18, 1971, of any home rule or first class city or within six miles from the boundary of Ketchikan. The regulations at 43 CFR 2650.6(a) include an exception which allows selection if the city and the Native village sites are one and the same and the selection is not within the boundary of another home rule or first class city for which the exception does not apply. Since Sec. 22(l) does not extend to those corporations organized for the "four cities" (Sitka, Kenai, Juneau, Kodiak) under Sec. 14(h)(3), they may make selections within the two-mile boundary. Refer to Legal References, Appendix A for exceptions pertaining to the Cook Inlet Region.

The State Department of Community and Regional Affairs provided BLM with a listing of first class and home rule cities, along with the boundaries as they existed on December 18, 1971. The boundary information was serialized and noted to the records. Refer to Legal References, Appendix A to see if a village is included within this group.

In the past, different methods have been used to convey land along the boundaries of these cities. Earlier conveyances were made by 40-acre aliquot parts, totally outside of the two-mile boundary, pending survey. After a decision was issued on the Eyak appeal, Eyak Corporation, 83 ID 484, (1976), conveyances along the boundary were made by 40-acre aliquot parts, including lands within the boundary if any portion of the 40-acre parcel was located outside the boundary. The State subsequently filed suit in the U.S. District Court, State of Alaska v. Brady, Civ. No. A76-213, D. Alaska, (19_?) alleging that the Alaska Native Claims Appeal Board (ANCAB) erred in its Eyak decision. The case was remanded due to a claimed factual mistake without resolution of the two-mile issue.

In a later appeal, State of Alaska (concerning Hungwitchin Corporation) VLS 77-13, BLM was ordered to determine the feasibility of a survey method which would avoid inclusion of lands within the two-mile boundary. This resulted in procedures for surveying in an arc (or secant method). Since the secant method has been determined to be feasible, future conveyances will describe only those lands outside the two-mile boundary.

d Waivers

(1) **Request for Waiver of the Regulations.** A village corporation may file a request for waiver simultaneously with a land selection application, or at any other time prior to a conveyance. The Secretary may, in his discretion, waive any nonstatutory requirement of the regulations, 43 CFR 2650.0-8.

(2) **Waiver of the Whole Section Requirement (Sec. 12(a) Selections).** Sec. 1402 of ANILCA allows for granting a waiver of the whole section requirement for Sec. 12(a) selections. The authority for granting such waivers has been delegated to the Deputy State Director for Conveyance Management. Refer to Sec. 1415 of ANILCA and B-8c of this process for additional exceptions to the whole section requirement for selections partially within a CSU.

9 Unavailable Lands

Rejections and relinquishments. If an application is untimely filed, contains lands which are not available for selection, includes defects which are not curable, or the village does not furnish required documentation after it has been requested in writing, the application is subject to rejection by decision at this time. The preferred method is to obtain a relinquishment from the village corporation rather than issuing a rejection decision, if possible.

A letter is usually written to the applicant requesting a relinquishment. Refer to Branch policy as to whether a relinquishment request or a rejection by decision is preferred.

If a relinquishment is submitted, acknowledge receipt and confirm whether or not it is effective. For clarification purposes, a relinquishment takes effect immediately upon filing, 18 LD 589, with the exception of conditional relinquishments. A determination must be made on the propriety of a conditional relinquishment. Normally, conditional relinquishments will not be accepted. An unconditional relinquishment takes effect the moment it is filed in the proper office and its effectiveness is not contingent upon official BLM notice of its receipt or acceptance. The land, however, will not be subject to further appropriation until the relinquishment has been noted to the land status records, 43 CFR 1825.1(b). Lands unavailable for other reasons will usually be addressed in the Draft Decision to Issue Conveyance (DDIC) or Decision to Issue Conveyance (DIC) Process, E-8.

10 Underselection Process

Sec. 1410 of ANILCA amended Sec. 22(j) of ANCSA as follows: "(2) Where lands selected and conveyed, or to be conveyed to a village corporation are insufficient to fulfill the corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the village corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement".

Pursuant to Solicitor's Opinion M-36972, on October 16, 1991, the Secretary directed the Department of Interior in Alaska to prepare and submit for his review and approval a process to satisfy remaining Alaska Native village corporation land entitlements. The following is the approved procedure as stated in the Secretary's letter of January 14, 1992:

a Data Updates

The BLM reviews and updates data concerning the status of subject villages.

b Information Packet

An information packet is mailed by BLM to the subject village and regional corporation, land managing agency, and to BIA. This includes a cover letter with a narrative and a map.

c Priority Lists

The National Park Service (NPS) and the Fish and Wildlife Service (FWS) will develop priority listings of all previously withdrawn but unselected lands based on critical resources or other public values, as appropriate.

d Consultation Meetings

Visits with each affected village and regional corporation will be held for the purpose of explaining the Department's approved 1410 process and the options to using the Sec. 1410 rewithdrawal process, answering questions, and soliciting the views and concerns of each village.

e Consultation Record

The lead agency (administering agency) will compile a written record of all meetings. This record will include a clear recordation of the village's concerns and any proposal, informal agreements if applicable, and record of concerns or issues that need to be further researched and discussed.

f Proposal Analysis

Village corporations will be requested to submit official proposals to the managing agency within 60 days of the last consultation meeting.

g Written Commitment

If the land managing agency and BLM recommend concurrence with the Native corporation's proposal, the managing agency will request that the corporation submit, within 30 days: an irrevocable written agreement to timely file a prioritized selection prior to the BLM requesting withdrawal of these lands; or a written request to pursue a specific, non-withdrawal-of-lands alternative.

h Negotiations

If there is not agreement between the affected corporation, the land managing agency and BLM as to which lands are to be withdrawn, a negotiation process will be mutually developed and agreed upon by these entities and then initiated.

i Secretarial Decision

If all parties are unable to reach agreement through negotiations, BLM will submit the Native corporation's proposal, together with recommendations from the managing agency and BLM, and a summary of the negotiations with any alternatives discussed, to the Secretary for a decision.

j Request to Secretary

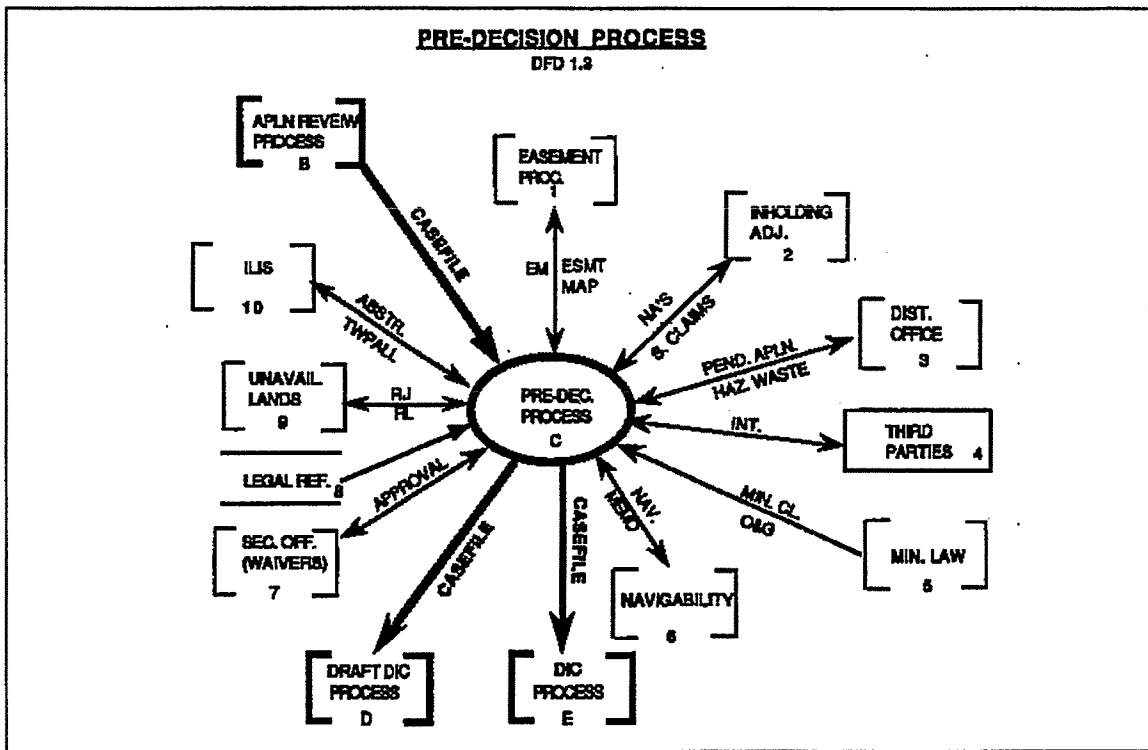
Within 30 days of receipt of the documents described in Step g, the BLM Director will submit to the Secretary the corporation's request, the collective agency recommendation, and either a draft withdrawal order for the particular lands involved or a request that a specific non-withdrawal alternative be pursued.

11 Sec. 3(e) Determinations

If the selected lands are subject to Sec. 3(e) of ANCSA, refer to Appendix B for further information.

12 Title Recovery

If it is determined that village lands have been erroneously conveyed to another entity, such as the State, it may be necessary to pursue title recovery. Refer to the Title Recovery Handbook for further information.



C Pre-Decision Process

If it is determined that there are lands available for conveyance to the village corporation after completing the Application Review Process, proceed with adjudication. Do not write the decision now. It may be necessary to request additional information from other entities for use in preparing the decision. Request the following information as appropriate:

1 Easement Process

Section 17(b) of ANCSA and 43 CFR 2650.4-7 authorize the identification and reservation of public easements across village-selected lands which are reasonably necessary to guarantee access to publicly owned lands or major waterways; guarantee international treaty obligations; or provide access to present existing Federal, State, or municipal corporation sites.

With the exception of easements within ANCSA Sec. 3(e) applications (see 3(e) process, Appendix B), district offices (DOs) identify and recommend easements to be reserved to the United States (U.S.) across village-selected lands.

a Easement Maps

Title and Land Status (T&LS) is responsible for preparing and noting easement maps which will be included in the decision package. An easement map consists of a base map (USGS 1:63,360 quad) and separate overlays depicting the village selection pattern and

any easements to be reserved. The mylar originals and the village selection and easement overlays are kept on file in T&LS.

Easements reserved to the U.S. pursuant to Sec. 17(b) of ANCSA are plotted on the easement map using a unique identification code. Easements are indicated by a circle containing an easement number (usually on top) and a "sponsor code" which indicates the group or agency requesting the easement.

Example of Easement Identification Number (EIN):

Easement No.	1
Sponsor Code	D1,D9

See Illustration 1 (Easement and Navigability Legend) for a list of easement notation symbols and sponsor codes.

b Easement Identification

(1) Pre-Easement Request Procedures

Request the village easement case file from Docket using a case file request form (AK 1274-20). The easement file will have the same serial number as the village withdrawal file plus the suffix "-EE" (e.g., AA-6667-EE).

Request blackline work copies of the easement map(s) for the village selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application documents in the village selection case file, verify that the selection pattern is correctly noted to the easement map. Although the selection may be less than an entire section, the easement map may show the entire section as selected. It is recommended that the work map be noted to depict any amendments or relinquishments using the color code suggested in E-2.

If the selection is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

If easement maps have never been prepared for the village selection area, submit form AK 1500-8 and a paper copy of the quad map or protraction diagram showing the selection area to T&LS requesting them to create an easement quad and note the selection on the easement map. T&LS will forward the mylar and overlay(s) to the print shop for reproduction. The print shop will deliver the finished copies to the adjudicator. Approximate timeframe: 2 weeks.

NOTE: Some of the older easement maps may have an "o" noted to some sections. This notation was used to indicate that the lands were the lowest conveyance priority and

were considered "overselections". Overselections are no longer identified on the easement maps and the lands are depicted as selected without the "o".

(2) Easement Request

The first step in the easement process is to identify the lands to be conveyed and request the DO to review them and identify any easements to be reserved to the U.S. in an easement memorandum (EM). No lands may be approved for conveyance to the village corporation which have not been included in an EM. To do so would deprive interested parties of the opportunity for input in the easement process.

Review the easement/village selection files to determine if the lands have ever been included in an EM. If the selected lands have never been included in an EM, prepare a **Request for Easement Recommendations**. If the lands have been previously included in an EM which is more than one year old, prepare a **Request for Easement Review**.

Requests submitted to the DO for easement work must include a complete and accurate description of the lands to be conveyed and easement maps depicting the correct village selection pattern.

When requesting easements, the land description provided to the DO is generally by township, range and section. There is no attempt to identify exclusions such as patented lands, Native allotments, or navigable waters. For comparison, the following is an example of the land descriptions used to describe the same lands in the Decision to Issue Conveyance (DIC) and the easement request:

In the easement request:

T. 4 S., R. 4 W., Any Meridian
Secs. 1 to 4, inclusive;
Secs. 10, 11, and 12;
Sec. 14.

In the DIC:

U.S. Survey No. 304, Alaska.

Containing 5.58 acres.....

T. 4 S., R. 4 W., Any Meridian

Containing approximately 3,000 acres. Sec. 1, excluding the Yukon River;
Sec. 2, excluding Native Allotment
F-12345;
Secs. 3 and 4, excluding U.S. Survey
No. 304;
Secs. 10, 11 and 12, excluding the
Yukon River;
Sec. 14.
Containing approximately 2,994 acres.
Aggregating approx. 3,000 acres.

(3) District Response

Request for Easement Recommendations. The DO will review the lands and identify easements to be reserved. All affected parties (Native, State, Federal or other

individuals) will be provided the opportunity to review the proposed easement recommendations and, where possible, resolve any conflicts prior to issuing the EM.

Request for Easement Review. The DO will review the easements previously identified in the old EM and determine if any changes are necessary. Any changes will be coordinated with the affected parties prior to issuing the EM.

In both cases, T&LS will note the easements to be reserved on the easement map overlays and the DO will issue the original EM to the appropriate Conveyances Branch Chief with a set of updated easements maps. Any easements identified in the EM will be inserted verbatim in the decision.

NOTE: The DO may request the adjudicator to attend easement meetings during the easement identification process.

Approximate timeframe for the entire easement process: 9-12 months.

2 Inholding Adjudication

Inholdings are conflicting claims within the exterior boundary of the village selection (e.g., Native allotments, settlement claims, ANCSA Sec. 3(e) applications, etc.). Inholdings generally require special survey (as opposed to rectangular net survey). Identify all pending inholdings using the status records and ILIS information and order the case files from Docket using form AK 1274-20.

It is encouraged that all inholdings be adjudicated prior to conveying lands to the village corporation, if possible. If there is sufficient time to do so, adjudicate the claims to determine validity. For example, process Native allotment claims to the point of Request for Survey, or at least to the stage of Final Date to Amend. (See the Native Allotment Handbook or the Settlement Claims Handbook for the steps needed to complete adjudication of these inholdings).

3 District Office

a Pending Use Applications

Applications for the temporary or limited right to use the land are referred to as use applications (e.g., leases, contracts, permits, rights-of-way, or easements). All pending use applications on village selected lands must be adjudicated and a decision issued granting or denying the application before conveying the lands to the village corporation, Nelbro Packing Co., 63 IBLA 176 (1982).

Check the status records and TWPALL to identify any pending use applications. By memorandum or short note transmittal, request the DO to adjudicate any pending use applications. Identify a target date for issuing the DIC and request notification when adjudication is complete.

NOTE: If lands within the Trans-Alaska Pipeline System (TAPS) corridor are being conveyed, request the Division of Mineral Resources, Branch of Pipeline Monitoring (983) to adjudicate any pending use applications within the corridor.

Approximate timeframe: 1-12 months.

b Hazardous Materials Review

RESERVED

4 Third Party Interests

Third party interests are any interests created and/or administered by any Federal agency (other than BLM) or the State of Alaska on village selected lands.

a Federal Agencies

Prior to the passage of ANCSA, Federal agencies were often granted the authority to create and administer interests on lands withdrawn for their use. Sec. 22(i) of ANCSA limited the authority to administer lands withdrawn for Native selection to the Secretary of Agriculture or the Secretary of the Interior. Therefore, as of December 18, 1971, administration of federal lands withdrawn by ANCSA for Native selection and the authority to issue leases, permits, rights-of-way, etc., on such lands is limited to:

Forest Service
BLM
Fish and Wildlife Service
National Park Service
Bureau of Indian Affairs

b State

Section 6(g) of the Alaska Statehood Act allowed the State to execute conditional leases or make conditional sales on lands to which it has been granted tentative approval (TA). Two basic types of interests were created by the State:

Use authorizations; and

Claims leading to title or patent under State law.

Section 11(a)(2) of ANCSA withdrew lands selected by or TAd to the State for Native selection and terminated the State's authority to create third party interests on such lands.

Section 14(g) of ANCSA states that all conveyances will be made subject to valid existing rights. If the selected lands are currently administered by any Federal agency (other than BLM) or the State of Alaska, request them to identify any interests they have created or allowed on the lands using Glossary 130a. Also request that any pending use applications be adjudicated. Approximate response time: 3 months.

5 Mineral Law

Mining claim recordations and applications filed pursuant to the mineral leasing laws are not noted on the status plats. Review the ILIS records to determine if there are active mining claims, pending oil and gas lease offers, or granted oil and gas leases within the conveyance area. The information can be retrieved on-line using the following commands:

TWPALL; or
MSK011 and MSK021

If any such applications affect the conveyance area, request the Branch of Mineral Law (982) to review the cases and take appropriate action using the Request for Minerals Adjudication Review form, Illustration 2. Attach a copy of the appropriate computer printout with the request.

6 Navigability Section

The Submerged Lands Act of May 22, 1953, P.L. 31, 43 U.S.C 1391, provided that title to the land beneath navigable water bodies in Alaska would pass to the State at the time of statehood unless reserved to the U.S. The Navigability Section (924) reviews water bodies and makes navigability recommendations. Lakes less than 50 acres in size and rivers less than 3 chains wide which are determined navigable are identified in a navigability report. The State-owned submerged lands can then be excluded from conveyance and not charged against the Native corporations' acreage entitlement.

In February of 1987, the standards used by BLM to determine navigability were redefined as a result of an appeal concerning navigability of the Gulkana River. The District Court determined that streams and rivers suitable for watercraft carrying a commercial quantity of goods (about a thousand pounds or more of cargo) are potentially navigable, Alaska v. United States et al., No. A80-359 Civil (D. Alaska 1987). The so-called "Gulkana Standard" was subsequently upheld by the Ninth Circuit Court of Appeals in December of 1989, State of Alaska v. Ahtna, Inc., 891 F.2d 1401 (9th Cir. 1989).

If the selected lands are being approved for interim conveyance (IC) in the decision, a navigability determination is not required.

If the selected lands are being approved for patent in the decision, review the easement and village files to see if a navigability determination has been prepared for the selection area. If there is no determination in the file or the determination was issued prior to February of 1987, request a navigability determination from the Navigability Section using Glossary 227a.

NOTE: In order to conform pre-Gulkana navigability determinations to the new criteria on ICd lands, BLM agreed to review navigability determinations issued prior to February of 1987 and adjust the IC acreage at the request of the Native corporations. All property owners (surface and subsurface) must agree to a re-determination before any changes can

be made. The procedures for requesting re-determinations are contained in the Pre-Patent Process.

7 Secretary of the Interior

a Waiver of the Regulations

The Secretary is authorized to waive any nonstatutory requirement of the regulations to correct minor technical and procedural errors, 43 CFR 2650.0-8. Examine the request for a waiver to determine if granting it would impair the rights of third parties, impair the land management principles of the remaining public lands or leave unduly fragmented parcels of public land.

(1) Waiver Recommended

If the request meets the requirements for a waiver, prepare an approval package from the State Director (SD) to the Washington Office. The package must include:

A copy of the initial request;

A transmittal memo to the Director, BLM from the SD;

A memorandum from the Director, BLM to the Assistant Secretary, Land and Minerals Management, outlining the details of the request;

A summary page;

Any other pertinent information necessary to support approval of the request;

A proposed "Waiver of the Regulations" for publication in the Federal Register.

If granting the waiver would result in the need to withdraw lands by public land order (PLO), close coordination with the Withdrawal Staff in Land Resources (932) will be necessary.

(2) Waiver Not Recommended

If the request does not meet the requirements or the regulation is statutory in nature, contact the corporation and give it the opportunity to state its position or provide additional information. If, based on that contact our position remains the same, prepare a letter for the SD's signature to the corporation denying the request and including the reasons for denial.

b Waiver of the Whole Section Selection Requirement

Section 1402 of ANILCA allows for a waiver of the whole section requirement for Sec.12(a) village selections. The authority for granting such waivers has been delegated to the Deputy State Director for Conveyance Management. This section amends

subsection (a)(2) of section 12 of ANCSA to provide an opportunity for the Secretary in his discretion and upon the request of the concerned Village Corporation to waive the whole section requirement in certain situations.

(1) Waiver Recommended

If the request meets the Sec. 1402 criteria, a package will be prepared and forwarded to the Deputy State Director for Conveyance Management. The package will include a memorandum from the Branch Chief, outlining the details of the request and any additional information necessary to support the approval, along with a "Waiver of the Regulations" to be published in the Federal Register.

(2) Waiver Not Recommended

If the request does not meet the requirements of Sec. 1402, inform the corporation of the reason(s) why the request cannot be approved and that a formal notice will follow. Prepare a notice denying the request for the signature of the Deputy State Director for Conveyance Management.

8 Legal References

The legal references pertaining to village selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, Code of Federal Regulations, and various public land orders. Acts, agreements, or orders affecting a specific village corporation are listed in Legal References, Appendix A.

In the Pre-Decision Process, any village-specific legal references must be considered to determine the correct requirements for processing an application and to determine what information must be requested from other offices or agencies.

9 Unavailable Lands

If it is determined during the Pre-Decision Process that all of the subject lands are invalidly selected and unavailable for conveyance, the application is subject to rejection. In accordance with Branch policy, either request the village corporation to relinquish the unavailable lands or prepare a decision rejecting the selection application. Relinquishments submitted to BLM must be signed by an authorized individual of record. Upon submission, acknowledge receipt and confirm whether or not the relinquishment is effective.

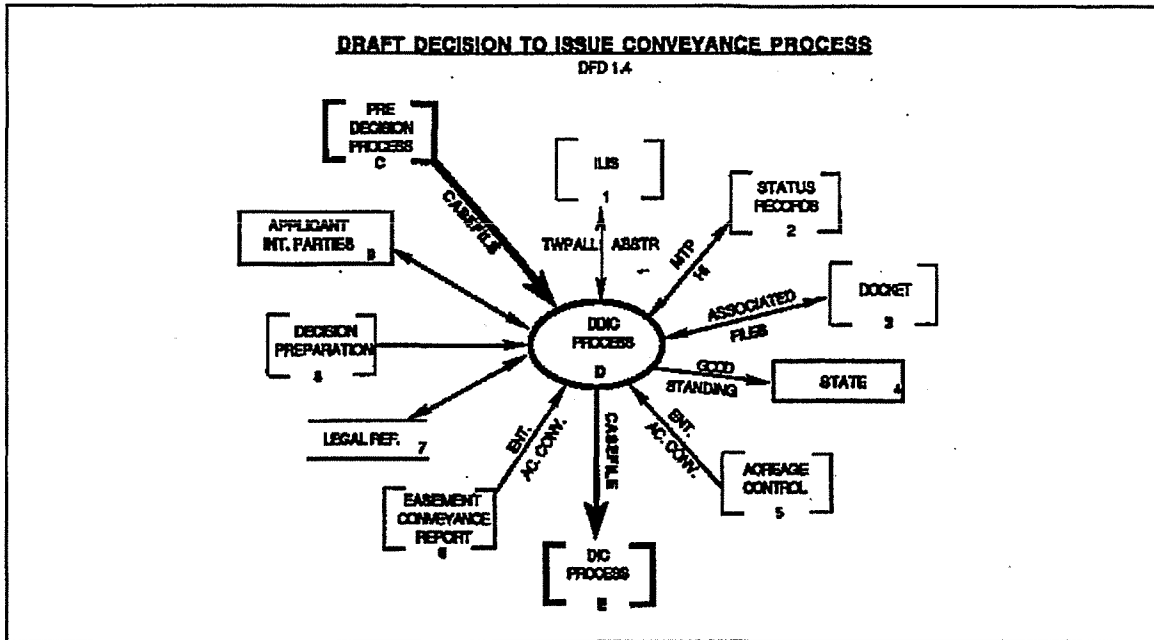
A valid relinquishment takes effect the moment it is filed in the proper office and its effectiveness is not contingent upon official BLM notice of its receipt or acceptance. The land, however, will not be subject to further appropriation until the relinquishment has been noted to the land status records, 43 CFR 1825.1(b) and 18 LD 589. Conditional relinquishments are generally not accepted unless it is determined that the condition has been met or will occur automatically based on law.

10 ILIS

It may not be necessary to retrieve additional information in the Pre-Decision Process if the data obtained during the Application Review Process is current. It is important, however, to update the computer to correct any errors detected or to add the codes for any actions taken in the Pre-Decision Process.

To update the abstract refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up copy and the new abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.



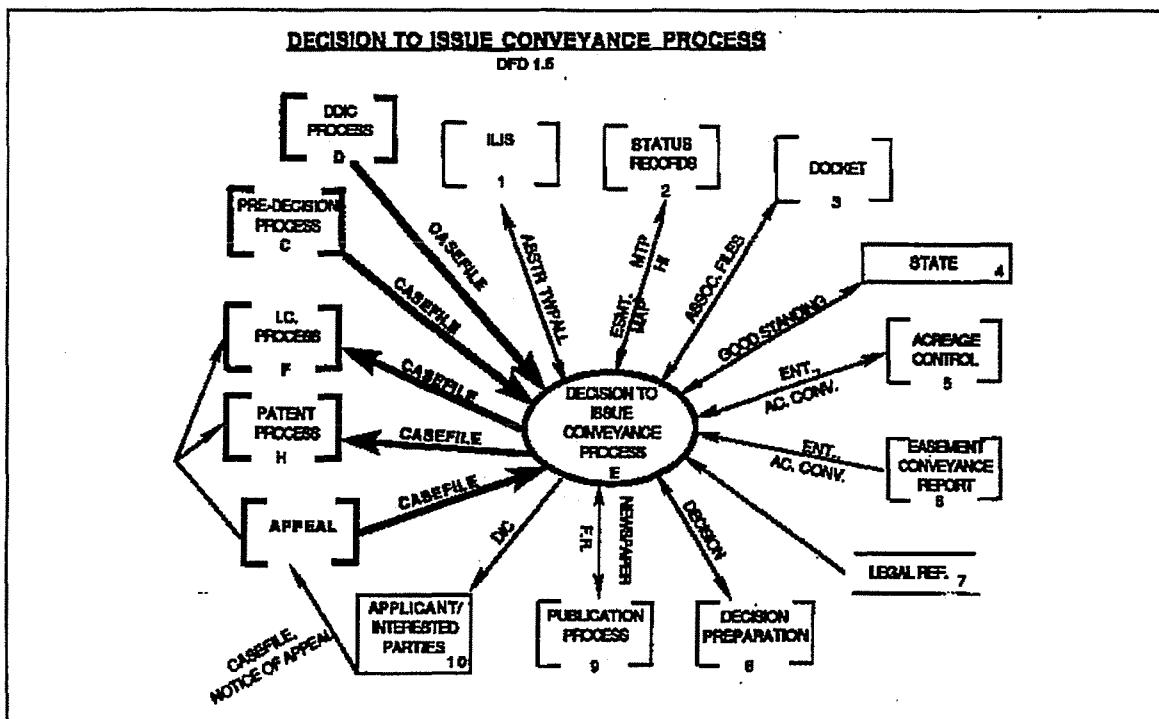
D Draft Decision to Issue Conveyance (DDIC) Process

After the application has been reviewed and all pertinent steps in the Pre-Decision Process have been completed, begin preparing the decision.

In order to provide maximum Native participation in the conveyance process prior to issuing an appealable decision, the corporations were routinely provided a draft document to review. This process provided the corporation and BLM with the opportunity to meet and discuss the conveyance process and resolve potential problems.

The DDIC Process is optional and is followed only when a corporation requests the opportunity to review a draft decision prior to BLM officially issuing the document. In recent years, the majority of corporations have indicated that a draft is not necessary. To determine whether the village corporation wishes to receive a DDIC, it may be necessary to consult others within the Branch who are familiar with the corporation's preferences or to contact the corporation.

Because both processes are very similar, the steps in the DDIC Process will be discussed in the Decision to Issue Conveyance (DIC) Process. Differences between the two processes are noted in **bold print**.



E Decision to Issue Conveyance (DIC) Process

During this process, the decision is written using the information that was collected during the Pre-Decision Process. Use Glossary 624a as reference for preparing the document. If the village corporation is not receiving a draft decision to issue conveyance (DDIC), begin the DIC Process. If a DDIC has already been prepared, incorporate the agreed upon changes into the document and continue with the DIC Process. If the corporation is receiving a DDIC, continue this process and include any additional steps noted in **bold print**.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file and any associated case files. In the DDIC process, **computer updating may not be necessary if the abstracts were kept current in the Pre-Decision Process**. In the DIC Process it will be necessary to add the codes for any actions taken.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Master Title Plat (MTP)

Obtain a current MTP from the Public Room and prepare a color-coded work plat for the subject lands. The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that may affect the village selection. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the decision (e.g., has the village selection been previously rejected as to each Native allotment within the selection area).

Using a calculator, prepare an acreage tape identifying the lands to be conveyed section-by-section and attach to the remarks column of the MTP.

b Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed, replace the existing copy with a new HI.

3 Docket

Review the MTPs and TWPALL for the village selection area and order the case files for any conflicting claims from Docket using form AK-1274-20. It is suggested that the adjudicator keep a rolodex as a back-up to the Docket tracking system. Keep the case files in an accessible location in the event Docket personnel need to retrieve them for public view, etc.

Review all associated case files and record any information related to the village selection area on the work plat.

4 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the telephone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the village and regional corporations and put them on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the village and regional corporations and request that they take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

5 Acreage Control

All land conveyances made to the corporations must be closely monitored to assure that legislative entitlements are met but not exceeded. It is the individual responsibility of each adjudicator to monitor conveyance acreage to prevent conveyances in excess of lawful entitlement.

a Previous Conveyances

If the corporation has received previous conveyances, verify the remaining entitlement using the Easement/Conveyance Progress Report (ECPR). If the ECPR is not accurate or current, calculate the conveyed acreage using the previously issued conveyance/reconveyance documents, MTPs, and survey plats (if any).

NOTE: When reviewing previous conveyance documents, include any acreage adjustments as a result of the submerged lands review. The amount of acreage credited back to the corporation is contained in the submerged lands report (SLR). A copy of the SLR for each village should be in the village selection file.

b Holdback

To reduce the risk of conveying lands to the corporation in excess of entitlement, a certain amount of acreage is held back from conveyance until the lands have been

surveyed. The amount held back varies from corporation to corporation and depends on the survey status of the lands and the number of unadjudicated inholdings. Full entitlement can only be reached when all lands are surveyed and patented.

c Rule of Approximation

The rule of approximation applies only to surveyed lands and provides that any lands conveyed in excess of entitlement must be less than the deficiency would be if the smallest legal subdivision were eliminated, 43 CFR 2650.5-2. It may be necessary to invoke the rule of approximation when preparing to convey full entitlement.

6 Easement/Conveyance Progress Report (ECPR)

The ECPR contains information on all conveyances issued to the corporations. The ECPR was printed by IRM once a month and distributed to each Branch. After conversion to ILIS, this report will no longer be in the system and will be replaced by a new acreage control system.

Review the ECPR and verify all pertinent conveyance information including information for any previous conveyances issued to the corporation.

7 Legal References

The legal references pertaining to village selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, the U.S. Code of Federal Regulations, and various public land orders. Specific acts, agreements, or orders affecting a village corporation are listed in Appendix A. In the DIC Process, any village-specific legal references must be considered to determine the correct requirements for processing an application and to determine any affects on acreage entitlements and availability of lands.

8 Decision Preparation

a Village Selections

Village selections filed pursuant to Secs. 12(a) or 16 of ANCSA were required to be filed by December 18, 1974. The deadline for filing village Sec. 12(b) selections was December 18, 1975. As stated in 43 CFR 2651.4(f), a village corporation may select lands in excess of its entitlement. When a village selects the same lands under more than one entitlement, the corporation must prioritize its selections and advise BLM under which entitlement it wishes the lands conveyed.

If two or more village corporations select the same lands, the resulting conflict must be resolved by the corporations. If a dispute continues over the selection rights, the dispute will be resolved according to the provisions of Sec. 12(e) of ANCSA.

As stated in 43 CFR 2651.4(d), village selections within Secs. 11(a)(1) and 11(a)(3) withdrawals shall be given priority over regional corporation selections for the same lands.

Village Secs. 12(a) or 12(b) selections made as a result of the ANILCA 1410 underselection process may also take precedent over a regional selection.

Section 14(f) of ANCSA entitles the regional corporation to conveyance of the subsurface estate of lands for which the surface estate is conveyed to a village corporation. Excepted from conveyance to a regional corporation is the subsurface estate of lands beneath village conveyances located within a National Wildlife Refuge existing on December 18, 1971 or NPRA.

b State Selections

(1) Valid State Selections

Section 12 of ANCSA allows a village corporation to select and receive conveyance of up to 69,120 acres of lands previously selected by or tentatively approved (TAd) to, but not yet patented to the State of Alaska. A village corporation cannot receive conveyance to state-patented lands or lands encumbered by a validly created state third-party interest leading to title.

Valid State selections are:

Lands that were vacant, unappropriated and unreserved at the time the State selected them. **NOTE:** National Forest Community grant selections are for vacant, unappropriated land within the Forest; and

Lands the State selected prior to December 12, 1968, the date of Secretary Udall's Land Freeze; or

Lands encumbered by an existing oil and gas or coal lease on which a State selection application was filed prior to January 4, 1969 (see paragraph 4 of PLO 4582).

The validity of State selections and third-party interests created by the State on lands withdrawn for selection by ANCSA Sec. 11(b)(3) unlisted villages is based on the date the village eligibility application was filed with BLM by BIA.

Section 22(h)(2) of ANCSA provides for a statutory termination of the Sec. 11(a)(2) withdrawals on December 18, 1974. Although 43 CFR 2651.4(a) provides for selection of those lands under Sec. 12(b), the selection is invalid if filed after December 18, 1974 and must be rejected if filed on lands validly selected by the State.

If the village has selected and identified any validly selected or TAd state lands as a conveyance priority, the State selection is rejected and the TA rescinded as to the lands approved for conveyance to the village corporation in the DIC. This was upheld in State of Alaska v. Thorson and Westcoast (on reconsideration), 83 IBLA 237 (1984). When

rejecting valid State selections or rescinding TAs for which the 69,120-acre limitation applies, the decision must include the land description, acreage calculations, and a cumulative total for all State lands previously rejected or rescinded.

(2) Invalid State Selections

State selections filed after the dates specified above, or for lands that were appropriated or withdrawn are considered invalid as they relate to village selections within the Sec. 11(a)(1) withdrawals. Invalid State selections will be rejected as to the lands approved for conveyance in the DIC but will not be counted against the 69,120-acre State selection limitation.

(3) State-Created Interests

See Process E-8h(2) for discussion of this subject.

(4) Mental Health Enabling Act (MHEA)

Under the MHEA of July 28, 1956, the Territory of Alaska was granted the right to select, within 10 years, one million acres of Federal land to be administered as a public trust to finance treatment of the mentally ill in Alaska. Sec. 6(k) of the Statehood Act confirmed and transferred grants previously made to the territory of Alaska to the State of Alaska. Initially it was BLM's position that lands selected under the MHEA were not lands selected by or tentatively approved to the State under the Alaska Statehood Act and were therefore not withdrawn for Native selection by Sec. 11(a)(2) of ANCSA. However, the Ninth Circuit Court of Appeals reversed this decision in *The Tyonek Native Corporation and Cook Inlet Region Inc. v. Secretary of Interior. et. al.*, 836 F.2d 1237 (9th Cir. 1988). As a result of this ruling, lands selected or approved under the MHEA are adjudicated exactly the same as lands selected or tentatively approved under the Statehood Act and count toward the 69,120-acre State selection limitation.

c Native Allotments

As stated in the Pre-Decision Process, C-2 it is encouraged that Native allotments be adjudicated to the point of "Request for Survey" or at least to the "Final Date to Amend" stage prior to conveying the adjacent lands to a village corporation. Village corporations are not required to select lands in pending Native allotments but are allowed to topfile them, 43 CFR 2651.4(h). Because a village corporation must receive conveyance to all available lands within its core township, Native allotments within the village core township are considered selected even if excluded from the village selection application. If the allotment is not topfiled, holes or gaps in the village selection pattern might result if the Native allotment application is rejected. Most village corporations topfiled all Native allotment applications within their selection area with a blanket selection.

Native allotment files should be reviewed to confirm the correct location of the allotment. If an allotment has not been finally adjudicated, exclude it from the lands approved for conveyance in the DIC.

d Settlement Claims

Sections 14(g) and 22(b) of ANCSA protect all lawful entries or entries which have been perfected under, or are being maintained in compliance with laws leading to acquisition of title. All valid settlement claims must be excluded from conveyance. However, all applications for homesteads, headquarters sites, homesites, and trade and manufacturing sites within Sec. 11(a) withdrawals are considered topfiled by the village corporations. See Solicitor's "Opinion on Invalidated Entries Selectable under ANCSA", October 31, 1984.

If the entry is declared invalid, the lands will be conveyed to the corporation based upon Sec. 12(a)(2) of ANCSA which requires that village selections be contiguous and in reasonably compact tracts.

e Townsites

BLM interprets Native rights to select townsites within the parameters of the Director's Memorandum of June 30, 1972 (approved by the Acting Secretary on July 13, 1972). The memorandum provides that land which was vacant and unappropriated on December 18, 1971 but which had previously been segregated within the exterior boundary of a townsite established under the Townsite Act of March 3, 1891, 26 Stat. 1099, 43 U.S.C. 732, or the Alaska Native Townsite Act (ANTA) of May 25, 1926, 44 Stat. 629, 43 U.S.C. 733-736 (both repealed by FLPMA) was subject to valid existing rights under the terms of ANCSA Sec. 11(a)(1) and therefore was not withdrawn for selection by Native villages under Sec. 12(a)(1).

The segregative effect referred to was operative upon notation to the public land records of a petition filed by the townsite trustee.

A complete discussion of the townsite issue is contained in the decision which was affirmed by the 9th Circuit Court in December of 1986, Aleknagik Natives, Ltd., et al. v. United States, A77-200 Civil, (1986).

f Regional Selections

As stated in 43 CFR 2651.4(d), village selections within Sec. 11(a)(1) and 11(a)(3) withdrawals shall be given priority over regional corporation selections for the same lands. It is optional to either request a relinquishment from the regional corporation or to reject the regional selection. If a rejection is to be issued, this will be addressed in the DIC.

g Valid Existing Rights

Sec. 14(g) of ANCSA mandated that all conveyances be made subject to valid existing rights. These rights include those created by BLM as well as those which are identified as third-party interests by the State or other Federal agency having jurisdiction of the land at the time the interest was created.

The regulations at 43 CFR 2650.3-1 provide that rights leading to acquisition of title are excluded from a conveyance but that conveyances shall include land subject to rights of a temporary or limited nature such as leases, contracts, permits, rights-of-way, or easements. Where known, these interests are identified and protected.

In addition, all conveyances under ANCSA are made subject to valid existing rights in general to protect the rights of unknown interests or interests not specifically protected (see Glossary 624a card G for specific wording). It must be noted, however, that the administrative act of listing an interest as a valid existing right or failing to list it does not create or extinguish the right, and the ultimate validity of interests may require civil court action.

Secretarial Order 3029 (Departmental Manual at 601 DM 2) provides that BLM has an obligation to determine the validity of those interests which are created under Federal law. The exceptions being unpatented mining claims filed under the Mining Law of 1872 and right-of-way claims under R.S. 2477.

h Third-Party Interests

Third-party interests are those created and/or administered by the State or a Federal agency other than BLM on village selected land. Prior to conveyance of lands which have been or are currently under the jurisdiction of the State or other Federal agency, requests for identification of any interests created should have been forwarded to the appropriate agency (see Pre-Decision Process C-4).

When the response from the State or Federal agency is received, review the interest and exclude it from the conveyance or make the conveyance "subject to" the interest.

If the interest expires upon conveyance, the decision will include a paragraph which identifies the interest by serial number and name of applicant, and states that the permit, lease, etc., will terminate upon conveyance of the lands.

(1) Other Federal Agencies

Interests created by agencies other than the Forest Service, Fish and Wildlife Service, National Park Service, or the Bureau of Indian Affairs are considered in this section. The validity of those interests created prior to ANCSA may be determined by examining the authority granted to that agency by PLO or delegation of authority. Those interests created after December 18, 1971 are not considered valid.

(2) State

Section 6(g) of the Alaska Statehood Act allowed the State to execute conditional leases or make conditional sales for lands which were tentatively approved but not yet patented. Sec. 11(a)(2) of ANCSA terminated that authority for lands withdrawn by that section. Therefore, State third-party interests created after December 18, 1971 would not be valid, except within a withdrawal for an unlisted village, in which case those interests are not valid after the date the lands were formally withdrawn (Solicitor's opinion, Third-Party Interests Created by the State of Alaska after Enactment of the Alaska Native Claims Settlement Act, December 22, 1975).?Does this contradict the statement on page 9 about valid state selections and third-party interests where the date is based on the BIA to BLM eligibility application??

Determine if the interest is actually located within the lands to be conveyed and whether the State had the authority to create the interest.

The State has conveyed some TAd lands out of State ownership to a third party (borough, municipality, individual, etc.). Exclude these parcels from the village DIC by State ADL No. or State Survey No. Reject the village for these lands because title has passed from the State to another party.

In some cases TAd parcels are not yet conveyed out of State ownership, but the State has leased the parcel with option to buy or issued an open-to-entry lease (OTE). Do not reject the village from these parcels until the lands are patented to the lessee or until the village has reached its entitlement. If the applicant fails to perfect his claim and the land becomes available to the village, the State has agreed to notify BLM so the lands can be conveyed to the village. Exclude lands the State has leased by State ADL No., State survey No., or by a metes and bounds description provided by the State.

Interests the State has created that can lead to patent will be excluded from a conveyance to the village. Interests which the State has created which do not lead to patent will be made "subject to" in conveyances to the village (e.g., rights-of-way).

i Granted Rights-of-Way

Rights-of-way include roads and highways, pipelines, powerlines, material sites, etc., which are all noted to the MTPs if administered by BLM. In Alaska there have been many authorities for granting rights-of-way on or across public land. As of October 21, 1976, Title V of FLPMA is the only authority to issue rights-of-way. A conveyance under ANCSA must be made subject to any granted right-of-way. The following guidance is provided for some specific types of right-of-way grants:

(1) Material Sites

Federal aid material site rights-of-way, granted to the State as a source of materials for construction or maintenance of federal aid highways, provided that an unspecified amount of material was to be taken from the site for the purpose of road building or maintenance and that proof of construction be filed within five years.

If the validity of a material site is questioned, the D.O. is required to adjudicate to determine validity prior to conveyance.

Validity Determination Made Prior to Conveyance

If the material site is determined valid, the conveyance will be made subject to the granted right-of-way. If found to be invalid through non-compliance, the grant must be cancelled prior to conveyance.

Validity Determination Not Made Prior to Conveyance

If conveyance is made prior to a validity determination, the lands within the material site should be excluded in the DIC and the paragraph in the decision which gives reasons for excluding lands should include "lands within material site rights-of-way, pending a validity determination".

Once the determination is made, a decision will be written approving the previously excluded lands within the material site right-of-way for conveyance.

If the material site is determined valid, the lands will be described by township, range and section as "those lands within material site right-of-way [*serial number*]" and the conveyance will be made subject to the material site right-of-way.

If the site is determined invalid and cancelled, the lands will be described in the DIC by township, range and section as "those lands formerly within material site right-of-way [*serial number*]".

(2) Railroad Right-of-Way

On July 5, 1985, the Alaska Railroad was transferred to the State of Alaska pursuant to the Alaska Railroad Transfer Act of 1982 (ARTA). Several types of documents were used for this transfer:

Patents to lands (all Federal interests which can range from fee title to exclusive use easements) that were surveyed and not claimed by others;

Interim conveyances for unsurveyed lands with no conflicting claims;

Quitclaim deeds for areas where federal interest was slight or non-existent;

A deed for exclusive use easement only within Denali National Park; and

Exclusive licenses for all lands with claims requiring adjudication. Licenses are temporary in nature and after adjudication of conflicting claims, will be replaced by patent.

All lands are identified in the documents as either railroad parcels, which are usually parcels of lands withdrawn by PLO or Executive Order for railroad purposes; or railroad

right-of-way, which (with few exceptions) is a 200 foot strip of land extending 100 feet from the railroad centerline. All unadjudicated village and regional corporation land selection applications in conflict with railroad lands are identified as conflicts requiring adjudication in the exclusive license. All conflicting claims within the lands covered by the license will be adjudicated so that all remaining federal interest will be conveyed. The adjudication process is being completed by the Branch of Cook Inlet and Ahtna Adjudication (968) and is ongoing. In most cases, no lands identified as railroad property by any transfer document should be conveyed out of federal jurisdiction without a reservation to the United States of not less than an exclusive use easement.

BLM is not responsible for conveying any railroad lands pursuant to ARTA. BLM performs the adjudication and prepares all railroad conveyance documents. The documents are then signed and issued to the Alaska Railroad Corporation (a quasi-public corporation created by the State of Alaska to receive conveyance of the railroad) by the Federal Railroad Administration.

If an adjudicator is conveying lands to a Native corporation which include the railroad right-of-way or a railroad parcel, contact (968) to clarify the status of the lands. It may be necessary for (968) staff to take some action prior to conveyance.

(3) Roads and Highways

The following authorities were used to enable construction of roads or highways. Conveyances must be made subject to these roads and highways. Roads and highways sometimes require more than one type of reservation (e.g., all roads subject to the easements established by PLO 1613 were included in the QCD to the State of Alaska under the Omnibus Act and a conveyance would be subject to both). See Appendix E for trails and roads information reference sources.

PLO 1613 Highways. PLO 1613 revoked PLO 601 which reserved public lands for highway purposes (see manual section on PLO 1613) and established an easement extending 150 feet on each side of the centerline of the existing road as of April 11, 1958. These easements were included in the QCD to the State under the Omnibus Act. The affected highways are:

- Alaska Highway
- Richardson Highway
- Haines Highway
- Glenn Highway
- Seward-Anchorage Highway (excluding lands in Chugach National Forest)
- Anchorage-Lake Spenard Highway
- Fairbanks-College Highway.
- Through roads (100 feet centerline)
- Feeder roads (50 feet centerline)

PLO 1613 Lots. PLO 1613 gave the backland owner the preference right for lands released from withdrawal with no time limit for application. ANCAB determined that the preference rights created by PLO 1613 are valid existing rights under ANCSA and

the lands are not available for selection under ANCSA if the backland owner had a patent or valid entry on April 11, 1958, the date of PLO 1613, Raymond A. Kreig, 86 ID 189,(1979).

R.S. 2477. Revised statute 2477 granted a right-of-way to any person, state or local government for the construction of highways over public lands not reserved for public use. On October 21, 1976, FLPMA repealed R.S. 2477. New highways could not be constructed after that date under the authority of R.S. 2477. BLM has no authority to adjudicate a claimed R.S. 2477 because they were granted by Congress, Act of July 26, 1866. Therefore, the validity of a claim can only be determined by the courts (see also 601 DM2). Except as outlined below, R.S. 2477 claims will not be addressed in decisions or conveyance documents.

If the State claims an R.S. 2477 on a 17(b) easement, the easement will be made subject to the "claimed R.S. 2477 right-of-way, if valid". If the State proves validity of an R.S. 2477 through later judicial action, the 17(b) easement can be deleted.

44 LD 513. 44 LD 513 is an abbreviation that refers to a letter of instruction found in volume 44, Land Decisions, page 513, dated January 13, 1916. This instruction provides for exception in patents where telephone lines, roads, trails, bridges and similar improvements have been constructed on federal lands with federal monies and are being maintained by and for the United States. Federal agencies used the 44 LD 513 authority throughout Alaska for many other purposes, including roads and National Guard sites. These were identified and noted to the records. ANCSA requires BLM to convey all right, title and interest of the United States to the Native corporations, which includes lands identified as 44 LD 513s. However, a federal agency may request an ANCSA Sec. 3(e) determination be made (see Sec. 3(e) Process, Appendix B) if lands were being used as a federal installation at the time of ANCSA, or if a trail for public use is identified, it may be reserved by a 17(b) easement.

Omnibus Roads. The Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141, gave the Secretary of Commerce authority to quitclaim the rights-of-way for existing and proposed Federal Aid Highways to the State of Alaska. The QCD was executed June 30, 1959.

BLM is not required nor obligated to specify width of Omnibus Roads; however, if the widths are known and the supporting information (PLO, etc.) is available, identify it as a "subject to" in the decision. See Appendix D for additional reference information.

Highway Easement Deeds. The Act of Congress of August 27, 1958, as amended, 43 U.S.C. 317, authorized the Secretary of Commerce to issue deeds for rights-of-way to the State of Alaska for initial construction and widening or rerouting existing roads. The deeds are required to enable the State to receive federal aid for construction of certain highways. The deeds are serialized and plotted on the MTPs and may overlap Omnibus roads, R.S. 2477 roads and other highway easement deeds. These are identified as a "subject to" in the decision.

j Powersites

(1) Secs. 11(a)(1) and 16(a) Withdrawals

Power projects, powersite classifications, and powersite reserves within Secs. 11(a)(1) and 16(a) withdrawals are available for selection by village corporations, excluding those areas actually used in connection with a federal project determined to meet the criteria for smallest practicable tract enclosing a federal facility as defined under Sec. 3(e) of ANCSA. An opening for entry under Sec. 24 of the Federal Power Act is not required prior to conveyance, and conveyances are not issued subject to the standard reservations normally prescribed to protect federal interests in power withdrawals (cf. Opinion of the Associate Solicitor of October 27, 1977).

(2) Sec. 11(a)(3) Withdrawal

Lands which were set aside for power projects, power reservations, or power classifications within deficiency lands withdrawn by Sec. 11(a)(3) of ANCSA may be selected by Native corporations if the areas have been open to disposition under the public land laws by Sec. 24 of the Federal Power Act. Conveyance under this provision is "subject to" a reservation of the right of the United States or its permittees or licensees to enter upon, occupy and use any or all of the lands necessary for power purposes, 16 U.S.C. 818; 43 CFR 2320.

(3) Power Transmission Lines

Deficiency lands withdrawn pursuant to Sec. 11(a)(3) of ANCSA which are reserved or classified as powersites for the purpose of power transmission lines, with no other value for power purposes, are open to village selection subject to Sec. 24 of the Federal Power Act, 16 U.S.C. 818, as provided by the general determination of the Federal Power Commission, 43 CFR 2320.2.

Conveyances of lands reserved for existing powerlines within Secs. 11(a)(1) or 16(a) withdrawals are not issued with a Sec. 24 reservation, but must be granted "subject to" the powerlines.

(4) Power Project Licenses

Lands within power project licenses may be selected; however, all conveyances shall be granted "subject to" the license. This is consistent with the IBLA ruling that licensed power projects are valid existing rights, but are not rights normally excluded from selection and conveyance, as contemplated by Sec. 14(g) of ANCSA, such as those leading to acquisition of title or federal facilities as defined under Sec. 3(e) of ANCSA, Ketchikan Public Utilities, 79 IBLA 286, 1984.

Send a courtesy copy of any decision or conveyance involving power projects, reserves, and classifications to:

Federal Energy Regulatory Commission
825 N. Capitol St.
Washington, D.C. 20426
(w/plat(s))

k Coast Guard Installations

The U.S. Coast Guard has agreed to the use of ANCSA Sec. 17(b) easements for protection of certain navigational aids within Sec. 11(a)(1) withdrawals in lieu of fee simple retention in Federal ownership.

This approach has several advantages which can be applied as well to selections within Sec. 11(a)(3) withdrawals where the sites would have to be excluded and not subject to Sec. 3(e) of ANCSA:

No survey of retained Federal land is required;

No additional withdrawal action is required to identify the retained Federal lands;

If the site is relinquished by the agency, no revocation-restoration action is required;

The Native corporation gets title to the land subject only to occasional entry by the Coast Guard for operation and maintenance and restriction on development within the clear arc of visibility.

These are important advantages which apply to all lands selected by Native corporations. It is BLM policy to minimize costs wherever possible without compromising Federal or Native corporation interests. Therefore, where improvements appear to be minor, the U.S. Coast Guard or other Federal agency will be contacted to determine if they are willing to accept the protection afforded by a 17(b) easement. If so, we will convey the land with a 17(b) reservation as long as there are no other impediments.

l Grazing Leases/Permits

(1) Livestock Grazing Leases

Authorized by the Act of March 4, 1927, and governed by the regulations at 43 CFR 4200, grazing leases are considered valid existing rights under ANCSA. Prior to issuing a decision, review the grazing lease file to determine the lease term. If the lease contains a stipulation that it will be cancelled when the lands are conveyed to the corporation, contact the DO and coordinate a joint action. The DO will issue a decision either cancelling or reducing the lease as to the lands being approved for conveyance simultaneously with the DIC. The appeal periods will run concurrently. At the end of the appeal period, the lease will be cancelled or reduced accordingly.

If the lease does not contain the stipulation that it will expire upon conveyance, the conveyance will be made "subject to" the lease as follows:

Grazing lease [*serial number*], issued to [*name of lessee*] in [*land description*], under the Act of March 4, 1927, 48 U.S.C. 471, 471a and 471o.

(2) Reindeer Grazing Permits

Reindeer grazing permits (casetype 4300.00) automatically terminate as to the lands approved for conveyance in the decision. Unlike other types of grazing permits, reindeer permits carry no segregative affect and are reduced accordingly when lands are conveyed out of federal ownership. All of the permits under BLM management are located on the Seward Peninsula (NANA and Bering Straits Regions).

When addressing reindeer grazing permits in the decision, the following paragraph should be used:

Reindeer grazing permit [*serial number*], issued to [*name of permit holder*] on [*date*], located within the lands herein approved for conveyance will terminate upon conveyance of the lands in accordance with the Additional Conditions or Stipulations identified in Sec. 9 of the permit.

m Public Land Orders

Secs. 11(a)(1) and 16 Withdrawal Areas. Withdrawal applications for lands withdrawn pursuant to Secs. 11(a)(1) and 16 of ANCSA are not a bar to conveyance under Secs. 12(a) and (b) or 16 of ANCSA. The pending withdrawal application must be denied to the extent it conflicts with an ANCSA conveyance. This action should be taken in conjunction with the decision to convey. Prior to issuance of the DIC, check with the Withdrawal Staff in the Branch of Land Resources (932) on actions required to terminate the segregative effect of the withdrawal application.

Sec. 11(a)(3) Selection Areas. Withdrawal applications filed prior to withdrawal under Sec. 11(a)(3) of ANCSA segregate to the extent specified in the Federal Register. For instance, if the segregative effect is only from entry under the mining laws, allowance of applications on Sec. 11(a)(3) withdrawn lands would not be affected. However, segregation from entry under the public land laws would be a cause for rejection. In those instances where the selections can be allowed, check with the Withdrawal Staff in the Branch of Land Resources (932) to determine the appropriate action to be taken on the withdrawal application prior to conveyance to the Native corporation and submit copies to (932) any time the action affects a withdrawal of record.

Termination of Segregative Effect. If the withdrawal application is denied, a notice must be published in the Federal Register within 30 days that the segregative effect has terminated to the extent the application is denied, 43 CFR 2310.2-1. This action is taken by the Withdrawal Staff in the Branch of Land Resources (932). Adjudicators should note that the segregative effect of withdrawal applications filed on or after FLPMA,

October 21, 1976, terminates two years after filing if no action has been taken to approve or deny the application. For all withdrawal applications filed prior to the date of FLPMA, the segregative effect terminated on October 20, 1991 if no action was taken. See also 43 CFR 2310.2-1(d) and (e) for appropriate Bureau action in these instances.

n Conservation System Units (CSUs)

On December 2, 1980, ANILCA designated all units of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument in Alaska as CSUs. The definition of a CSU in ANILCA included all existing units of such systems as they existed on the date of ANILCA as well as any units established, designated, or expanded by ANILCA and any future additions to or creations of such units.

ANILCA created or expanded CSUs are considered "different" from the national parks and wildlife refuges that existed prior to the passage of ANCSA. The 69,120-acre selection limitations only apply to village selections made pursuant to Sec. 12 of ANCSA for park and refuge lands which existed on December 18, 1971 (the date of ANCSA). The 69,120-acre selection limitations do not apply to any CSU created or expanded by ANILCA or created after ANILCA because the ANCSA withdrawals predate 1980.

o BIA School Sites

Although the formal reserved status of BIA school sites was revoked by Sec. 19 of ANCSA, BIA had the authority under the Act of August 23, 1950, 64 Stat. 470, to dispose of lands and improvements no longer needed for federal school purposes. Under that authority, the BIA conveyed several school sites to the State by QCD. Those sites deeded to the State prior to ANCSA are not subject to an ANCSA Sec. 3(e) determination and are not available for conveyance to the Native corporations. The same is true of school sites which have been patented to the Townsite Trustee and held in trust for the municipality.

It was determined, however, that sites conveyed after December 18, 1971 which were subject to a Sec. 3(e) determination and where the language of the deeds conveyed "all of the right, title, and interest" of the BIA "if any," the QCD passed title to only the smallest practicable tract actually used by BIA during the selection period. Any lands determined to be public lands by a subsequent Sec. 3(e) determination will be conveyed to the Native corporation. See the Solicitor's opinion, "Deeds Issued by the Bureau of Indian Affairs", October 25, 1985.

In other cases, BIA granted long-term leases to the State for school sites. Some of these leases were issued only for the lands determined to be the smallest practicable tract under Sec. 3(e); however, if the lease included lands determined to be public lands under Sec. 3(e), conveyance of those lands to the Native corporation will be made subject to the lease. ?See Solicitor's opinion, BIA School Site Transfer, October 2, 1986 which addresses issuance of long-term leases as opposed to conveyance for school sites within the refuges.in appendix?

p Minerals

(1) Mining Claims

Because mining claim recordations are not shown on the status plats, mining claim information is obtained from ILIS. Review the TWPALL for each township and range selected to identify any conflicts with mining claims. If mining claims are present, a request for review of the claims was required in the Pre-Decision Process (C-5). The response from Mineral Law (982) will provide information on mining claims in the immediate vicinity of the ANCSA selection which have been validly located and maintained pursuant to Sec. 314 of FLPMA.

Secs. 11(a)(1), 11(a)(2) and 16 Withdrawals. Within ANCSA Secs. 11(a)(1), 11(a)(2) and 16(a) withdrawals, Native corporations may select all public lands and interests therein, including lands embracing unpatented mining claims. Village corporations are not required to select lands within an unpatented mining claim or millsite, 43 CFR 2651.4(e). Unless the village excludes the claim, BLM will convey all of the interest of the United States to the selecting corporation, providing the mining claimant has not filed a survey application or a patent application with BLM. Thus, a corporation receives conveyance to the land, subject to the rights of the miner, if valid.

It is important to note that a mining claim recordation is not an application and does not appear on the land status records. However, Departmental regulation 43 CFR 2650.7(d) requires a decision proposing to convey lands be served on all known parties of record who claim to have a property interest or other valid existing right in the land. The holder of a mining claim has until time of conveyance to the Native corporation to file a mineral survey application or an application for patent. When the mineral survey has been completed, a formal mineral patent application may be filed. Mineral survey applications and mineral patent applications will be excluded from conveyances to protect any valid existing right. The Native selection will not be rejected until the mineral patent application is approved. See Section C-5 of the Pre-Decision Process for requesting mineral adjudication and review.

Sec. 11(a)(3) Withdrawals. Lands withdrawn under Sec. 11(a)(3) of ANCSA were to be unreserved, vacant and unappropriated public lands. Valid mining claim recordations, even though unpatented, are appropriations, Wilbur v. U.S. ex rel Krushnik 280 U.S. 306, 316, 317 (1930). Therefore, properly recorded mining claims are excluded from conveyances within deficiency lands.

For lands formerly within mining claims in areas that were withdrawn by Secs. 11(a)(1) or 11(a)(3) of ANCSA, and the village excluded the mining claims from its selection, the following applies:

If mining claims on lands within the core township (Sec. 11(a)(1) withdrawals only) fall out for any reason, the lands must be conveyed even if they were excluded in the village selection.

If lands within mining claims which have been declared null and void ab initio ("ab initio" means from the beginning) or for which a location notice was never filed with BLM, the lands will be considered selected by the village and may be conveyed to make the selection and conveyance compact.

If mining claims were declared invalid or abandoned during the village selection period, and if the corporation amended its application to include the former mining claims, the lands may be conveyed if the amendment was timely filed.

If the lands do not meet one of the above criteria, they must be excluded and can only be acquired by the corporation through exchange or special legislation. If the village is underselected, lands may be withdrawn and selected.

(2) Mineral Survey Applications

Mineral survey applications are noted in the remarks column of the MTP as "affecting this township" and are also found in the TWPALL. Exclude these applications in the decision as they are considered an intent to go to patent. Therefore, as long as they remain of record, do not reject the village selection.

(3) Mineral Patent Applications

Mineral patent applications are noted to the MTP with a mineral survey number (MS or ME Apln. ____). Patent applications remain on the MTP until the patent has been issued to the claimant or the patent application has been rejected or withdrawn. Mineral patent applications must be excluded from the conveyance.

If a mineral patent application is rejected, the lands involved do not become available for conveyance under ANCSA until the rejection decision is final and the case is closed and removed from the BLM status records.

When a mineral patent application is rejected because of the mining claimant's failure to pursue the application with diligence, the rejection decision is issued without prejudice to the claimant to file a new application at a later date, provided the lands have not yet been conveyed.

The adjudicator may encounter a situation wherein an approved mineral survey appears on the status plat but has no active mining claim or mineral patent application associated with it. In these cases, the mineral survey may be conveyed to the Native corporation. The adjudicator should check with the Branch of Mineral Law (982) to determine if the miner intends to file a mineral patent application. An approved mineral survey is excluded only if the land is patented; there was a mineral patent application on file; or the Native corporation excluded it in its application.

After a mineral survey is approved, a period of six months is allowed for filing the formal mineral patent application. The application for survey remains on the plats and is excluded from the conveyance.

(4) Granted Leases

A granted oil and gas lease constitutes a valid existing right under Sec. 14(g) of ANCSA. Therefore, conveyance of lands embraced in a lease must be made subject to that lease (see the Patent Handbook for the standard wording to be used in the decision).

If the DIC includes all lands within the lease, send a copy of the DIC and a Notice of Intent to Waive Administration to the lessee by certified mail. After conveyance, send the lease file and copies of the decision and conveyance documents to the Branch of Mineral Law (982).

If the leased lands are entirely within the conveyance area, the Branch of Mineral Law will waive administration of the lease to the Native corporation.

If the lease is only partially conveyed, the Branch of Mineral Law will notify Minerals Management Service (MMS) so that rents and royalties can be properly distributed. MMS will also be responsible for any escrow processing.

(5) Offers to Lease

Oil and gas lease offers are not considered valid existing rights and must be rejected prior to conveyance. Since the decision to reject such offers must be prepared in the Branch of Mineral Law (982) and transmitted to Washington for signature by the Secretary of the Interior or his designee, the land description should be forwarded to (982) as early in the conveyance process as possible as discussed in the Pre-Decision Process, C-5. Since the Secretary is the final authority within the Department and no administrative appeal process is available, the decision is final upon signature and the status is clear for conveyance.

q Airport Leases/Conveyances

RESERVED

r Waiver of Administration

Conveyances made pursuant to ANCSA are subject to any lease, contract, permit, right-of-way, or easement issued prior to the conveyance. Sec. 14(g) of ANCSA provides that the United States shall continue to administer any such use authorizations unless the managing agency waives administration.

Departmental regulation 43 CFR 2650.4-3 requires that the Department of Interior waive administration when the conveyance covers all the land embraced within a lease, contract, permit, right-of-way, or easement unless it is determined that the interest of the United States is best served by the continued management by the United States.

If the interest is partially located within the lands to be conveyed, BLM will waive administration unless there is a finding that the United States should continue to administer the interest.

If it is determined that administration of the interest is to be waived in its entirety or in part, issue a "Notice of Intent to Waive Administration" at the time of the DIC. See Illustration 3. Send a copy with the DIC to the corporation and to the interest holder.

s Native Escrow

Section 2(a) of Public Law 94-204, 89 Stat. 1145, dated January 2, 1976, amended ANCSA and directed that an escrow account be established for Native corporations, and that all proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA be deposited to the account. This account is to be held by the Secretary until lands selected pursuant to ANCSA have been conveyed to the selecting corporation entitled to receive benefits under ANCSA.

The Act further authorizes the Secretary to deposit in the Treasury of the United States the escrow account proceeds and that the United States shall pay interest thereon semi-annually from the date of deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment.

Escrow Identification

Monies are deposited in escrow for all revenue generating case files on ANCSA selected lands. To determine if there are any active, inactive, or closed revenue generating case files in a township or window enter MSKREP 49 by township or window. Verify any revenue generating cases by pulling abstracts for any identified case files. If they have been audited, there will be appropriate escrow action codes in the history (469-CA ESCROW ID COMPLETE). If there are no escrow codes in the history abstract but money has been received by BLM, refer the file to the Escrow Coordinator (961) at this time. The Escrow Coordinator will audit the file and take any necessary actions. The adjudicator does not have to wait for the audit to be complete prior to issuing the decision.

Lands Administered by Other Agencies

If the land to be conveyed is under the jurisdiction of another agency, such as the Forest Service, that agency is responsible for collecting the amount due and transmitting the funds to the escrow account. However, it is the responsibility of the ANCSA adjudicator working the case to send a copy of the interim conveyance to the administering agency when the conveyance is issued.

t Document Process

The work plat should be used to guide the adjudicator in writing the decision. Other reference materials should be used where needed. Use Glossary 624(a) for standard wording using the various options (cards) to fit the specific situations. In those cases where no standard wording is available, use creative writing skills. The decision should flow in a sequence similar to that outlined in the glossary:

Document Preparation

* Decision Heading	Card a
* Introduction Information	Cards b-h
- Background Information	
- Legal References	
* Analysis of Conflicting Applications	Cards i-t
* Lands proper for conveyance	Cards u-v
* Navigable/Submerged/Tidal Status	Cards w-1
* Exclusions	Card 2
* Easements/Reservations	Cards 3-D
* Subject to's	Cards E-K
* Conveyance to date	Cards L-N
* Subsurface Disposition	Cards O-R
* Appeals & CC list	Card S

Note: If a DDIC is to be prepared the document is double spaced and issued to the:

Village Corporation
Regional Corporation
State of Alaska
Federal Land Managing Agency (e.g., Forest Service)

There is no deadline for comments. It may be suggested in the cover letter that comments be submitted within 60 days.

If there are significant changes, a second draft may be required; however, this is normally not the case.

9 Publication Process

NOTE: This process is completed when issuing a DIC, not at time of DDIC.

If lands are being approved for conveyance in the decision, notice must be published once in the Federal Register and once a week for four consecutive weeks in a newspaper of general circulation in the vicinity of the lands being approved for conveyance, 43 CFR 2650.7(d). Decisions issued solely for rejecting an application are not published.

Publication notices for the newspaper and the Federal Register are prepared simultaneously with the DIC and are double-spaced.

a Federal Register Publication Notice

Use Glossary 200a to publish when the decision involves only one serial number;

Use Glossary 199a to publish a decision involving more than one serial number;

Use Glossary 135a when a previously published decision is modified and the modification needs to be published.

See Illustrations 4-6 for examples of the glossaries listed above.

After the notice has been drafted and all the necessary changes/corrections made, prepare a final package which includes:

- Four originals
- BLM reading file
- Branch reading file
- Case file(s)
- Originator copy

Before mailing the notice to the Office of the Federal Register, take the following steps to ensure that the notice is properly processed for payment in accordance with IM AK 91-18, change 2:

Complete a Document Face Sheet (Form 1310-5). See Illustration 7 for an example.

The Accounting Technician (AK 953A) is responsible for assigning the Document Control Number. This number will always start with L974G.

For FY93, the cross-reference number is 3-00163. This number is assigned by the Washington Office and may change with the fiscal year. The Schedule or Block Number is 4310-JA. This number is always the same.

Indicate on the Document Face Sheet what is being published.

Complete the Weekly Report for Federal Register Notices Form (AK-1550-4). See Illustration 8 for an example.

Send the following to the Accounting Technician (953A):

- Completed Document Face Sheet;
- A copy of the first page of what is to be published;
- A completed Weekly Report for Federal Register Notices Form.

The Accounting Technician will assign a document control number and return to the originator. After these steps are completed, the originator is responsible for sending the documents to the Office of the Federal Register for publication.

Send the four double-spaced signed originals to the Office of the Federal Register. Attach a routing and transmittal slip (Form 1542-4) to each one with the following information:

The Federal Register Office Number
Action needed
Name of originator
Date and telephone number

See Illustration 9 for an example.

If the notice is being sent by regular mail, use this address:

Office of the Federal Register
National Archives and Records
Administration
Washington, D.C. 20408

Office of the Federal Register
Room 8301
1100 L Street NW
Washington, D.C. 20005

NOTE: Do not send the Document Face Sheet to the Federal Register.

When the Federal Register is ready to publish the notice, a representative will call and provide the publication and appeal dates. These dates are stamped in the blank space in the Newspaper Publication Notice and the decision.

If a Federal Register representative does not call with the information within a few days, call 8-523-3187 and verify receipt of the notice and request the publication and appeal dates.

NOTE: Copies of the Federal Register Publication Notice are not mailed-out with the decision.

Federal Register publications are made daily. Copies of each week's Federal Register are sent to the Division of Conveyance Management. The Division Secretary checks for notices that affect the Division and makes copies of them. The Secretary then routes a copy of the Federal Register page in which the notice appears to the appropriate Branch.

The originator of the publication notice will in turn forward a copy of the notice to the Accounting Technician (953A) so payment can be made. A copy of the published notice should also be incorporated in the appropriate case files.

b Newspaper Publication Notice

Use Glossary 39a for the newspaper cover letter;

Use Glossary 198a when the decision involves only one serial number;

Use Glossary 197a to publish a decision involving more than one serial number;
or

Use Glossary 217a when the previously published decision is modified and the modification needs to be published.

See Illustrations 10-13 for examples of the Glossaries listed above.

The final package should include copies for:

- BLM reading file
- Branch reading file
- Case file(s)
- Originator
- Public Room

NOTE: Copies of the newspaper publication notice are not mailed with the decision.

Before mailing the letter and notice to the newspaper, complete all information required on the advertising order (AO) form (AK 1510-9) with the exception of those areas which are to be left blank. Fill in the date in the space provided on the AO stating that publication in the newspaper should begin in the issue closest to the date (give date) notice was published in the Federal Register (See Illustration 14 for an example.) The only persons currently authorized to approve AOs are the Branch Chiefs.

Submit the AO, along with a copy of the newspaper publication notice to Procurement (AK-953B). The procurement clerk will assign an AO number; provide a purchase order number; and have a contracting officer sign and date it. No order numbers will be given out over the telephone. A copy of the AO along with the original advertisement will be sent back to the originator to forward to the newspaper. At this time, the decision, which now includes the Federal Register publication date and the appeal date, is ready to issue.

NOTE: Try to date the decision with the same date the notice was published in the Federal Register.

Send the cover letter, double-spaced notice for newspaper publication, and three copies of the advertising order to the newspaper.

A tear sheet of the first issue will be sent to the originator for proofing. If the tear sheet is not received shortly after the approximate first date, call the newspaper.

Request a FAX copy (BLM FAX number 271-5425) of the publication notice, so that if necessary, there will be time for corrections prior to the next publication date. After receiving the tear sheet, immediately notify the newspaper if corrections are needed.

The proof of publication must come directly to procurement in order to be matched with the original AO. A copy of the original AO and proof of publication from the newspaper will be sent together to the originator for verification. At that time, the originator is to proof the advertisement, sign the bottom of form AK 1510-9 as the verifying officer and return only the AO to procurement. The original proof of publication is to remain in the case file. Remember that at least four to five weeks would have passed since the first publication of the notice, but if an unusual amount of time has gone by, it may be necessary to check to see if proof of publication has been received in Procurement (953B). If proof has not been received, call the newspaper. Then, proceed with the necessary steps to ensure that this process is completed.

NOTE: If there is more than one newspaper serving the same area, alternate publication between them by publishing the next DIC for lands in the area in another newspaper.

10 Applicant/Interested Parties

The decision must be sent to the village and regional corporations and the parties identified on the standard "cc" list in Glossary 624a. Also provide a copy of the decision to any other interested parties identified in the adjudicative process or any parties who have requested a copy of the decision.

APPEAL PROCESS

After issuance, the decision is subject to appeal by any party claiming a property interest in the land being conveyed. If an appeal is filed, the appellant must file the notice of appeal with BLM and must also serve a copy of the notice on all adverse parties listed in the decision. (It is critical that all adverse parties be listed in the appeal paragraph in the decision if they aren't listed as addressees.) BLM will send the notice of appeal and copies of pertinent case files to the Interior Board of Land Appeals (IBLA).

The appeal must be filed within 30 days after the decision is served on the parties. The 30-day period is determined by referring to the date the addressee signed a receipt for the decision. Proof of receipt can either be by the Certified Mail-Return Receipt Requested (CM-RRR) green card or by personal service receipt. The receipt should show the date the addressee signed to receive the decision. If the date is not shown, the 30-day period starts on the day the card is received back at BLM. If the appealing party was not served by certified mail, the appeal must be filed within 30 days after publication in the Federal Register to be valid. After the 30-day period has expired, the adjudicator must wait an additional 10-days before issuing a conveyance to allow for receipt of any appeals that may be in the mail.

If an appeal is filed, the following actions must be completed within **FIVE** working days:

Make sure that the subject case file is in order and that the computer has been updated to reflect all adjudicative actions completed. **NOTE:** The Paralegal Staff (961) is responsible for coding appeal information.

Make two readable copies of every document in the subject case file that pertains to the lands being appealed, including current status plats and HIs.

Insert the copies into case file folders and attach a form AK-1274-9 (Case Records Advice cover sheet) to the front of each file. The two files should be clearly marked as dummy files.

Have Docket bar-code one of the files to indicate it is a dummy file (e.g. AA-6789/D; "D" is for dummy).

Hand carry the original and both dummy files to the Paralegal. The unserialized dummy file will be sent to the Regional Solicitor's office. The serialized dummy file will be sent to IBLA. The original case file will be retained by BLM.

The Paralegal should be made aware of any pertinent information or documents regarding the case file after the appeal is transmitted.

NOTE: If the adjudicator receives an original Notice of Appeal, verify that the Paralegal has seen it. The Paralegal keeps the original copy.

If an appeal is filed after the 30-day period it is still necessary to transmit the administrative record to IBLA for action (dismissal).

Once an appeal is filed, no further adjudicative action can be taken on the lands involved in the appeal until IBLA issues a decision or order, 43 CFR 4.401. More information can be found in 43 CFR Subpart J, 4.415. IBLA can issue a segregation order which segregates the lands in dispute and allows BLM to continue processing the unaffected lands towards conveyance.

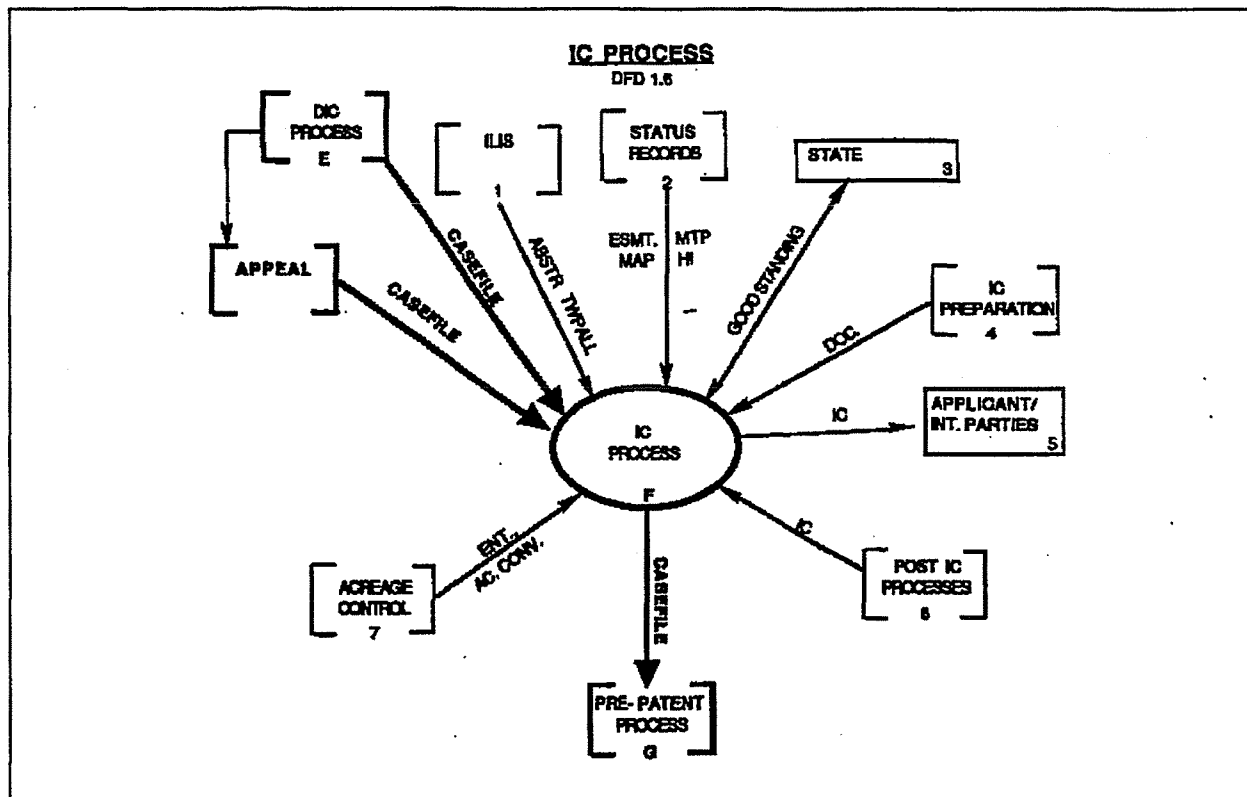
When the files are returned from IBLA, complete the following steps:

Check the file(s) out to yourself with your docket card;

Wait 60 days from the IBLA decision date to consolidate the dummy file and the newly returned permanent file. If a petition for reconsideration is filed within the 60 day timeframe for filing, make sure all original documents that have been filed in the dummy file since the initial appeal are placed in the original file prior to retransmittal to IBLA and keep copies for the dummy file;

If a petition for reconsideration is not filed, consolidate all original documents from the dummy file to the original file. Discard duplicate copies from the dummy file;

Send the empty dummy file folder to Docket with a note that the original and dummy files have been consolidated and that they can take the dummy off their case file control system. The Solicitor's Office keeps their dummy and disposes of it.



F Interim Conveyance (IC) Process

1 ILIS

In preparation for issuing the IC, retrieve a current TWPALL and abstracts for the selection file and any associated case files. Check the TWPALL to verify that there are no new applications filed on the lands and that the status of any associated files has not changed.

When issuing the IC, it will be necessary to update the case history abstracts and land descriptions by adding the appropriate codes. It may also be necessary to add any codes that were not entered during previous case processing at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Master Title Plat (MTP)

Prior to issuing the IC, it is critical to review the MTP to insure that the status is current and that no changes have occurred since the decision was issued. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat. If there have been no changes, proceed in the IC Process.

If there has been a change, carefully compare the new MTP and the work plat to determine whether it affects the conveyance area. It may not be necessary to update the work plat if there have been no changes to the pertinent status. If changes have occurred which affect the lands to be ICd, such as new applications being filed on the lands, it may be necessary to postpone issuing the IC until the matter is resolved. In such cases, it may be necessary to modify the DIC or take some other action as determined on a case-by-case basis before issuing the IC.

NOTE: If a Native allotment which was previously excluded in the DIC has been replotted prior to IC but remains on lands that were approved for conveyance in the DIC, exclude the allotment in its current location in the IC and explain the action taken in the cover letter accompanying the document.

b Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the conveyance area, replace existing copy with a new HI.

c Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20). The easement file will have a different base serial number from the selection but with the same suffix.

Request blackline work copies of the easement map(s) for the selection area from Title and Land Status (T&LS) using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application documents in the selection case file, verify that the selection pattern is correctly noted to the easement map. It is recommended that the work map be noted to reflect any amendments, relinquishments, or rejections using the color code suggested in E-2 of the DIC Process.

Chapter 1

If the selection is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the telephone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the corporation and put it on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the corporation and request that it take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

4 IC Preparation

Prepare the IC using the land description, reservations, and "subject to's" contained in the DIC. Use Glossary 52a for standard wording using the appropriate options (cards) shown below:

Glossary 52a (Surface Estates to Village Corporation);

- | | |
|------------------------------------|-------------|
| * IC Introduction | Card a |
| - Corporation Name | |
| - Authority | |
| - Land Description | |
| * Navigable/Submerged/Tidal Status | Cards b & c |
| * <i>Now Know Ye</i> Paragraph | Card d |
| * Reservations | Cards e-h |
| * Subject to's | Cards i-l |
| * Date/Signature Paragraph | Card m |

For examples, refer to the bound books containing the most recently issued ICs found in the Division of Conveyance Management.

5 Applicant/Interested Parties

After the IC is signed and numbered, it is issued to the village corporations, all parties identified on the standard "cc" list, and any other interested parties identified in the adjudicative process, along with a transmittal letter (Glossary 741a).

6 Post-IC Processes

a T&LS

Once the IC has been signed, make sure the "yellow dot" copy has been filed in the case file. Request T&LS (973C) to note the ICs to the records by completing a T&LS request form (AK 1275-20). Route the case file and the request form to T&LS for notation.

b Mineral Law

If mining claims or oil and gas leases or applications were involved in the ICd area, the Branch of Mineral Law (982) should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to (982) for them to take whatever actions are necessary to close or otherwise update their casetypes (including waiving administration).

c Land Resources

If the lands were previously withdrawn or were originally part of an ANCSA Sec. 3(e) determination, the Withdrawal Staff in the Branch of Land Resources (932) should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to (932) for them to take whatever actions are necessary to close or otherwise update their casetypes.

d Waiver of Administration

For any use authorizations within the conveyance area, (except for oil and gas leases) prepare an appealable waiver of administration decision immediately after the IC is issued. See Illustration 3. The waiver should be addressed to both the corporation and the holder of the use authorization.

After the waiver decision becomes final, send the original case file to the appropriate District Office (DO). Identify whether the interest waived was entirely or partially on conveyed land. If all the lands were conveyed, request the DO to send a duplicate case file to the corporation, update the records and close the file.

If only a portion of the authorized use is on conveyed land, request the DO to send a copy of the appropriate portions of the case file to the corporation and update the records.

e Native Escrow

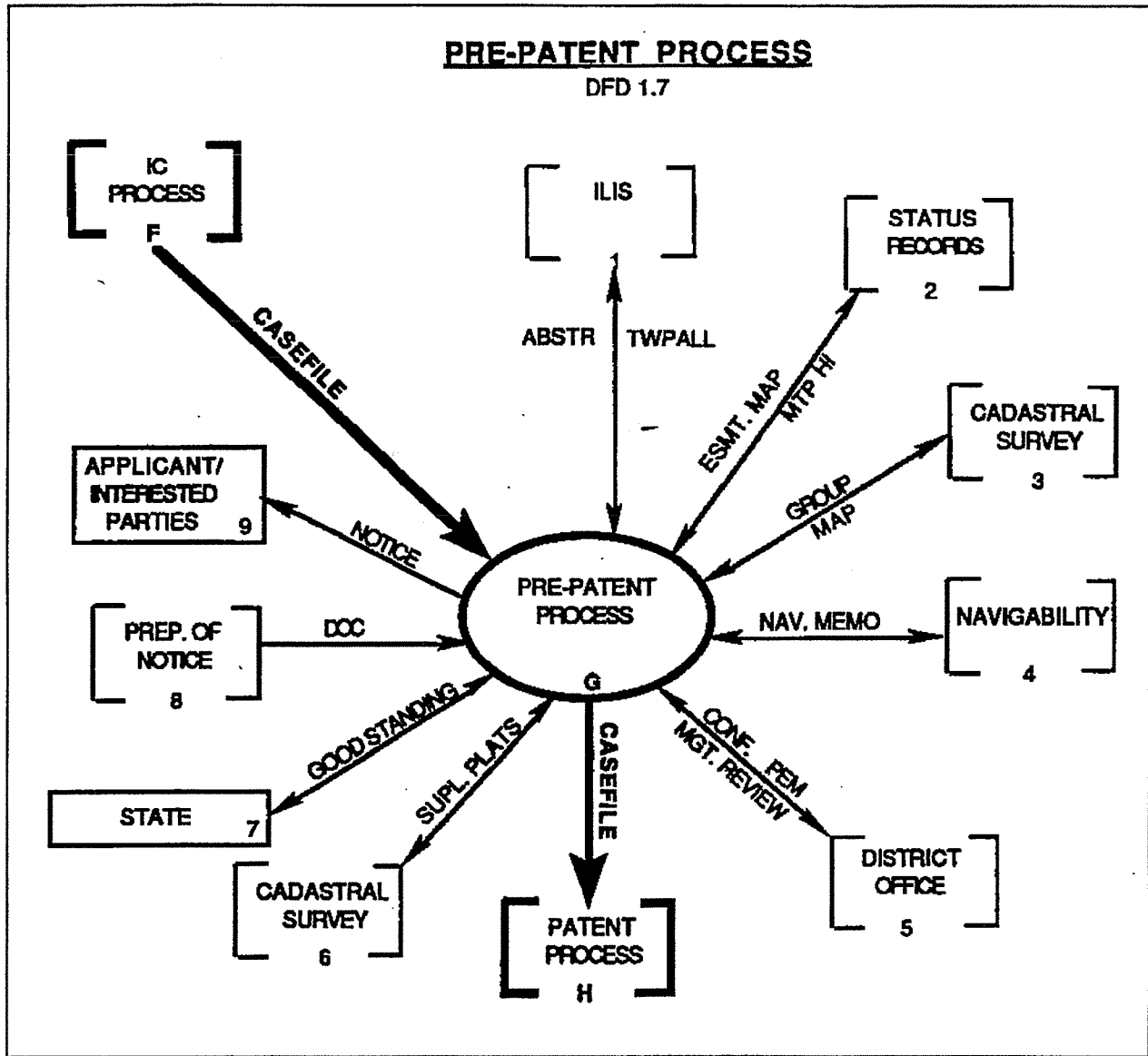
After the IC is issued and any waiver of administration decisions are final, forward any revenue generating case files and a copy of the IC to the Escrow Coordinator (961) for processing the payment of the escrow funds to the village corporation.

If the ICd land is under the jurisdiction of another agency, such as the Forest Service, that agency should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to the agency responsible for disbursing any escrow funds they have collected to the village corporation.

7 Acreage Control

Once the IC is issued, update any acreage control tracking systems in accordance with Branch policy.

NOTE: An ILIS Subsystem will be used to monitor conveyed acreage in the near future.



G Pre-Patent Process

Native corporations receive title to unsurveyed land by interim conveyance (IC). Conveyances made by IC are subject to confirmation of the boundary description of the lands after approval of survey, 43 CFR 2650.0-5(h). A patent for the lands confirming the boundary description and acreage may only be issued after survey has been completed and the approved plats filed.

This process is followed only if the lands to be patented have been previously conveyed by IC and a "confirmatory patent" is being issued after survey has confirmed the boundary description and acreage of the ICd lands.

If surveyed lands were approved for patent in the decision to issue conveyance (DIC), do not use the Pre-Patent Process. Go directly to the Patent Process (Chapter I-H) for guidance on preparing a patent.

NOTE: Many of the requests and actions required in the Pre-Patent Process are generated by the Patent Plan Process (PPP). For detailed information concerning the PPP see Appendix E.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file and any associated case files. Check the TWPALL to verify that there are no new applications filed on the lands and whether the status of any associated case files has changed.

When preparing to issue the patent, it will be necessary to update the case history abstracts and land description by adding the appropriate codes for any requests that are made. It may also be necessary to add any codes that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

2 Status Records

a Survey Plat

Obtain a copy of the survey plat(s) and any U.S. Surveys or supplemental plat(s) for the patent area from the Public Room. The survey plats are filed in the case file with the MTP(s) and will help in determining whether the ICd lands can be patented.

b Master Title Plat (MTP)

Obtain a current MTP from the Public Room and write the "current to" date in the lower right hand corner using the date the plat was pulled and prepare a color-coded work plat for the subject lands. Verify that the status is correct and that the survey(s) are correctly noted on the MTP. If not correctly noted, send to T&LS with corrections using Form AK 1275-20 for updating. Place the corrected MTP in the case file. It is also suggested that the folded plats be noted on the lower right hand corner with the "current to" date, township and range, and survey status.

The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that may affect the lands to be patented. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the confirmatory patent (e.g., has the village selection been previously rejected as to each Native allotment within the patent area).

Carefully compare the new plats with the IC to determine whether any changes have occurred that affect the patent area. If changes have occurred, such as new applications being filed on the lands, it may be necessary to postpone issuing the patent until the matter is resolved. The need for taking such actions must be determined on a case-by-case basis.

Using a calculator, prepare an acreage tape identifying the lands to be patented section-by-section and attach to the remarks column of the MTP.

c Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the patent area, replace the existing copy with a new HI.

d Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20).

Request blackline work copies of the easement map(s) for the selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application and conveyance documents in the selection case file, verify that the selection and conveyance patterns are correctly noted to the easement map. It is

recommended that the work map be noted to reflect any amendments, relinquishments, or rejections using the suggested color code as shown above.

If the selection or conveyance is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 Cadastral Survey

It is suggested that a group map be obtained and used to depict the overall status for the village using the color codes recommended under **Status Records** in this process.

4 Navigability

The Submerged Lands Act of May 22, 1953, P. L. 31, 43 U.S.C. 1391, provided that title to the land beneath navigable water bodies in Alaska would pass to the State at the time of statehood unless reserved to the U.S. The Navigability Section (924) reviews water bodies and makes navigability recommendations. Lakes less than 50 acres in size and rivers less than 3 chains wide which are determined navigable are identified in a navigability report. The State-owned submerged lands can then be excluded from the patent and not charged against the Native corporations' acreage entitlement.

In February of 1987, the standards used by BLM to determine navigability were redefined as a result of an appeal concerning navigability of the Gulkana River. The District Court determined that streams and rivers suitable for watercraft carrying a commercial quantity of goods (about a thousand pounds or more of cargo) are potentially navigable, Alaska v. United States et al., No. A80-359 Civil (D. Alaska 1987). The so-called "Gulkana Standard" was subsequently upheld by the Ninth Circuit Court of Appeals in December of 1989, State of Alaska v. Ahtna, Inc., 891 F.2d 1401 (9th Cir. 1989).

If the lands were ICd before February of 1987, navigable water bodies were identified in the decision and subsequent IC based on the pre-Gulkana criteria. BLM cannot review previously ICd lands and issue a navigability redetermination using the new Gulkana standards unless permission is granted by the land owner(s). The village corporation surface owner and the regional corporation subsurface owner (if appropriate) must both give permission before BLM can issue a redetermination.

Review the selection files to ascertain whether the corporation(s) have been asked if they want a navigability redetermination. If they have never been afforded the opportunity for a redetermination, use Glossary 762a to ask the corporation(s) if they want a redetermination.

If the corporation(s) have requested a redetermination, verify that the redetermination has been completed for all the lands to be patented and that a copy of the redetermination is in the file. If there is no file copy, request one from the Navigability Section (924). If

either corporation refused to give permission, proceed to patent without a redetermination.

If the lands were ICd after February of 1987, navigable water bodies were not specifically named in the decision or subsequent IC. BLM deferred such action by making an exclusion statement in the IC. See glossary 52a, card b for details.

Review the selection files to determine if a navigability report has been filed. If there is no report in the file, request one from the Navigability Section (924).

NOTE: Navigability reports and redeterminations are completed based on the PPP. Refer to Appendix F for detailed information on the PPP.

5 District Office (DO)

a Patent Easement Memo (PEM)

Prior to issuing a confirmatory patent for ICd lands which have been surveyed, the DO must review all easements previously reserved to the U.S. pursuant to Sec. 17(b) of ANCSA and issue a PEM. District Office procedures for preparing the PEM are outlined in detail in IM AK-974-09 (change 2) dated January 24, 1989.

Request a PEM from the DO by memorandum including the following information:

Line item number from the DO easement report, if DO uses this method of tracking;

The land description of that portion of the IC(s) to be reviewed;

The date or timeframe that the completed PEM is required;

The PPP window number if there is one identified.

Early guidelines for Sec. 17(b) easements allowed U.S. reservations for recreational, shoreline, ditches and canals, railroads, and telegraph and telephone lines, among others. These guidelines were challenged by the Native corporations in 1975 and successfully litigated. As a result, new easement regulations were issued on November 27, 1978 prohibiting such easements.

Prior to issuing a confirmatory patent for lands ICd with easements reserved under the old standards, the DO must review and eliminate any easements that do not conform with the 1978 regulations. Patent cannot be issued until all easements have been conformed by the DO.

The DO also reviews all easements previously reserved within ICd lands after survey and makes any necessary corrections, either to the easement maps or the easement description, before the patent is issued.

NOTE: If both selected and ICd lands are included in the survey and the selected lands are identified for conveyance to the corporation, follow the Pre-Decision Process (Chapter I-C) for requesting easement identification on the selected lands at this time. After the easements are received, the selected lands may then be approved for patent in a decision. Barring any complications (appeals, etc.) the lands approved for patent in the decision can be included in the confirmatory patent with the previously ICd lands.

6 Cadastral Survey

Review the records to determine if supplemental survey plats are needed and request them at this time. For example, supplemental plats may be required to exclude a conflicting claim or to adjust hydrography as a result of a navigability redetermination.

7 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the phone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the village and regional corporations and put them on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the village and regional corporations and request that they take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

8 Preparation of Notice

Use the following procedures when issuing a confirmatory patent for lands previously conveyed by IC to a Native corporation. These procedures are separate and apart from those for surveyed lands which need not be ICd prior to patent:

a General Information

A confirmatory patent for lands previously ICd to a Native corporation will be drafted after the ICd lands are surveyed and the plats are officially filed.

A confirmatory patent may include lands or portions of lands from one or more ICs issued to the same corporation. The IC(s) will be identified by number and date of issuance. Recording information may also be included, if available.

Surveyed land selected by the corporation and prioritized for conveyance but not previously ICd may be included in the confirmatory patent only after the land has been approved for patent in a decision (see Decision Process Chapter I-E).

Prepare a Notice of Intent to Issue Patent covering all lands to be patented in the draft confirmatory patent. Include the following information in the notice:

Identify any ICd lands which the corporation has reconveyed to the U.S.;

State whether or not all necessary title affirmations for surveyed inholdings have been executed within the ICd area being patented;

Address any township grid shifts which have occurred between IC and patent as a result of survey;

Identify acreage chargeability;

State whether or not any easements have changed as a result of easement review(s);

Identify any changes in reservations or "subject to's" that have occurred between IC and patent;

State whether or not any changes in navigability determinations have been made; and

Explain any typographical changes, such as the correction of a misspelled name or an erroneously typed number, which have occurred between IC and patent.

b Disposal of ICd Lands by Native Corporations

The corporation may have disposed of some or all of its ICd lands prior to receipt of a confirmatory patent which may affect the lands described in the confirmatory patent.

If all interest in any of the ICd land was transferred from the corporation to the U.S., do not include the land description in the confirmatory patent. To do so could be misunderstood to indicate that the transferred land is being patented to the corporation. Include an explanation of the land transferred to the U.S. in the notice.

If only a portion of the estate in the ICd lands was transferred from the corporation to the U.S., (e.g., the U.S. acquired a partial estate, such as a scenic easement) include the legal description of the lands in the confirmatory patent and reserve the scenic easement (or other acquired interest) to the U.S. in the document. Include an explanation of the interest transferred to the U.S. in the notice.

c Inholdings

Inholdings are pending or approved applications of record for lands which may conflict with selections made by the corporation (e.g., Native allotments). Inholdings were excluded from the IC based on their location on the MTP at time of conveyance. As a result of survey, inholdings may no longer be located as originally shown on the MTP at time of IC.

Surveyed inholdings may "move" drastically from the location originally described in the IC. The degree of inholding "movement" will determine the manner in which the confirmatory patent is processed.

If an inholding was ever excluded in any IC issued to the corporation, it will not be included in a confirmatory patent after survey. If the inholding was excluded from any IC issued to the corporation in a location other than where it appears on the plat of survey at the time of patent, the former location of the inholding will be conveyed to the corporation in the confirmatory patent without further adjudication.

If the surveyed inholding remains anywhere within the section from which it was excluded in the IC, the confirmatory patent will not include the inholding and the remainder of the section will be included as described in the survey. No additional steps are required in this case.

If the inholding appears on the plat of survey but was never excluded in any location from any IC issued to the corporation, the confirmatory patent will include the lands within the inholding. If the inholding is later determined to be a valid claim that BLM should have granted, title to the land must be recovered from the corporation and conveyed to the claimant (see Title Recovery Handbook for specific procedures).

If an inholding was excluded from any IC to the corporation but moves out of the section onto any other lands ICd to the corporation after survey, request concurrence from the corporation(s) (surface and subsurface owners) as to the new location using Glossary 566a (Title Affirmation on Survey of Inholdings).

Once executed, the title affirmation permits conveyance of surveyed tracts of land to private applicants and eliminates any questions of title conflicts with the corporation(s).

It is necessary to execute all required title affirmations concerning survey of inholdings within the IC area prior to issuance of the notice for the confirmatory patent.

d State Surveys

State of Alaska surveys which have been approved by BLM may be used as a land description in patents. However, the MTPs must reflect and identify such State surveys.

e Township Grid Shifts

Because the protraction diagrams and quadrangle maps upon which the selections were made depict unsurveyed lands, the location of the township and section lines shown were only approximate. As a result of survey, significant grid shifts within the conveyance area may have occurred.

A major purpose of providing the notice, draft confirmatory patent and plat of survey is to notify the corporation of significant grid shifts in the conveyance area. Although some shift will occur in almost every case, the selection is deemed to have been of the surveyed section, not the section as approximated on a quad or other map.

In most cases the shift will be minimal or insignificant. However, if there are significant changes between the selection and the conveyance as surveyed, equitable adjustments may be made in the patent.

For example: Where the selected sections were assumed to include lands along a coastline but the survey places the coastline in sections the selection map showed offshore, the confirming patent will include those sections containing the coastline.

Where a significant topographic feature (river, inlet, promontory, harbor, etc.) moves outside of a selected section and the adjoining section is available (i.e., withdrawn for Native selection and otherwise unreserved and unappropriated public land), the entire topographic feature may be included in the conveyance with the corporation's consent providing other public values or private rights are not affected and it does not result in a conveyance in excess of the corporations' entitlement.

f Lands for Conveyance

The confirmatory patent will include and charge against entitlements (except in certain specific exchange areas), only "uplands". Uplands are depicted on the plat of survey and do not include the submerged lands of meandered water bodies.

g Hydrography

Where water lots are shown on plats of survey, the corporation may request conformance pursuant to the 1973 Manual of Survey Instructions, as revised by 43 CFR 2650.5-2. Any request for conformance will be forwarded to Cadastral Survey (920).

h Acreage Chargeability

The notice will identify the acreage and entitlement against which the lands are being charged. Also identified will be the acreage charged against any conveyance limitations identified below:

Entitlement(s);
Patented lands (includes previous patents plus proposed patent);
Remaining ICd acreage;
Total acres charged;
Remaining entitlement;
Valid State Selection limitation;
Wildlife Refuge Lands limitation;
National Forest Lands limitation;
Acreage of subsurface Regional in-lieu entitlement.

The acreage calculation table shown above is not intended to cover every possible acreage charge. Some discretion must be used by the author of the notice to address every entitlement or limitation necessary.

NOTE: Acreage to be charged against entitlement for any lands which were previously ICd and which have been reacquired by the U.S. will also be reflected in the notice.

i Easements

A listing of all easements affecting the lands will be prepared by the appropriate DO for inclusion in the patent. Easements will be described to match the survey description.

Any easements which were excepted and reserved in the IC(s) which have been deleted through the conformance process will not be listed in the confirmatory patent.

Any easements which have been donated to the U.S. will be excepted and reserved in the confirmatory patent.

Adjustments, realignments, vacations or exchanges of reserved easements that have been negotiated with the land owner may be included in the notice. These changes in easement location would be a means of correcting impassable, disconnecting or duplicative easements that were originally reserved without benefit of field investigation. Final easements resulting from this process will be excepted and reserved in the confirmatory patent

j Reservations

All reservations included in the IC(s) will be listed in the confirming patent, except for those which were subsequently vacated by the U.S. (e.g., ditches and canals, railroad and telegraph lines, right to enter upon lands and survey).

Any rights-of-way which should have been listed in the "subject to" portion of the IC but were excepted and reserved instead, will be listed as "subject to" interests in the confirmatory patent. An explanation of the change will be included in the notice.

Any use authorizations (e.g., leases, contracts, rights-of-way, etc.) identified under "subject to's" in an IC which are documented to have expired will not be included in the confirmatory patent.

k Navigability

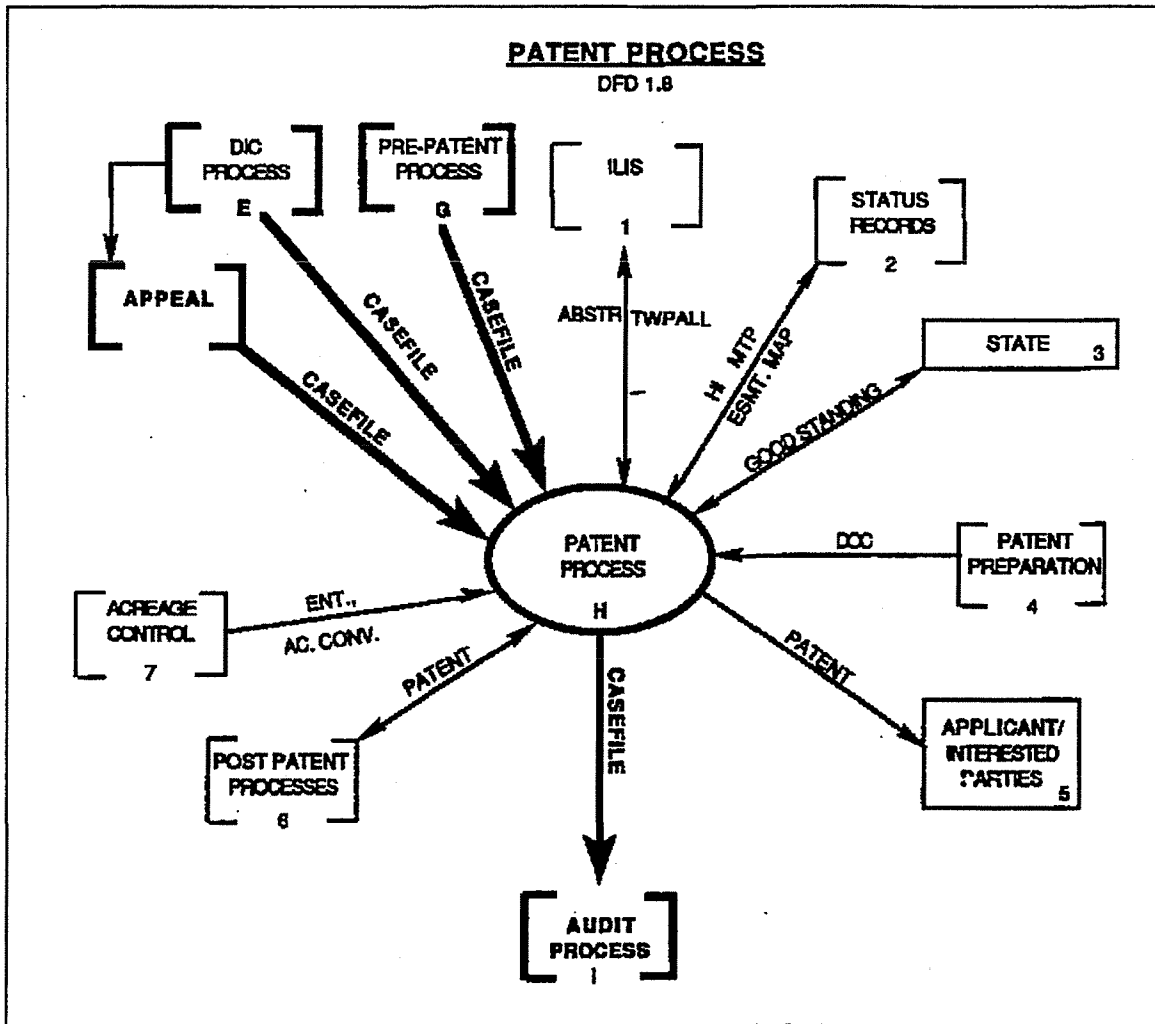
The notice will state whether or not BLM navigability determinations made prior to issuance of the IC(s) remain unchanged (i.e., changes by decision of the IBLA or by a court of competent jurisdiction, or by a redetermination requested by the corporation) and that the lateral extent of navigability or tidal influence was clarified by survey.

9 Applicant/Interested Parties

The notice will be issued by certified mail to the surface and subsurface landowners, with certified mail copies to the State of Alaska, adjacent landowners, and any additional parties whose interests are known. Managing agencies in CSUs and the Forest Service are sent copies where lands are within their exterior boundaries.

The notice will allow sixty (60) days from the date of certified receipt for the corporation and other parties to provide written comments. The notice will not contain an appeal paragraph or be published in the Federal Register or any newspaper.

A thirty (30) day notice will be issued where substantive changes or errors are found regarding the survey or patent issues addressed in the original 60-day notice. The 30-day notice will be issued by certified mail to the surface and subsurface landowners, with certified mail copies to all other parties listed in the original notice.



H Patent Process

Sec. 14 of ANCSA states that a patent will be issued to a qualified Native corporation for the lands to which it is entitled. A patent cannot be issued until the lands have been surveyed. This process is followed only if the selected lands were adequately surveyed and approved for patent to the corporation in a decision which has become final.

If a decision approved selected land for conveyance to the corporation which was either unsurveyed or for which the existing survey was inadequate to properly describe the land and title was subsequently conveyed to the corporation by interim conveyance (IC), begin with the Pre-Patent Process for guidance on issuing a confirmatory patent.

1 ILIS

Retrieve a current TWPALL and abstract for the selection file. When issuing the patent, it will be necessary to update the case history abstract and land description by adding the appropriate codes. It may also be necessary to add any codes that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Survey Plat

Obtain a copy of the survey plat(s) and any U.S. Surveys or supplemental plat(s) for the patent area from the Public Room.

b Master Title Plat (MTP)

Prior to issuing the patent, it is critical to review the MTP and survey plats to insure that the status is current and that no changes have occurred since the decision or notice was issued. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat and that the survey(s) are correctly noted on the MTP. If not correctly noted, send to T&LS with corrections using Form AK 1275-20. Place the corrected MTP in the case file.

The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that affect the lands to be patented. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the patent (e.g., has the village selection been previously rejected as to each Native allotment within the patent area).

Carefully compare the plats with the decision from the DIC Process or the notice from the Pre-Patent Process to determine whether any changes have occurred that affect the patent area. If there have been no changes, proceed in the Patent Process.

If there has been a change, carefully compare the new MTP and the work plat to determine whether it affects the patent area. It may not be necessary to update the work plat if there have been no changes to the pertinent status. If changes have occurred which affect the lands to be patented, such as new applications being filed on the lands, it may be necessary to postpone issuing the patent until the matter is resolved. In such cases, it may be necessary to modify the decision in the DIC Process or notice in the Pre-Patent Process or take some other action as determined on a case-by-case basis before issuing the patent.

Using a calculator, prepare an acreage tape identifying the lands to be patented section-by-section and attach to the remarks column on the MTP.

c Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the patent area, replace the existing copy with a new HI.

d Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20).

Request blackline work copies of the easement map(s) for the selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application and conveyance documents in the selection case file, verify that the selection and conveyance patterns are correctly noted to the easement map. It is recommended that the work map be noted to reflect any amendments, relinquishments or rejections using the suggested color code as shown above.

If the selection or conveyance is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the phone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the village and regional corporations and put them on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the village and regional corporations and request that they take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

4 Patent Preparation

Prepare the patent using the land description, reservations, and "subject to's" as stated in the decision in the DIC Process. If the lands have been previously conveyed by IC use the land description, reservations and "subject to's" contained in the notice prepared in the Pre-Patent Process. Use Glossary 88a for the surface estate patent to the village corporation and Glossary 50a for the subsurface estate patent to the regional corporation. For standard wording, use the appropriate options (cards) shown below:

Glossary 88a (Surface Estate to Village Corporation);

- * Patent Introduction Card a
 - Corporation Name
 - Authority
 - Land Description
- * *Now Know Ye* Paragraph Card b
- * Reservations Cards c-e
- * Subject to's Cards f & g
- * 14(c) Paragraph Card h

Glossary 50a (Subsurface Estate to Regional Corporation);

- * Patent Introduction Card a
 - Corporation Name
 - Authority
 - Surface Patent No.
 - Land Description
- * *Now Know Ye* Paragraph Card b
- * Subject to's Cards c-f
- * 14(f) Paragraph Cards g & h

5 Applicant/Interested Parties

After the patents are signed and numbered, they are issued by certified mail to the village and regional corporations, those entities identified on the standard "cc" list, and any other interested parties identified in the adjudicative process, along with a transmittal letter (Glossary 741a). Managing agencies in CSUs and the Forest Service are sent copies where lands are within their exterior boundaries. A copy of the easement map(s) stamped with the patent number should accompany the patent.

6 Post-Patent Processes**a Title and Land Status (T&LS)**

Once the patent has been signed, make sure the "yellow dot" copy has been filed in the case file. Request T&LS (973C) to note the patents to the records by completing a T&LS request form (AK 1275-20). Route the case file and the request form to T&LS for notation to the records.

b Mineral Law

If mining claims or oil and gas leases or applications were involved in the patent area, the Branch of Mineral Law (982) should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to (982) for them to take whatever actions are necessary to close or otherwise update their casetypes (Including waiving administration).

c Land Resources

If the lands were previously withdrawn or were originally part of an ANCSA Sec. 3(e) determination, the Withdrawal Staff in the Branch of Land Resources (932) should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to (932) for them to take whatever actions are necessary to close or otherwise update their casetypes.

d Waiver of Administration

For any use authorizations (Except for oil and gas leases) prepare an appealable waiver of administration decision immediately after the patent is issued. See Illustration 3. The waiver should be addressed to both the corporation and the holder of the use authorization.

After the waiver decision becomes final, send the original case file to the appropriate District Office (DO). Identify whether the interest waived was entirely or partially on patented land. If all the lands were patented, request the DO to send a duplicate case file to the corporation, update the records and close the file.

If only a portion of the authorized use is on patented land, request the DO to send a copy of the appropriate portion of the case file to the corporation and update the records.

NOTE: If the lands have been previously ICd, an appealable waiver decision should have already been issued for any affected use authorizations and no additional action should be required at time of confirmatory patent.

e Native Escrow

After the patent is issued and any waiver of administration decisions are final, forward any revenue generating case files and a copy of the patent to the Escrow Coordinator (961) for processing the payment of the escrow funds to the corporation.

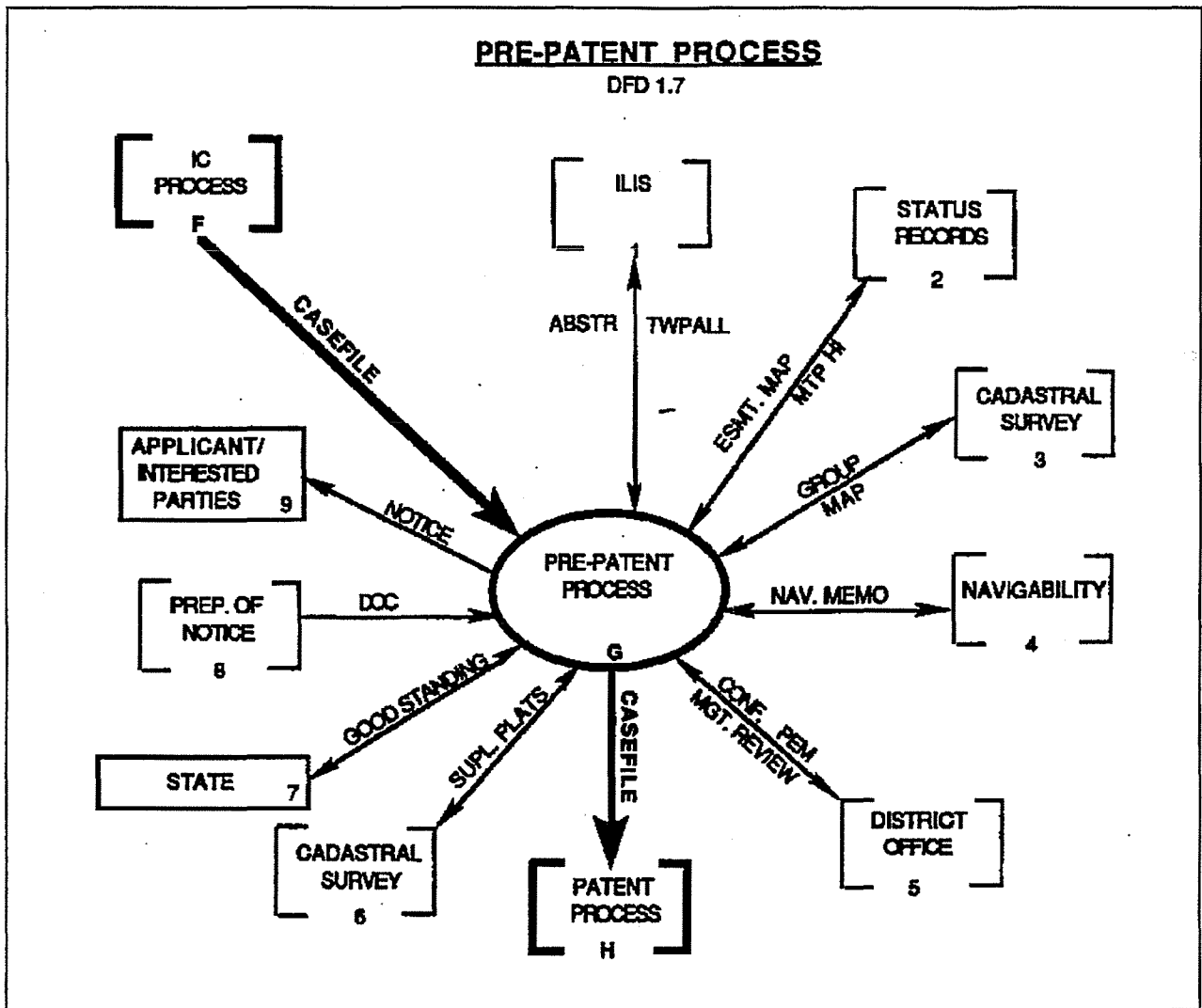
If the patented land is under the jurisdiction of another agency, such as the Forest Service, that agency should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to the agency responsible for disbursing any escrow funds they have collected to the corporation.

NOTE: If the lands have been previously ICd, the escrow process should have already been completed for any affected revenue generating cases and no additional actions should be required at time of confirmatory patent.

7 Acreage Control

Once the patent is issued, update any acreage control tracking systems in accordance with Branch policy.

NOTE: An ILIS subsystem will be used to monitor conveyed acreage in the near future.



I Audit Process

The audit is the final step in the conveyance process. Begin this process after the corporation has received full entitlement in compliance with the intent of ANCSA.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file(s). In the Audit Process it will be necessary to update the case history abstracts by adding the audit codes. It may also be necessary to add any land description or history code updates that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

During the Audit Process, it is critical to review the MTP to insure that the status is current. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat. If there has been a change, update the work plat.

3 Acreage Control

Verify the total acreage conveyed to the corporation by tabulating the acreage of the legal land description described in each conveyance document and verifying it against the MTPs and survey plats for each conveyancy. Compare the total acres conveyed with the village entitlement adjusted for any limitations that may apply.

4 Easement/Conveyance Progress Report (ECPR)

The ECPR contains information on all conveyances issued to the corporation while AALMRS was in existence. The information in this report can assist the adjudicator in verifying the conveyance information.

5 Legal References

The legal references pertaining to village selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, the U.S. Code of Federal Regulations, and various public land orders. For the final audit, review any legislation that may have affected final entitlement. Specific acts, agreements, or orders affecting a corporation are listed in Appendix A.

6 Unavailable Lands

Once it is determined that the corporation has reached full entitlement, any remaining selection applications must be either relinquished or rejected. In accordance with Branch policy, either request the corporation to relinquish any remaining land selections or prepare a decision rejecting the application(s).

7 Applicant

When the corporation has reached entitlement, a sign-off sheet will be completed indicating that final entitlement has been satisfied. The sign-off sheet will be signed by designated representatives for the corporation and BLM. A copy of the sign-off sheet will be incorporated in the appropriate case file(s).

8 Case File Closure

A selection file will be closed when there are no lands remaining within the selection application. If the corporation has reached entitlement, the selection file(s) will be closed if:

- All lands within a selection application have been patented, relinquished, or rejected;
- A relinquishment is filed for all remaining lands in a selection application;
- A decision rejecting all remaining lands within a selection application becomes final.

NOTE: A selection file can be closed when all lands within the application have been patented, relinquished or rejected regardless of whether the corporation has reached entitlement.

Prior to case closure, review the file and update the status records as follows:

a Abstract

Verify that the case status and all required history action codes and township information for the case have been properly coded into the ILIS.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

b Master Title Plat (MTP)

Verify all MTP notations and request Title and Land Status (T&LS) to make any necessary changes. The selection application must be removed from the MTP for any lands relinquished or rejected. The patent number and reservations must be noted to the MTP if the lands have been patented.

If changes to the MTP are required, complete Form AK 1275-20 and route the case file to T&LS for updating. On the case file route sheet, indicate the file be returned to the adjudicator after the corrections have been made. Upon receipt of the case file from T&LS, review the plat and verify that the notations are complete.

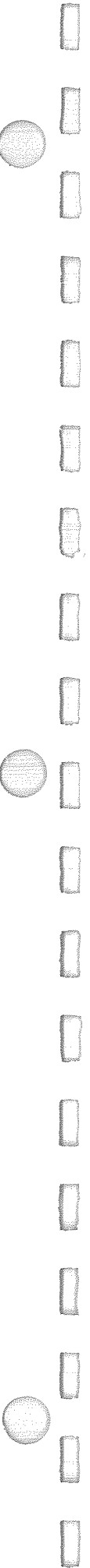
c Historical Index (HI)

Request T&LS to note any ICs or patents to the HI and whether such action resulted in closure of the case file. Rejections and relinquishments are not on the HIs.

If changes to the HI are required, complete Form AK 1275-20 and route the case file to T&LS for updating. On the case file route sheet, indicate the file be returned to the adjudicator after the corrections have been made. Upon receipt of the case file from T&LS, review the HI and verify that the notations are complete.

9 Docket

Route the case file to Docket with instructions that it be closed.



ANCSA HANDBOOK

CHAPTER 2

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CHAPTER II

II REGIONAL SELECTIONS: (12(c))

BACKGROUND INFORMATION

The Alaska Native Claims Settlement Act (ANCSA) defined and directed the creation of regional corporations and prescribed the manner in which they were to select and receive land. The following is a summary of key ANCSA sections that apply to regional selections.

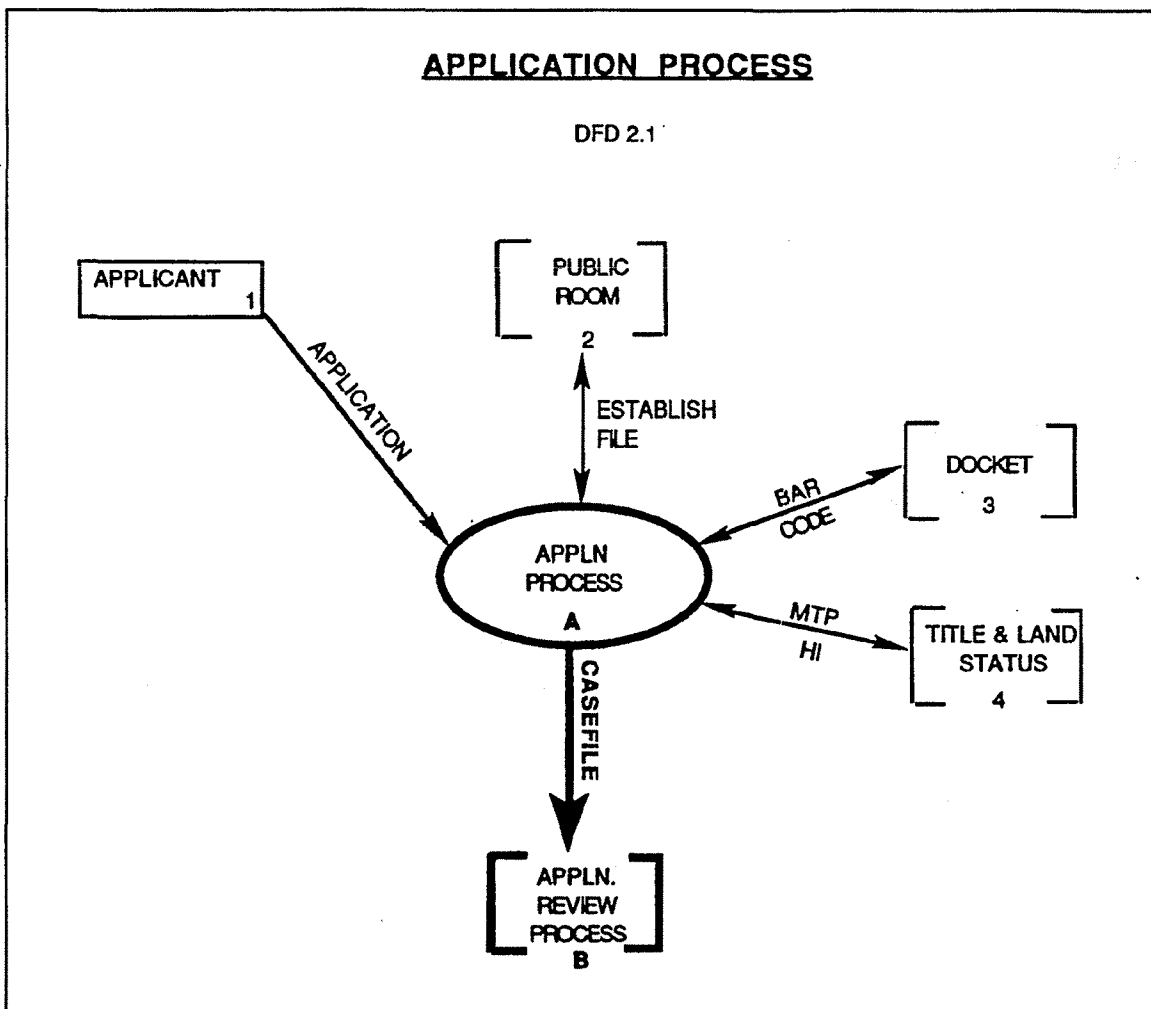
Section 7 of ANCSA stated that the State of Alaska would be divided into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests.

Section 11 of ANCSA withdrew certain public lands in the immediate vicinity of certain villages, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection by the State. If there were insufficient lands to permit a village or a regional corporation to select the acreage to which it was entitled, the Secretary was authorized to withdraw three times the deficiency from the nearest available public lands for selection.

Section 12 of ANCSA states that a certain acreage allocation shall be made to the regional corporations based upon a computation formula. This section also provided for a four year period from the date of enactment of ANCSA for a regional corporation to select the acreage allocated to it from the lands within the region withdrawn pursuant to subsection 11(a)(1), and from the lands within the region withdrawn pursuant to subsection 11(a)(3) to the extent lands withdrawn pursuant to subsection 11(a)(1) are not sufficient to satisfy its allocation. Within the lands withdrawn by subsection 11(a)(1), the regional corporation may select only even numbered townships in even numbered ranges, and only odd numbered townships in odd numbered ranges.

Section 14 of ANCSA provides that each regional corporation will receive title to the surface and/or the subsurface estates, as is appropriate, in the lands selected. A regional corporation will also receive patent for the subsurface estate of lands for which a village corporation within that region has received patent to the surface estate. Excluded are subsurface estate lands located within the National Wildlife Refuge System and lands withdrawn or reserved for national defense purposes, including the Alaska Naval Petroleum Reserve.

Regulations governing the selection and conveyance of lands to regional corporations are found in 43 CFR 2650 and 2652.



A Application Process

The application process begins when a regional corporation submits an application to BLM pursuant to Sec. 12(c)(3) of ANCSA and BLM establishes a case file and notes the land records.

1 Applicant

The applicant is a regional corporation defined in 43 CFR 2650.0-5(f) as a profit or nonprofit Alaska Native regional corporation eligible under 43 CFR 2652 and 2653 to select land and receive benefits under the Act, and is organized under the laws of the State of Alaska in accordance with the provisions of Sec. 7 of the Act.

a Application

A selection application is filed by the applicant on Form 2650-1 (Regional Selection Application).

b Application Requirements

The applicant must submit the following documents with its initial application. If any are missing, request the information from the corporation.

(1) Signing Authority

Each Native corporation must submit a resolution naming the individual(s) authorized to sign applications, amendments, priority lists, etc., 43 CFR 2650.2.

(2) Land Description

The application must include a written legal description of the selected lands and a map depicting the selection. If there is a discrepancy between the written description and the selection shown on the map, the map is controlling.

If the selected lands are surveyed, the legal descriptions must conform to the official plat of survey.

If the selected lands are unsurveyed, the applicant must describe the lands by protraction diagram. A protraction diagram is prepared by BLM and is defined as the approved diagram of the BLM mathematical plan for extending township, range, and section lines. A protraction diagram does not constitute an official BLM survey. In the absence of approved diagrams, State of Alaska protraction diagrams which have been authenticated by BLM may be used.

Protraction diagrams plotted on published United States Geological Survey (USGS) topographic quadrangle (quad) maps at the 1:63,360 (inch to the mile) scale are preferred. For areas in which a 1:63,360 quad map has not been published, the applicant must use a protraction diagram plotted on a published 1:250,000 scale USGS quad map.

c Amendments

The time frame for filing applications for new land has expired, therefore, amendments can be made only to correct errors or for clarification purposes. All amendments must be signed by an authorized individual of record.

2 Public Room

The Public Room performs many duties, among them the initial processing of new applications. Once an application has been received, it is date-stamped and forwarded to the Public Room to be serialized, codified (casetype), and a case file established. The Public Room also enters the case data into the Interim Land Information System (ILIS).

Most land status and survey information needs can be found in the Public Room. The aperture card files contain microfilm copies of the most current master title plats

(MTPs), historical indices (HIs) and survey plats. Other information, including Public Land Orders (PLOs), USGS quad maps, patents, deeds, interim conveyances (ICs), field survey notes, serial pages, easement quads, mineral surveys, etc., can also be found there.

Each regional selection filed pursuant to Sec. 12(c) was assigned a base case file serial number specific to that region; however, a regional corporation may have multiple base serial numbers due to the large numbers of selection applications filed. Any subsequent selections filed by the same region were usually serialized with the same base number but a numeric suffix was added to reflect the order in which the additional applications were filed.

For example, on June 27, 1972, Cook Inlet Region, Inc. (CIRI) filed a regional 12(c) application which was serialized AA-8098. On Feb 6, 1974, CIRI filed another application pursuant to 12(c) which was assigned serial No. AA-8098-01. CIRI's third filing on Dec. 16, 1975, was serialized AA-8098-02 and so on.

Some regions, such as Doyon, Limited straddle the boundary line separating the Anchorage and Fairbanks land districts. In this situation, the selections in the Anchorage District were prefixed "AA" while those within the Fairbanks District were prefixed "F" (FF for ILIS). **NOTE:** Regions with selections located within both land districts were assigned different base serial numbers for each District.

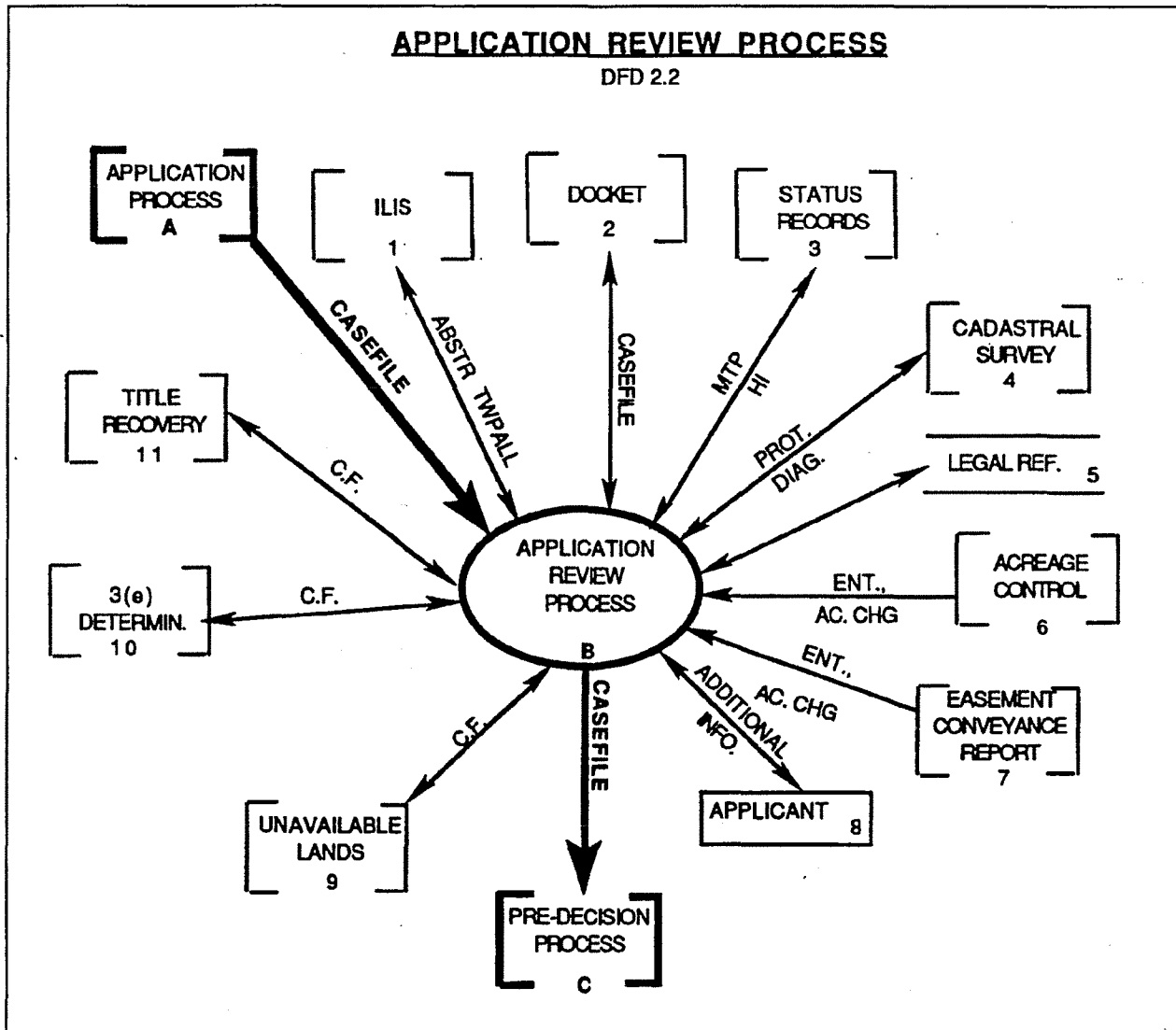
Each regional base number was assigned a separate easement base serial number. However, the easement file has the same numeric suffix as it's corresponding selection case file. For example, the easement file for F-19155-15 is F-21790-15. In some cases where a number of regional selections were filed in the same geographic area, only one easement file was established. The easement file and it's corresponding regional selection(s) are cross-referenced in the ILIS remarks column.

3 Docket

After serialization, the Public Room sends the case file to Docket where it is bar-coded and logged into the case file tracking system. From this point on, Docket retains ultimate responsibility for the file. Anytime the file is sent to another BLM office or to the Public Room for public view, the file must be routed through Docket.

4 Title and Land Status (T&LS)

Title and Land Status is responsible for updating and maintaining BLM's MTPs and HIs. Mylar originals of the MTPs and HIs are filed in T&LS and updated whenever the status within a township changes. When requesting plat notations from T&LS due to a change in, or correction of status, fill out a T&LS request form (AK 1275-20) and send to T&LS with the case file. Normally, it will take approximately 1 to 2 weeks for the changes to be made.



B Application Review Process

Since all regional Sec. 12(c) selection applications are now of record, the adjudicative process is most likely to be initiated in response to the applicant's request for conveyance of additional lands to which they are entitled based on economic need or by BLM through the Patent Plan Process (PPP). In the initial process, the validity of the selection is reviewed based primarily on land status and the laws affecting such selections.

Do not begin writing the decision at this time. First, gather and analyze the facts related to the application. The following steps need to be taken:

1 ILIS

Retrieve the following documents from ILIS to begin the application review process:

Abstract - An abstract, or case file retrieval, provides data relative to any serialized case file and is based on information contained in the file. The information contained in an abstract includes the name and address of the applicant, a chronological history of actions affecting the application, and the application land description.

TWPALL - A TWPALL, or township data retrieval, shows any current and historical applications that affect land status within a specified township and range down to the section level. The TWPALL contains case file information that does not appear on the MTP (such as leases, permits, etc.).

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Docket

Request the appropriate regional selection case file(s) from Docket using a case file request form (AK 1274-20).

3 Status Records

With respect to any particular parcel of land, the Department defines land status as its legal description, its survey status, the non-Federal rights or privileges which attach to it or its resources, the withdrawals or special laws which apply to it, and other pertinent information which may influence the operation of the public land laws so far as its use or disposition is concerned. Much of this information can be found in the following records:

a Master Title Plat (MTP)

The MTP is a graphic record of current ownership and status of lands within the public domain. The Public Room maintains a current set of MTP aperture cards in a card file. The aperture cards are filed in range order, then in township order within the ranges. Supplemental plats are filed following the aperture card for the township they affect. To obtain a copy of a MTP and supplemental plats (if any), go to the Public Room and select the appropriate aperture card from the card file and complete a request for ordering paper copies or aperture cards.

Upon receipt of the plat, write the "current to" date in the lower right hand corner using

the date the plat was pulled. Review the plat(s) closely with the case file and verify that the regional selection has been correctly noted and whether there are withdrawals, conflicting applications, or other interests that will preclude conveyance. If not correctly noted, send to T&LS with corrections using Form AK 1275-20 for updating. Place the corrected MTP into the case file. It is also suggested that the folded plats be noted on the lower right hand corner with the "current to" date, township and range, and survey status.

b Historical Index (HI)

The HI is a narrative summary of, and an index to, actions which affect, have affected, or will affect the title to, disposition of, or land use status within an individual township. To obtain a copy of the HI, follow the same procedures used for requesting a MTP. Review the HI closely to ascertain that there are no withdrawals, conflicting applications, or other interests that will preclude conveyance. The HI contains essential information for the adjudicative process and is filed in the case file with the MTP.

c Miscellaneous Documents Index (MDI)

The MDI is a narrative summary of documents, consisting primarily of Public Land Orders (PLOs) and Executive Orders, affecting lands not specifically described, on which conditions restricting disposal or use may exist. The MDI should be reviewed prior to any adjudicative action; however, it is usually not necessary to file a copy in the case file.

d Survey Plat

If the land being reviewed is surveyed, obtain a copy of the survey plat and any U.S. Surveys or supplemental plats following the same procedure used for requesting a MTP. The survey plats are filed in the case file with the MTP(s) and will help in determining whether the selected lands can be Interim Conveyed (ICd) or can go directly to patent.

4 Cadastral Survey

As a part of the review process, go to the Division of Cadastral Survey, Branch of Examination and Records (AK-922) and obtain a plan of survey (group map) if available. If a plan of survey is not available, obtain a blue-line copy of the protraction diagram map(s) covering the lands selected. Before requesting a protraction diagram, obtain the protraction diagram number from the upper left corner of the MTP, or from the index map of approved protraction sheets posted in AK-922. Outline the selection area and any previous conveyances on the map; note any selection conflicts and verify that the selection is compact and contiguous. Regional priorities may also be noted if available. Depending upon the size and location of the regional selection area, it may be necessary to request more than one map. The map then becomes a part of the case file and may be used for future reference and processes.

5 Legal References

The legal references pertaining to regional selections are found in ANCSA and its amendments, subsequent laws, regulations, and public land orders. Acts, agreements, or orders that affect a specific regional corporation are listed in Legal References, Appendix A.

As an application is reviewed, any special situations should be taken into consideration. For example, when adjudicating a selection made by Chugach Alaska Corporation, it will be important to refer to the Chugach Natives, Incorporated (CNI) Agreement to determine what unique situations may affect the adjudicative process.

6 Acreage Control

Land conveyances made pursuant to ANCSA must be closely monitored to ensure that legislative entitlements are met but not exceeded. In this review process the adjudicator needs to become familiar with the entitlements listed below:

Sec. 12(c) of ANCSA authorizes the difference between 38 million acres and the total acreage allocated to the village corporations under Secs. 12(a) and (b) and Sec. 16 of ANCSA to be distributed among the 11 regional corporations (excluding Sealaska) based on the geographic area of each Native region. Based on the formula contained in Sec. 12(c)(2) of ANCSA, not all regional corporations received Sec. 12(c) entitlements. Final regional Sec. 12(c) entitlement figures were published in the Federal Register on July 15, 1982, 47 Fed. Reg 308740. The following table shows the final Sec. 12(c) entitlements for each region:

CORPORATION	ACRES*
AHTNA, Inc.	992,030.93
The Aleut Corporation	0
Arctic Slope	4,011,728.72
Bering Straits Native Corporation	0
Bristol Bay Native Corporation	0
Calista Corporation	0
Chugach Alaska Corporation	338,665.08
Cook Inlet Region, Inc.	1,324,472.71
Doyon, Limited	8,356,571.96
Koniag Inc.	0
NANA	746,130.60

*The actual acreage conveyed to a regional corporation under Sec. 12(c) may be different from the final entitlement because of special legislation, exchanges, etc.

7 Easement Conveyance Progress Report (ECPR)

The ECPR is a computer printout used for tracking and monitoring ANCSA conveyances. The report contains information used for acreage control and is also used as a source of general information for the public, the State, and other Federal agencies

regarding the status of ANCSA conveyances. Each Branch in the Division of Conveyance Management has a copy of this report. Upon conversion to ILIS the report will no longer be updated.

8 Applicant

After completing steps 1-7 above, review the application for filing requirements, eligibility requirements, selection limitations and, if appropriate, any requests for a waiver of the regulations. See the Pre-Decision Process(C-7), for a detailed discussion of waivers. The major reason for this review is to determine if there are any problems with the application that can be corrected or clarified by requesting additional information from the applicant.

It may be possible to determine whether there are selected lands which are unavailable for conveyance based upon a review of the status and legal requirements. However, if some of the subject lands are available, do not take any action on the unavailable lands at this time. The unavailable lands will be addressed in the Decision to Issue Conveyance (DIC) Process.

a Filing Requirements

(1) Corporate Status

Pursuant to Sec. 7 of ANCSA, the corporation must be organized in compliance with the laws of the State of Alaska prior to receiving any land conveyances.

Check the application for inclusion of the applicant's articles of incorporation, the certificate of incorporation issued by the State, and the corporate resolution designating signing authority. If any of these documents are missing, request them from the applicant.

NOTE: If an amended application is filed, verify that the corporation has not been dissolved and that the individual signing the amendment is authorized to sign documents on behalf of the corporation.

Background

Alaska corporations must pay State taxes and submit financial statements every 2 years. If the date of incorporation was an even year, they are due on even years, etc. Although taxes are due by January 2, the corporations have until February 2 to pay and are allowed an 8-month grace period.

At the end of the grace period, the State will notify the corporation that it is in non-compliance and will be involuntarily dissolved at the end of 60 days. If no action is taken by the corporation, a Certificate of Dissolution is issued at the end of the 60 days.

The corporation then has two years during which it can be reinstated. If the corporation

remains in non-compliance after the 2-year period, it must re-incorporate. Once a corporation has met all requirements, it will be issued a Certificate of Good Standing from the State.

To order a certificate, prepare an Advertising/Requisition Order form (AK 1510-9). The cost of the certificate is \$10.00. Send the completed form to the Procurement Section (953B) at the Anchorage District Office (telephone 267-1329). BLM has a blanket purchase agreement with the State and will be billed accordingly.

After obtaining a requisition number, call the State of the Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161 and request a certificate (hard copy) for the corporation. Be prepared to provide them with the requisition order number; or

If ordering a certificate by mail, prepare a Request for Good Standing Certificate form (AK 2650-13). Be sure to include of copy of the completed and signed requisition order before mailing to Juneau.

NOTE: Because there are other reasons for the dissolution of a corporation which may occur at any time, it will be necessary to verify corporate status periodically throughout the conveyance process.

(2) Legal Descriptions and Map(s)

The regulations at 43 CFR 2650.2(e)(1) through (5) state with specificity how to describe land selections and maps acceptable for depicting the area selected. These are to be submitted with the application form. If the written description differs from the map, the map will prevail; however, it is policy to request clarification from the corporation.

(3) Timely Filed

Regional corporations must have filed their selection applications under Sec. 12(c) of ANCSA by December 18, 1975, 43 CFR 2652.2, except as described in Sec. 1403 of ANILCA. The deadline for the selection period is statutory and cannot be waived. Selections filed after that date are invalid.

b Selection Limitations

Selection limitations are contained in Sec. 12(c) of ANCSA, Sec. 1403 of ANILCA, and 43 CFR 2652.3. Regional selections made pursuant to Sec.12(c) of ANCSA may only be made from lands withdrawn by Secs. 11(a)(1)(B), 11(a)(1)(C), and 11(a)(3).

The region may only select odd numbered townships in odd numbered ranges and even numbered townships in even numbered ranges (odd-odd, even-even) within Secs. 11(a)(1)(B) and 11(a)(1)(C) withdrawals.

Where a regional selection is made in any township, all available lands must be selected within that township except when such selection would exceed entitlement.

A regional corporation must select and receive conveyance to all available lands within the Sec. 11(a)(1) withdrawals. To the extent necessary to fulfill regional Sec. 12(c) entitlements, additional lands may be conveyed from the lands selected within the Sec. 11(a)(3) withdrawals. Available lands not selected by the region within a Sec. 11(a)(1) withdrawal will be deemed selected and conveyed to the region.

Sec. 1403 of ANILCA amended Sec. 12(c) of ANCSA to allow regional corporations to select the mineral estate reserved to the United States (except for lands within a National Wildlife Refuge or NPRA) in any non-ANCSA patent issued pursuant to the public land laws as follows:

At the request of the regional corporation, reserved minerals not withdrawn under Sec. 11(a)(3) of ANCSA will be considered withdrawn and properly selected if such lands are surrounded by or contiguous to lands withdrawn by Sec. 11(a)(3) and selected by the regional corporation;

At its option, the regional corporation may exclude the reserved minerals within a Sec. 11(a)(1) withdrawal from its selection;

If the regional corporation elects to receive title to the reserved minerals as outlined above, in-lieu surface estate will be identified (from lands withdrawn and selected for in-lieu subsurface, if possible) and up to two times the acreage entitlement will be withdrawn from vacant, unappropriated, and unreserved lands. The regional corporation will have 90 days from notice of withdrawal to make such in-lieu surface selections. Selections shall be in whole sections and, if possible, contiguous to lands selected by the regional or a village corporation.

c Priority List(s)

A regional corporation may select lands in excess of its entitlement, 43 CFR 2652.3(f). To acquire the most desirable lands first, the corporation should identify its priorities numerically in the order it wishes them conveyed. When identifying priorities, the corporation should consider the requirements for compactness and contiguity. If no priority list has been filed, request one from the applicant. Prior to any conveyance, check with the applicant to see if the priority list on file is still current. The applicant may update its priorities any time prior to conveyance.

Six corporations have filed Sec. 12(c) applications and some of the same lands were selected under Sec. 14(h)(8) (topfiling). In these instances, the corporation must notify BLM under which entitlement it wishes the lands conveyed.

9 Unavailable Lands

Lands within a village core township or lands validly selected by or tentatively approved to the State of Alaska are not available for selection under Sec. 12(c) of ANCSA.

Rejections and relinquishments. If an application is untimely filed, contains lands which are not available for selection, includes defects which are not curable, or the

region does not furnish required documentation after it has been requested in writing, the application is subject to rejection by decision at this time. The preferred method is to obtain a relinquishment from the regional corporation rather than issuing a rejection decision, if possible.

A letter is usually written to the applicant requesting a relinquishment. Refer to Branch policy as to whether a relinquishment request or a rejection by decision is preferred.

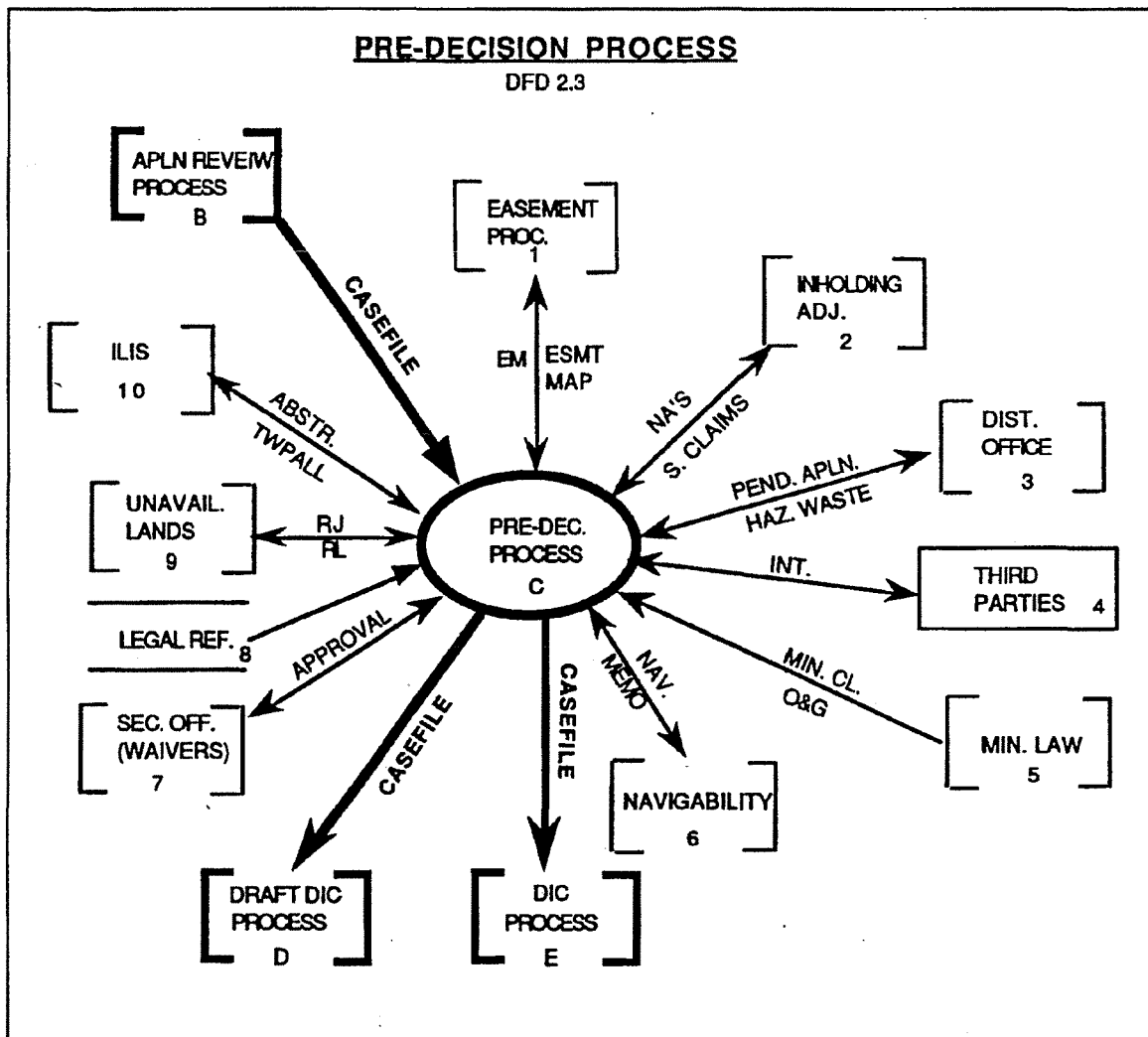
If a relinquishment is submitted, acknowledge receipt and confirm whether or not it is effective. For clarification purposes, a relinquishment takes effect immediately upon filing, 18 LD 589, with the exception of conditional relinquishments. A determination must be made on the propriety of a conditional relinquishment. Normally, conditional relinquishments will not be accepted. An unconditional relinquishment takes effect the moment it is filed in the proper office and its effectiveness is not contingent upon official BLM notice of its receipt or acceptance. The land, however, will not be subject to further appropriation until the relinquishment has been noted to the land status records, 43 CFR 1825.1(b). Lands unavailable for other reasons will usually be addressed in the Draft Decision To Issue Conveyance (DDIC) or Decision to Issue Conveyance (DIC) Process, E-8.

10 Sec. 3(e) Determinations

If the selected lands are within a Sec. 11(a)(1) withdrawal and subject to Sec. 3(e) of ANCSA, refer to Appendix B for further information.

11 Title Recovery

If it is determined that lands have been erroneously conveyed to another entity, such as the State, it may be necessary to pursue title recovery. Refer to the Title Recovery Handbook for further information.



C Pre-Decision Process

If it is determined that there are lands available for conveyance to the regional corporation after completing the Application Review Process, proceed with adjudication. Do not write the decision now. It may be necessary to request additional information from other entities for use in preparing the decision. Request the following information as appropriate:

1 Easement Process

Section 17(b) of ANCSA and 43 CFR 2650.4-7 authorize the identification and reservation of public easements across regional-selected lands which are reasonably necessary to guarantee access to publicly owned lands or major waterways; guarantee international treaty obligations; or provide access to present existing Federal, State, or municipal corporation sites.

With the exception of easements within ANCSA Sec. 3(e) applications (see 3(e) process Appendix B), district offices (DOs) identify and recommend easements to be reserved to the United States (U.S.) across regional-selected lands.

a Easement Maps

Title and Land Status (T&LS) is responsible for preparing and noting easement maps which will be included in the decision package. An easement map consists of a base map (USGS 1:63,360 quad) and separate overlays depicting the selection pattern and any easements to be reserved. The mylar originals and the selection and easement overlays are kept on file in T&LS.

Easements reserved to the U.S. pursuant to Sec. 17(b) of ANCSA are plotted on the easement map using a unique identification code. Easements are indicated by a circle containing an easement number (usually on top) and a "sponsor code" which indicates the group or agency requesting the easement.

Example of Easement Identification Number (EIN):

Easement No.	1
Sponsor Code	D1,D9

See Illustration 1 (Easement and Navigability Legend) for a list of easement notation symbols and sponsor codes.

b Easement Identification

(1) Pre-Easement Request Procedures

Request the regional easement case file from Docket using a case file request form (AK 1274-20). The easement file will have a different serial number than the selection file but will have the same suffix. For example, if the regional selection file serial number is F-19155-15, the corresponding easement file is F-21790-15.

Request blackline work copies of the easement map(s) for the regional selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application documents in the regional selection case file, verify that the selection pattern is correctly noted to the easement map. Although the selection may be less than an entire section, the easement map may show the entire section as selected. It is recommended that the work map be noted to depict any amendments or relinquishments using the color code suggested in the DIC Process E-2.

If the selection is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

If easement maps have never been prepared for the regional selection area, submit form AK 1500-8 and a paper copy of the quad map or protraction diagram showing the selection area to T&LS requesting them to create an easement quad and note the selection

on the easement map. T&LS will forward the mylar and overlay(s) to the print shop for reproduction. The print shop will deliver the finished copies to the adjudicator. Approximate timeframe: 2 weeks.

NOTE: Some of the older easement maps may have an "o" noted to some sections. This notation was used to indicate that the lands were the lowest conveyance priority and were considered "overselections". Overselections are no longer identified on the easement maps and the lands are depicted as selected without the "o".

(2) Easement Request

The first step in the easement process is to identify the lands to be conveyed and request the DO to review them and identify any easements to be reserved to the U.S. in an easement memorandum (EM). No lands may be approved for conveyance to the regional corporation which have not been included in an EM. To do so would deprive interested parties of the opportunity for input in the easement process.

Review the easement/regional selection files to determine if the lands have ever been included in an EM. If the selected lands have never been included in an EM, prepare a **Request for Easement Recommendations**. If the lands have been previously included in an EM which is more than one year old, prepare a **Request for Easement Review**.

Requests submitted to the DO for easement work must include a complete and accurate description of the lands to be conveyed and easement maps depicting the correct regional selection pattern.

When requesting easements, the land description provided to the DO is generally by township, range and section. There is no attempt to identify exclusions such as patented lands, Native allotments, or navigable waters. For comparison, the following is an example of the land descriptions used to describe the same lands in the decision to Issue Conveyance (DIC) and the easement request:

In the easement request:

T. 4 S., R. 4 W., Any Meridian
Secs. 1 to 4, inclusive;
Secs. 10, 11, and 12;
Sec. 14.

Containing approximately 3,000 acres.

In the DIC:

U.S. Survey No. 304, Alaska.

Containing 5.58 acres.....

T. 4 S., R. 4 W., Any Meridian
Sec. 1, excluding the Yukon River;
Sec. 2, excluding Native Allotment
F-12345;
Secs. 3 and 4, excluding U.S. Survey
No. 304;
Secs. 10, 11 and 12, excluding the
Yukon River;
Sec. 14.

Containing approximately 2,994 acres.

Aggregating approximately 3,000 acres.

(3) District Response

Request for Easement Recommendations. The DO will review the lands and identify easements to be reserved. All affected parties (Native, State, Federal or other individuals) will be provided the opportunity to review the proposed easement recommendations and, where possible, resolve any conflicts prior to issuing the EM.

Request for Easement Review. The DO will review the easements previously identified in the old EM and determine if any changes are necessary. Any changes will be coordinated with the affected parties prior to issuing the EM.

In both cases, T&LS will note the easements to be reserved on the easement map overlays and the DO will issue the original EM to the appropriate Conveyances Branch Chief with a set of updated easements maps. Any easements identified in the EM will be inserted verbatim in the decision.

NOTE: The DO may request the adjudicator to attend easement meetings during the easement identification process.

Approximate timeframe for the entire easement process: 9 to 12 months.

2 Inholding Adjudication

Inholdings are conflicting claims within the exterior boundary of the regional selection (e.g., Native allotments, settlement claims, ANCSA Sec. 3(e) applications, etc.). Inholdings generally require special survey (as opposed to rectangular net survey). Identify all pending inholdings using the status records and ILIS information and order the case files from Docket using form AK 1274-20.

It is encouraged that all inholdings be adjudicated prior to conveying lands to the regional corporation, if possible. If there is sufficient time to do so, adjudicate the claims to determine validity. For example, process Native allotment claims to the point of Request for Survey, or at least to the stage of Final Date to Amend. See the Native Allotment Handbook or the Settlement Claims Handbook for the steps needed to complete adjudication of these inholdings.

3 District Office

a Pending Use Applications

Applications for the temporary or limited right to use the land are referred to as use applications (e.g., leases, contracts, permits, rights-of-way, or easements). All pending use applications on selected lands must be adjudicated and a decision issued

granting or denying the application before conveying the lands to the regional corporation, Nelbro Packing Co., 63 IBLA 176 (1982).

Check the status records and TWPALL to identify any pending use applications. By memorandum or short note transmittal, request the DO to adjudicate any pending use applications. Identify a target date for issuing the DIC and request notification when adjudication is complete.

NOTE: If lands within the Trans-Alaska Pipeline System (TAPS) corridor are being conveyed, request the Division of Mineral Resources, Branch of Pipeline Monitoring (983) to adjudicate any pending use applications within the corridor.

Approximate timeframe: 1 to 12 months.

b Hazardous Materials Review

RESERVED

4 Third Party Interests

Third party interests are any interests created and/or administered by any Federal agency (other than BLM) on regional selected lands.

Prior to the passage of ANCSA, Federal agencies were often granted the authority to create and administer interests on lands withdrawn for their use. Sec. 22(i) of ANCSA limited the authority to administer lands withdrawn for Native selection to the Secretary of Agriculture or the Secretary of the Interior. Therefore, as of December 18, 1971, administration of federal lands withdrawn by ANCSA for Native selection and the authority to issue leases, permits, rights-of-way, etc., on such lands is limited to:

Forest Service
BLM
Fish and Wildlife Service
National Park Service
Bureau of Indian Affairs

5 Mineral Law

Mining claim recordations and applications filed pursuant to the mineral leasing laws are not noted on the status plats. Review the ILIS records to determine if there are active mining claims, pending oil and gas lease offers, or granted oil and gas leases within the conveyance area. The information can be retrieved on-line using the following commands:

TWPALL; or
MSK011 and MSK021

If any such applications affect the conveyance area, request the Branch of Mineral Law (982) to review the cases and take appropriate action using the Request for Minerals Adjudication Review form, Illustration 2. Attach a copy of the appropriate computer printout with the request.

6 Navigability Section

The Submerged Lands Act of May 22, 1953, P. L. 31, 43 U.S.C 1391, provided that title to the land beneath navigable water bodies in Alaska would pass to the State at the time of statehood unless reserved to the U.S. The Navigability Section (924) reviews water bodies and makes navigability recommendations. Lakes less than 50 acres in size and rivers less than 3 chains wide which are determined navigable are identified in a navigability report. The State-owned submerged lands can then be excluded from conveyance and not charged against the Native corporations' acreage entitlement.

In February of 1987, the standards used by BLM to determine navigability were redefined as a result of an appeal concerning navigability of the Gulkana River. The District Court determined that streams and rivers suitable for watercraft carrying a commercial quantity of goods (about a thousand pounds or more of cargo) are potentially navigable, Alaska v. United States et al., No. A80-359 Civil (D. Alaska 1987). The so-called "Gulkana Standard" was subsequently upheld by the Ninth Circuit Court of Appeals in December of 1989, State of Alaska v. Ahtna, Inc., 891 F.2d 1401 (9th Cir. 1989).

If the selected lands are being approved for interim conveyance (IC) in the decision, a navigability determination is not required.

If the selected lands are being approved for patent in the decision, review the easement and regional selection files to see if a navigability determination has been prepared for the selection area. If there is no determination in the file or the determination was issued prior to February of 1987, request a navigability determination from the Navigability Section using Glossary 227a.

NOTE: In order to conform pre-Gulkana navigability determinations to the new criteria on ICd lands, BLM agreed to review navigability determinations issued prior to February of 1987 and adjust the IC acreage at the request of the Native corporations. All property owners (surface and subsurface) must agree to a re-determination before any changes can be made. The procedures for requesting re-determinations are contained in the Pre-Patent Process.

7 Secretary of the Interior

The Secretary is authorized to waive any nonstatutory requirement of the regulations to correct minor technical and procedural errors, 43 CFR 2650.0-8. Examine the request for a waiver to determine if granting it would impair the rights of third parties, impair the land management principles of the remaining public lands or leave unduly fragmented parcels of public land.

Waiver Recommended

If the request meets the requirements for a waiver, prepare an approval package from the State Director (SD) to the Washington Office. The package must include:

A copy of the initial request;

A transmittal memo to the Director, BLM from the SD;

A memorandum from the Director, BLM to the Assistant Secretary, Land and Minerals Management, outlining the details of the request;

A summary page;

Any other pertinent information necessary to support approval of the request;

A proposed "Waiver of the Regulations" for publication in the Federal Register.

If granting the waiver would result in the need to withdraw lands by PLO, close coordination with the Withdrawal Staff in the Branch of Land Resources (932) will be necessary.

Waiver Not Recommended

If the request does not meet the requirements or the regulation is statutory in nature, contact the corporation and give it the opportunity to state its position or provide additional information. If, based on that contact our position remains the same, prepare a letter for the SD's signature to the corporation denying the request and including the reasons for denial.

8 Legal References

The legal references pertaining to regional selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, the U.S. Code of Federal Regulations, and various public land orders. Specific acts, agreements, or orders affecting a regional corporation are listed in Appendix A.

In the Pre-Decision Process, any regional-specific legal references must be considered to determine the correct requirements for processing an application and to determine what information must be requested from other offices or agencies.

9 Unavailable Lands

If it is determined during the Pre-Decision Process that all of the subject lands are invalidly selected and unavailable for conveyance, the application is subject to rejection. In accordance with Branch policy, either request the regional corporation to relinquish the unavailable lands or prepare a decision rejecting the selection application. Relinquishments submitted to BLM must be signed by an authorized individual of record.

Upon submission, acknowledge receipt and confirm whether or not the relinquishment is effective.

A valid relinquishment takes effect the moment it is filed in the proper office and its effectiveness is not contingent upon official BLM notice of its receipt or acceptance. The land, however, will not be subject to further appropriation until the relinquishment has been noted to the land status records, 43 CFR 1825.1(b) and 18 LD 589. Conditional relinquishments are generally not accepted unless it is determined that the condition has been met or will occur automatically based on law.

10 ILIS

It may not be necessary to retrieve additional information in the Pre-Decision Process if the data obtained during the Application Review Process is current. It is important, however, to update the computer to correct any errors detected or to add the codes for any actions taken in the Pre-Decision Process.

To update the abstract refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up copy and the new abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

EXAMPLE

Serial No. _____ (265)

Date

Memorandum

To: Chief, Branch of Mineral Law (982)

From: Chief, Branch of _____ Adjudication (96 _)

Subject: Request for Mineral Adjudication and/or Review

Please review, adjudicate, and/or take whatever action necessary for the mining claims, granted oil and gas leases, or lease offers within the following land description. For mining claims, please verify the claim location, that the claimants have complied with the requirements of Sec. 314 of FLPMA, and that the lands were available at the time of location. For granted oil and gas leases, a waiver of administration may be needed

upon conveyance. For offers to lease, a rejection is required prior to conveyance. Please take whatever action is appropriate.

Legal description: (If the land description is too lengthy for the space allowed, please include as an attachment).

Lands to be conveyed to: (Please Circle)

_____ Native Corp. DIC/IC/PATENT/CP
(name)

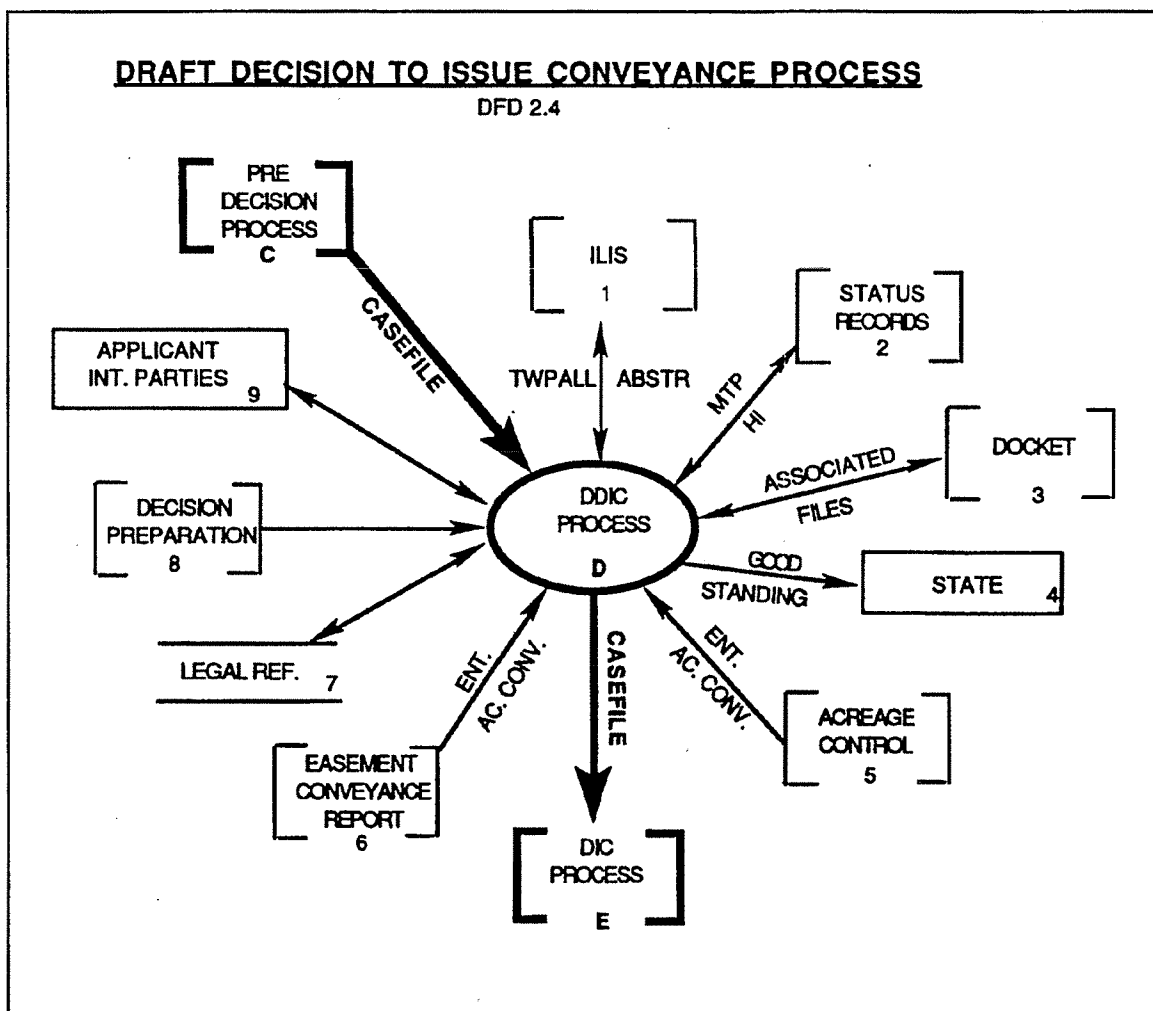
____ Sec.11(a)(1)/16 Withdrawal

____ Sec.11(a)(3)withdrawal

____ Sec.14(h)

____ Other (Please explain)

The serial numbers for the mining claims, granted oil and gas leases and/or offers to lease for your review and/or action are as follows: (List or attach a TWPALL or MSK) .



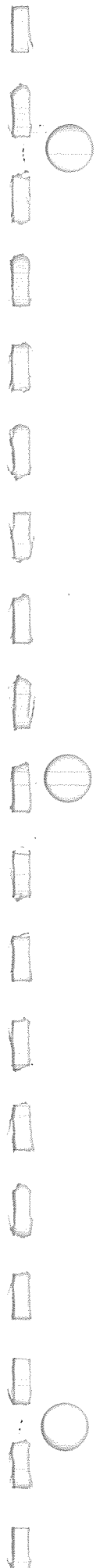
D Draft Decision to Issue Conveyance (DDIC) Process

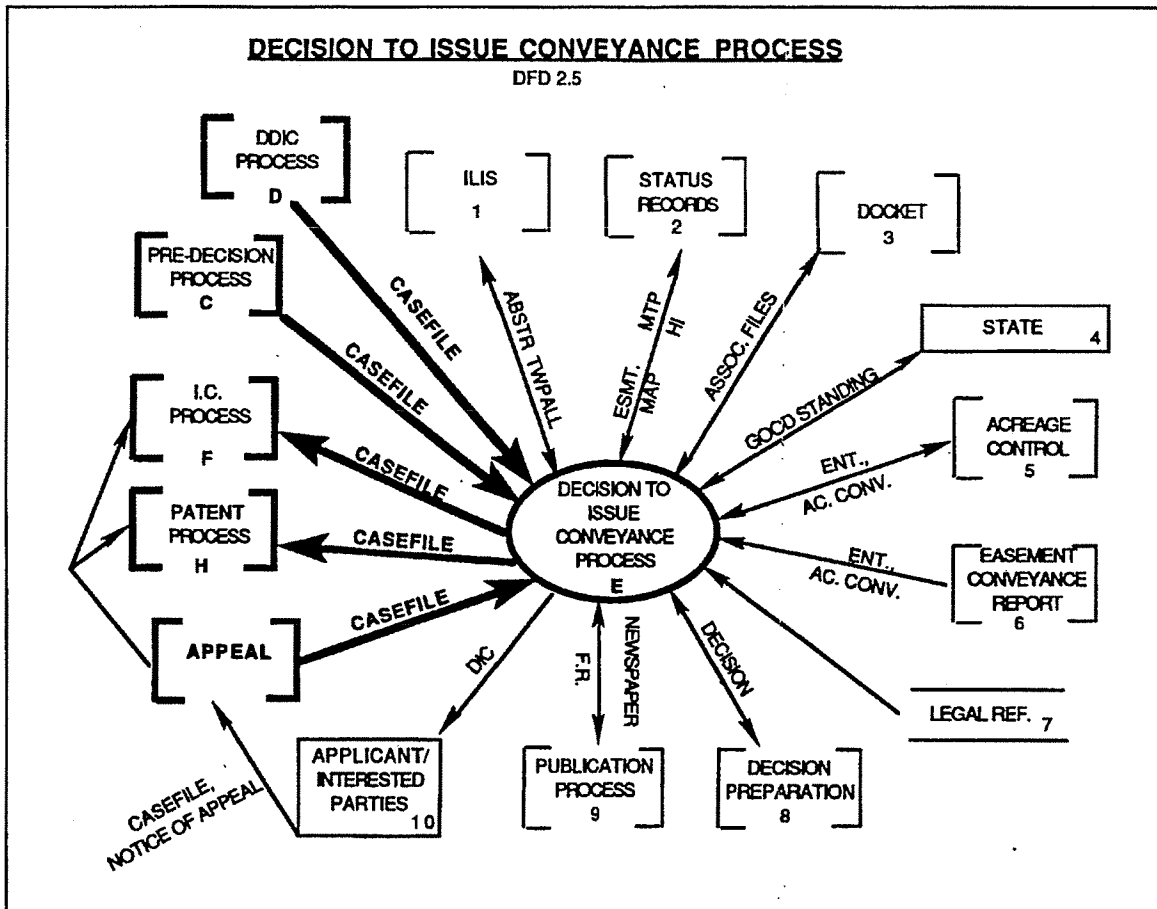
After the application has been reviewed and all pertinent steps in the Pre-Decision Process have been completed, begin preparing the decision.

In order to provide maximum Native participation in the conveyance process prior to issuing an appealable decision, the corporations were routinely provided a draft document to review. This process provided the corporation and BLM with the opportunity to meet and discuss the conveyance process and resolve potential problems.

The DDIC Process is optional and is followed only when a corporation requests the opportunity to review a draft decision prior to BLM officially issuing the document. In recent years, the majority of corporations have indicated that a draft is not necessary. To determine whether the regional corporation wishes to receive a DDIC, it may be necessary to consult others within the Branch who are familiar with the corporation's preferences or to contact the corporation.

Because both processes are very similar, the steps in the DDIC Process will be discussed in the Decision to Issue Conveyance (DIC) Process. Differences between the two processes are noted in **bold print**.





E Decision to Issue Conveyance (DIC) Process

During this process, the decision is written using the information that was collected during the Pre-Decision Process. Use Glossary 624a as reference for preparing the document. If the regional corporation is not receiving a draft decision to issue conveyance (DDIC), begin the DIC Process. If a DDIC has already been prepared, incorporate the agreed upon changes into the document and continue with the DIC Process. If the corporation is receiving a DDIC, continue this process and include any additional steps noted in **bold print**.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file and any associated case files. **In the DDIC process, computer updating may not be necessary if the abstracts were kept current in the Pre-Decision Process.** In the DIC Process it will be necessary to add the codes for any actions taken.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law

Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Master Title Plat (MTP)

Obtain a current MTP from the Public Room and prepare a color-coded work plat for the subject lands. The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that may affect the regional selection. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the decision (e.g., has the regional selection been previously rejected as to each Native allotment within the selection area).

Using a calculator, prepare an acreage tape identifying the lands to be conveyed section-by-section and attach to the remarks column of the MTP.

b Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed, replace the existing copy with a new HI.

3 Docket

Review the MTPs and TWPALL for the selection area and order the case files for any conflicting claims from Docket using form AK-1274-20. It is suggested that the adjudicator keep a rolodex as a back-up to the Docket tracking system. Keep the case files in an accessible location in the event Docket personnel need to retrieve them for public view, etc.

Review all associated case files and record any information related to the regional selection area on the work plat.

4 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (information will be provided over the phone). Document the telephone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the corporation and put it on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the corporation and request that it take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporate qualification requirements, see the Application Review Process B-8.

5 Acreage Control

All land conveyances made to the corporations must be closely monitored to assure that legislative entitlements are met but not exceeded. It is the individual responsibility of each adjudicator to monitor conveyance acreage to prevent conveyances in excess of lawful entitlement.

a Previous Conveyances

If the corporation has received previous conveyances, verify the remaining entitlement using the Easement/Conveyance Progress Report (ECPR). If the ECPR is not accurate or current, calculate the conveyed acreage using the previously issued conveyance/reconveyance documents, MTPs, and survey plats (if any).

b Holdback

To reduce the risk of conveying lands to the corporation in excess of entitlement, a certain amount of acreage is held back from conveyance until the lands have been surveyed. The amount held back varies from corporation to corporation and depends on the survey status of the lands and the number of unadjudicated inholdings. Full entitlement can only be reached when all lands are surveyed and patented.

c Rule of Approximation

The rule of approximation applies only to surveyed lands and provides that any lands conveyed in excess of entitlement must be less than the deficiency would be if the smallest legal subdivision were eliminated, 43 CFR 2650.5-2. It may be necessary to invoke the rule of approximation when preparing to convey full entitlement.

6 Easement/Conveyance Progress Report (ECPR)

The ECPR contains information on all conveyances issued to the corporations. The ECPR was printed by IRM once a month and distributed to each Branch. After conversion to ILIS, this report will no longer be in the system, and will be replaced by a new acreage control system.

Review the ECPR and verify all pertinent conveyance information including information for any previous conveyances issued to the corporation.

7 Legal References

The legal references pertaining to regional selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, the U.S. Code of Federal Regulations, and various public land orders. Specific acts, agreements, or orders affecting a regional corporation are listed in Appendix A. In the DIC Process, any region-specific legal references must be considered to determine the correct requirements for processing an application and to determine any affects on acreage entitlements and availability of lands.

8 Decision Preparation

a Village Selections

Village selections within Secs. 11(a)(1) and 11(a)(3) withdrawals are given priority over regional corporation selections for the same lands, 43 CFR 2651.4(d). Therefore, a regional selection is not valid where it conflicts with a village selection. No further action can be taken on approving the regional selection unless a relinquishment of the village selection is received. Policy is to take no action on the regional selection until the village selection has been adjudicated.

b Regional Selections

Selections made under Sec. 12(c) predate any selections under Sec. 14(h). However, if the lands are available and also dually selected under Secs. 12(c) and 14(h), it is policy that the corporation be asked to indicate under which entitlement it wishes the lands conveyed.

c State Selections

Valid State selections filed pursuant to Sec. 6(b) of the Alaska Statehood Act must be for lands that are vacant, unappropriated and unreserved at the time of State selection. Community grant selections filed pursuant to Sec. 6(a) of the Statehood Act are for vacant, unappropriated land. In either case, lands validly selected by or tentatively approved to the State are not available for regional selection. Invalid State selections will be rejected as to the lands approved for conveyance in the decision.

d Native Allotments

As stated in the Pre-Decision Process, C-2 it is encouraged that Native allotments be adjudicated to the point of "Request for Survey" or at least to the "Final Date to Amend" stage prior to conveying the adjacent lands to a regional corporation. Regional corporations are not required to select lands in pending Native allotments but are allowed to topfile them, 43 CFR 2651.4(h). If the Native allotment is not topfiled, holes or gaps in the selection pattern might result if the Native allotment application is rejected. Most Native corporations topfiled all Native allotment applications within their selection area with a blanket selection.

Native allotment files should be reviewed to confirm the correct location of the allotment. If an allotment has not been finally adjudicated, exclude it from the lands approved for conveyance in the DIC.

e Townsites

BLM interprets Native rights to select townsites within the parameters of the Director's Memorandum of June 30, 1972 (approved by the Acting Secretary on July 13, 1972). The memorandum provides that land which was vacant and unappropriated on December 18, 1971 but which had previously been segregated within the exterior boundary of a townsite established under the Townsite Act of March 3, 1891, 26 Stat. 1099, 43 U.S.C. 732, or the Alaska Native Townsite Act (ANTA) of May 25, 1926, 44 Stat. 629, 43 U.S.C. 733-736 (both repealed by FLPMA) was subject to valid existing rights under the terms of ANCSA Sec. 11(a)(1) and therefore was not withdrawn for selection by Native corporations under Sec. 12(a)(1).

The segregative effect referred to was operative upon notation to the public land records of a petition filed by the townsite trustee.

A complete discussion of the townsite issue is contained in the decision which was affirmed by the 9th Circuit Court in December of 1986, Aleknagik Natives, Ltd., et al. v. United States, A77-200 Civil, (1986).

f Valid Existing Rights

Sec. 14(g) of ANCSA mandated that all conveyances be made subject to valid existing rights. These rights include those created by BLM as well as those which are identified as third-party interests by another federal agency having jurisdiction of the land at the time the interest was created.

The regulations at 43 CFR 2650.3-1 provide that rights leading to acquisition of title are excluded from a conveyance but that conveyances shall include land subject to rights of a temporary or limited nature such as leases, contracts, permits, rights-of-way, or easements. Where known, these interests are identified and protected.

In addition, all conveyances under ANCSA are made subject to valid existing rights in general to protect the rights of unknown interests or interests not specifically protected (see Glossary 624a card G for specific wording). It must be noted, however, that the administrative act of listing an interest as a valid existing right or failing to list it does not create or extinguish the right, and the ultimate validity of interests may require civil court action.

Secretarial Order 3029 (Departmental Manual at 601 DM 2) provides that BLM has an obligation to determine the validity of those interests which are created under Federal law. The exceptions being unpatented mining claims filed under the Mining Law of 1872 and right-of-way claims under R.S. 2477.

g Third-Party Interests

Third-party interests are those created and/or administered by a Federal agency other than BLM on regional selected lands. Prior to conveyance of lands which have been or are currently under the jurisdiction of another Federal agency, requests for identification of any interests created should have been forwarded to the appropriate agency (see Pre-Decision Process C-4).

When the response from the Federal agency is received, review the interest and exclude it from the conveyance or make the conveyance "subject to" the interest.

If the interest expires upon conveyance, the decision will include a paragraph which identifies the interest by serial number and name of applicant, and states that the permit, lease, etc., will terminate upon conveyance of the lands.

The validity of interests created by agencies other than the Forest Service, Fish and Wildlife Service, National Park Service, or the Bureau of Indian Affairs created prior to ANCSA may be determined by examining the authority granted to that agency by PLO or delegation of authority. Those interests created by other Federal agencies after December 18, 1971 are not considered valid.

h Granted Rights-of-Way

Rights-of-way include roads and highways, pipelines, powerlines, material sites, etc., which are all noted to the MTPs if administered by BLM. In Alaska there have been many authorities for granting rights-of-way on or across public land. As of October 21, 1976, Title V of FLPMA is the only authority to issue rights-of-way. A conveyance under ANCSA must be made subject to any granted right-of-way. The following guidance is provided for some specific types of right-of-way grants:

(1) Material Sites

Federal aid material site rights-of-way, granted to the State as a source of materials for construction or maintenance of federal aid highways, provided that an unspecified amount of material was to be taken from the site for the purpose of road building or maintenance and that proof of construction be filed within five years.

If the validity of a material site is questioned, the D.O. is required to adjudicate to determine validity prior to conveyance.

Validity Determination Made Prior to Conveyance

If the material site is determined to be valid, the conveyance will be made subject to the granted right-of-way. If found to be invalid through non-compliance, the grant must be cancelled prior to conveyance.

Validity Determination Not Made Prior to Conveyance

If conveyance is made prior to a validity determination, the lands within the material site should be excluded in the DIC and the paragraph in the decision which gives reasons for excluding lands should include "lands within material site rights-of-way, pending a validity determination".

Once the determination, is made, a decision will be written approving the previously excluded lands within the material site right-of-way for conveyance.

If the material site is determined valid, the lands will be described by township, range and section as "those lands within material site right-of-way [*serial number*] " and the conveyance will be made subject to the material site right-of-way.

If the site is determined invalid and cancelled, the lands will be described in the DIC by township, range and section, "those lands formerly within material site right-of-way [*serial number*]."

(2) Railroad Right-of-Way

On July 5, 1985, the Alaska Railroad was transferred to the State of Alaska pursuant to the Alaska Railroad Transfer Act of 1982 (ARTA). Several types of documents were used for this transfer:

Patents to lands (all Federal interests which can range from fee title to exclusive use easements) that were surveyed and not claimed by others;

Interim conveyances for unsurveyed lands with no conflicting claims;

Quitclaim deeds for areas where federal interest was slight or non-existent;

A deed for exclusive use easement only within Denali National Park; and

Exclusive licenses for all lands with claims requiring adjudication. Licenses are temporary in nature and after adjudication of conflicting claims, will be replaced by patent.

All lands are identified in the documents as either railroad parcels, which are usually parcels of lands withdrawn by PLO or Executive Order for railroad purposes; or railroad right-of-way, which (with few exceptions) is a 200 foot strip of land extending 100 feet from the railroad centerline. All unadjudicated village and regional corporation land selection applications in conflict with railroad lands are identified as conflicts requiring adjudication in the exclusive license. All conflicting claims within the lands covered by the license will be adjudicated so that all remaining federal interest will be conveyed. The adjudication process is being completed by the Branch of Cook Inlet and Ahtna Adjudication (968) and is ongoing. In most cases, no lands identified as railroad property by any transfer document should be conveyed out of federal jurisdiction without a reservation to the United States of not less than an exclusive use easement.

BLM is not responsible for conveying any lands pursuant to ARTA. BLM performs the adjudication and prepares all railroad conveyance documents. The documents are then signed and issued to the Alaska Railroad Corporation (a quasi-public corporation created by the State of Alaska to receive conveyance of the railroad) by the Federal Railroad Administration.

If an adjudicator is conveying lands to a Native corporation which include the railroad right-of-way or a railroad parcel, contact (968) to clarify the status of the lands. It may be necessary for (968) staff to take some action prior to conveyance.

(3) Roads and Highways

The following authorities were used to enable construction of roads or highways. Conveyances must be made subject to these roads and highways. Roads and highways sometimes require more than one type of reservation (e.g., all roads subject to the easements established by PLO 1613 were included in the QCD to the State of Alaska under the Omnibus Act and a conveyance would be subject to both). See Appendix E for trails and roads information reference sources.

PLO 1613 Highways. PLO 1613 revoked PLO 601 which reserved public lands for highway purposes (see manual section on PLO 1613) and established an easement extending 150 feet on each side of the centerline of the existing road as of

April 11, 1958. These easements were included in the QCD to the State under the Omnibus Act. The affected highways are:

- Alaska Highway
- Richardson Highway
- Haines Highway
- Glenn Highway
- Seward-Anchorage Highway (excluding lands in Chugach National Forest)
- Anchorage-Lake Spenard Highway
- Fairbanks-College Highway.
- Through roads (100 feet centerline)
- Feeder roads (50 feet centerline)

PLO 1613 Lots. PLO 1613 gave the backland owner the preference right for lands released from withdrawal with no time limit for application. ANCAB determined that the preference rights created by PLO 1613 are valid existing rights under ANCSA and the lands are not available for selection under ANCSA if the backland owner had a patent or valid entry on April 11, 1958, the date of PLO 1613, ??Raymond A. Kreig, 86 ID 189, (1979).??

R.S. 2477. Revised statute 2477 granted a right-of-way to any person, state or local government for the construction of highways over public lands not reserved for public use. On October 21, 1976, FLPMA repealed R.S. 2477. New highways could not be constructed after that date under the authority of R.S. 2477. BLM has no authority to adjudicate a claimed R.S. 2477 because they were granted by Congress, Act of July 26, 1866. Therefore, the validity of a claim can only be determined by the courts, (see also 601 DM2). Except as outlined below, R.S. 2477 claims will not be addressed in decisions or conveyance documents.

If the State claims an R.S. 2477 on a 17(b) easement, the easement will be made subject to the "claimed R.S. 2477 right-of-way, if valid". If the State proves validity of an R.S. 2477 through later judicial action, the 17(b) easement can be deleted.

44 LD 513. 44 LD 513 is an abbreviation that refers to a letter of instruction found in volume 44, Land Decisions, page 513, dated January 13, 1916. This instruction provides for exception in patents where telephone lines, roads, trails, bridges and similar improvements have been constructed on federal lands with federal monies and are being maintained by and for the United States. Federal agencies used the 44 LD 513 authority throughout Alaska for many other purposes including roads and National Guard sites. These were identified and noted to the records. ANCSA requires BLM to convey all right, title and interest of the United States to the Native corporations, which includes lands identified as 44 LD 513s. However, a federal agency may request an ANCSA Sec. 3(e) determination be made, (see Sec. 3(e) Process, Appendix B) if lands were being used as a federal installation at the time of ANCSA, or if a trail for public use is identified, it may be reserved by a 17(b) easement.

Omnibus Roads. The Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141, gave the Secretary of Commerce authority to quitclaim the rights-of-way for existing and

proposed Federal Aid Highways to the State of Alaska. The QCD was executed June 30, 1959.

BLM is not required nor obligated to specify width of Omnibus Roads; however, if the widths and the supporting information (PLO, etc.) is available, identify it as a "subject to" in the decision. See Appendix D for additional reference information.

Highway Easement Deeds. The Act of Congress of August 27, 1958, as amended, 43 U.S.C. 317, authorized the Secretary of Commerce to issue deeds for rights-of-way to the State of Alaska for initial construction and widening or rerouting existing roads. The deeds are required to enable the State to receive federal aid for construction of certain highways. The deeds are serialized and plotted on the MTPs and may overlap Omnibus roads, R.S. 2477 roads and other highway easement deeds. These are identified as a "subject to" in the decision.

i Powersites

(1) Secs. 11 (a)(1) and 16(a) Withdrawals

Power projects, powersite classifications, and powersite reserves within Secs. 11(a)(1) and 16(a) withdrawals are available for selection by regional corporations, excluding those areas actually used in connection with a federal project determined to meet the criteria for smallest practicable tract enclosing a federal facility as defined under Sec. 3(e) of ANCSA. An opening for entry under Sec. 24 of the Federal Power Act is not required prior to conveyance, and conveyances are not issued subject to the standard reservations normally prescribed to protect federal interests in power withdrawals (cf. Opinion of the Associate Solicitor of October 27, 1977).

(2) Sec. 11(a)(3) Withdrawal

Lands which were set aside for power projects, power reservations, or power classifications within deficiency lands withdrawn by Sec. 11(a)(3) of ANCSA may be selected by Native corporations if the areas have been open to disposition under the public land laws by Sec. 24 of the Federal Power Act. Conveyance under this provision is "subject to" a reservation of the right of the United States or its permittees or licensees to enter upon, occupy and use any or all of the lands necessary for power purposes, 16 U.S.C. 818; 43 CFR 2320.

(3) Power Transmission Lines

Deficiency lands withdrawn pursuant to Sec. 11(a)(3) of ANCSA which are reserved or classified as powersites for the purpose of power transmission lines, with no other value for power purposes, are open to selection subject to Sec. 24 of the Federal Power Act, 16 U.S.C. 818, as provided by the general determination of the Federal Power Commission, 43 CFR 2320.2.

Conveyances of lands reserved for existing powerlines within Secs. 11(a)(1) or 16(a) withdrawals are not issued with a Sec. 24 reservation, but must be granted "subject to" the powerlines.

(4) Power Project Licenses

Lands within power project licenses may be selected; however, all conveyances shall be granted "subject to" the license. This is consistent with the IBLA ruling that licensed power projects are valid existing rights, but are not rights normally excluded from selection and conveyance, as contemplated by Sec. 14(g) of ANCSA, such as those leading to acquisition of title or federal facilities as defined under Sec. 3(e) of ANCSA, Ketchikan Public Utilities, 79 IBLA 286 (1984).

Send a courtesy copies of any decision or conveyances involving power projects, reserves, and classifications to:

Federal Energy Regulatory Commission
825 N. Capitol St.
Washington, D.C. 20426
(w/plat(s))

j Coast Guard Installations

The U.S. Coast Guard has agreed to the use of ANCSA Sec. 17(b) easements for protection of certain navigational aids within Sec. 11(a)(1) withdrawals in lieu of fee simple retention in Federal ownership.

This approach has several advantages which can be applied as well to selections within Sec. 11(a)(3) withdrawals where the sites would have to be excluded and not subject to Sec. 3(e) of ANCSA:

No survey of retained Federal land is required;

No additional withdrawal action is required to identify the retained Federal lands;

If the site is relinquished by the agency, no revocation-restoration action is required;

The Native Corporation gets title to the land subject only to occasional entry by the Coast Guard for operation and maintenance and restriction on development within the clear arc of visibility.

These are important advantages which apply to all lands selected by Native corporations. It is BLM policy to minimize costs wherever possible without compromising Federal or Native corporation interests. Therefore, where improvements appear to be minor, the U.S. Coast Guard or other Federal agency will be contacted to determine if they are willing to accept the protection afforded by a 17(b) easement. If so, we will convey the land with a 17(b) reservation as long as there are no other impediments.

For instance, if the segregative effect is only from entry under the mining laws, allowance of applications on Sec. 11(a)(3) withdrawn lands would not be affected. However, segregation from entry under the public land laws would be a cause for rejection. In those instances where the selections can be allowed, adjudicators should check with the Withdrawal Staff in the Branch of Land Resources (932) to determine the appropriate action to be taken on the withdrawal application prior to conveyance to Native corporations and submit copies to (932) any time the action affects a withdrawal of record.

Termination of Segregative Effect. If the withdrawal application is denied, a notice must be published in the Federal Register within 30 days that the segregative effect has terminated to the extent the application is denied, 43 CFR 2310.2-1. This action is taken by the Withdrawal Staff in the Branch of Land Resources (932). Adjudicators should note that the segregative effect of withdrawal applications filed on or after FLPMA terminates two years after filing if no action has been taken to approve or deny the application. For all withdrawal applications filed prior to the date of FLPMA, the segregative effect terminated on October 20, 1991 if no action was taken. See also 43 CFR 2310.2-1(d) and (e) for appropriate Bureau action in these instances.

m Conservation System Units (CSUs)

On December 2, 1980, ANILCA designated all units of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument in Alaska as CSUs. The definition of a CSU in ANILCA included all existing units of such systems as they existed on the date of ANILCA as well as any units established, designated, or expanded by ANILCA and any future additions to or creations of such units.

ANILCA created or expanded CSUs are considered "different" from the national parks and wildlife refuges that existed prior to the passage of ANCSA. Regional selections made pursuant to Sec. 12 of ANCSA are not valid in old refuges. Regional selections made pursuant to Sec. 12 of ANCSA are not affected by CSUs or the PLO that withdrew the lands in the years preceding the passage of ANILCA because the ANCSA withdrawals predate 1980.

n BIA School Sites

Although the formal reserved status of BIA school sites was revoked by Sec. 19 of ANCSA, BIA had the authority under the Act of August 23, 1950, 64 Stat. 470, to dispose of lands and improvements no longer needed for federal school purposes. The Under that authority, BIA conveyed several school sites to the State by QCD. Those sites deeded to the State prior to ANCSA are not subject to an ANCSA Sec. 3(e) determination and are not available for conveyance to the Native corporations. The same is true of school sites which have been patented to the Townsite Trustee and held in trust for the municipality.

It was determined, however, that sites conveyed after December 18, 1971 which were subject to a Sec. 3(e) determination and where the language of the deeds conveyed "all of the right, title, and interest" of the BIA "if any," the QCD passed title to only the smallest practicable tract actually used by BIA during the selection period. Any lands determined to be public lands by a subsequent Sec. 3(e) determination will be conveyed to the Native corporation. See the Solicitor's opinion, "Deeds Issued by the Bureau of Indian Affairs", October 25, 1985.

In other cases, BIA granted long-term leases to the State for school sites. Some of these leases were issued for only the lands determined to be the smallest practicable tract under Sec. 3(e); however, if the lease included lands determined to be public lands under Sec. 3(e), conveyance of those lands to the Native corporation will be made subject to the lease. See Solicitor's opinion, BIA School Site Transfer, October 2, 1986 which addresses issuance of long-term leases as opposed to conveyance for school sites within the refuges.

o Minerals

(1) Mining Claims

Because mining claim recordations are not shown on the status plats, mining claim information is obtained from ILIS. Review the TWPALL for each township and range selected to identify any conflicts with mining claims. If mining claims are present, a request for review of the claims was required in the Pre-Decision Process (C-5). The response from Mineral Law (982) will provide information on mining claims in the immediate vicinity of the ANCSA selection which have been validly located and maintained pursuant to Sec. 314 of FLPMA.

Secs. 11(a)(1), 11(a)(2) and 16 Withdrawals. Within ANCSA sections 11(a)(1), 11(a)(2) and 16(a) withdrawals, Native corporations may select all public lands and interests therein, including lands embracing unpatented mining claims. Regional corporations are not required to select lands within an unpatented mining claim or millsite, 43 CFR 2651.4(e). Unless the region excludes the claim, BLM will convey all of the interest of the United States to the selecting corporation providing the mining claimant has not filed a survey application or a patent application with BLM. Thus, a corporation receives conveyance to the land, subject to the rights of the miners, if valid.

It is important to note that a mining claim recordation is not an application and does not appear on the land status records. However, Departmental regulation 43 CFR 2650.7(d) requires a decision proposing to convey lands be served on all known parties of record. The holder of a mining claim has until time of conveyance to the Native corporation to file a mineral survey application or an application for patent. When the mineral survey has been completed, a formal mineral patent application may be filed. Mineral survey applications and mineral patent applications will be excluded from conveyances to protect any valid existing right. The Native selection will not be rejected until the mineral patent application is approved. See Section C-5 of the Pre-Decision Process for requesting minerals adjudication and review.

Sec. 11(a)(3) Withdrawals. Lands withdrawn under Sec. 11(a)(3) of ANCSA were to be unreserved, vacant and unappropriated public lands. Valid mining claim recordations, even though unpatented, are appropriations, Wilbur v. U.S. ex rel Krushnik 280 U.S. 306, 316, 317 (1930). Therefore, properly recorded mining claims are excluded from conveyances within deficiency lands.

For lands formerly within mining claims in areas that were withdrawn by Secs. 11(a)(1) or 11(a)(3) of ANCSA, and the region excluded the mining claims from its selection the following applies:

If lands within mining claims which have been declared null and void ab initio ("ab initio" means from the beginning) or for which a location notice was never filed with BLM, the lands will be considered selected by the region and may be conveyed to make the selection and conveyance compact.

If mining claims were declared invalid or abandoned during the regional selection period, and if the corporation amended its application to include the former mining claims, the lands may be conveyed if the amendment was timely filed.

If the lands do not meet one of the above criteria, they must be excluded and can only be acquired by the corporation through exchange or special legislation.

(2) Mineral Survey Applications

Mineral survey applications are noted in the remarks column of the MTP as "affecting this township" and are also found in the TWPALL. Exclude these applications in the decision as they are considered an intent to go to patent. Therefore, as long as they remain of record, do not reject the regional selection.

(3) Mineral Patent Applications

Mineral patent applications are noted to the MTP with a mineral survey number (MS or ME Aplm. ____). Patent applications remain on the MTP until the patent has been issued to the claimant or the patent application has been rejected or withdrawn. Mineral patent applications must be excluded from the conveyance.

If a mineral application is rejected, the lands involved do not become available for conveyance under ANCSA until the rejection decision is final and the case is closed and removed from the BLM status records.

When a mineral application is rejected because of the mining claimant's failure to pursue the application with diligence, the rejection decision is issued without prejudice to the claimant to file a new application at a later date, provided the lands have not yet been conveyed.

The adjudicator may encounter a situation wherein an approved mineral survey appears on the status plat but has no active mining claim or mineral patent application associated with it. In these cases, the mineral survey may be conveyed to the Native corporation.

The adjudicator should check with the Branch of Mineral Law (982) to determine if the miner intends to file a mineral patent application. An approved mineral survey would be excluded only if the land were patented; there was a mineral patent application on file; or the Native corporation excluded it in its application.

After a mineral survey is approved, a period of six months is allowed for filing the formal mineral patent application. The application for survey remains on the plats and the survey is excluded from the conveyance.

(4) Granted Leases

A granted oil and gas lease constitutes a valid existing right under Sec. 14(g) of ANCSA. Therefore, conveyance of lands embraced in a lease must be made subject to that lease (see the Patent Handbook for standard wording to be used in the decision).

If the DIC includes all lands within the lease, send a copy of the DIC and a Notice of Intent to Waive Administration to the lessee by certified mail. After conveyance, send the lease file and copies of the decision and conveyance documents to the Branch of Mineral Law (982).

If the leased lands are entirely within the conveyance, the Branch of Mineral Law will waive administration of the lease to the Native Corporation.

If the lease is only partially conveyed, the Branch of Mineral Law will notify the Minerals Management Service (MMS) so that rents and royalties can be properly distributed. MMS will also be responsible for any escrow processing.

(5) Offers to Lease

Oil and gas lease offers are not considered valid existing rights and must be rejected prior to conveyance. Since the decision to reject such offers must be prepared in the Branch of Mineral Law (982) and transmitted to Washington for signature by the Secretary of the Interior or his designee, the land description should be forwarded to (982) as early in the conveyance process as possible as discussed in C-5 of the Pre-Decision Process. Since the Secretary is the final authority within the Department and no administrative appeal process is available, the decision is final upon signature and the status is clear for conveyance.

p Airport Leases/Conveyances

RESERVED

q Waiver of Administration

Conveyances made pursuant to ANCSA are subject to any lease, contract, permit, right-of-way, or easement issued prior to the conveyance. Sec. 14(g) of ANCSA

provides that the United States shall continue to administer any such use authorizations unless the managing agency waives administration.

Departmental regulation 43 CFR 2650.4-3 requires that the Department of Interior waive administration when the conveyance covers all the land embraced within a lease, contract, permit, right-of-way, or easement unless it is determined that the interest of the United States is best served by the continued management by the United States.

If the interest is partially located within the lands to be conveyed, BLM will waive administration unless there is a finding that the United States should continue to administer the interest.

If it is determined that administration of the interest is to be waived in its entirety or in part, issue a "Notice of Intent to Waive Administration" at the time of the DIC. See Illustration 3. Send a copy with the DIC to the corporation and to the interest holder.

r Native Escrow

Section 2(a) of P.L. 94-204, 89 Stat. 1145, dated January 2, 1976, amended ANCSA and directed that an escrow account be established for Native corporations, and that all proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA be deposited to the account. This account is to be held by the Secretary until lands selected pursuant to ANCSA have been conveyed to the selecting corporation entitled to receive benefits under ANCSA.

The Act further authorizes the Secretary to deposit in the Treasury of the United States the escrow account proceeds and that the United States shall pay interest thereon semiannually from the date of deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment.

Escrow Identification

Monies are deposited in escrow for all revenue generating case files on ANCSA selected lands. To determine if there are any active, inactive, or closed revenue generating case files in a township or window enter MSKREP 49 by township or window. Verify any revenue generating cases by pulling abstracts for any identified case files. If they have been audited, there will be appropriate escrow action codes in the history (469-CA ESCROW ID COMPLETE). If there are no escrow codes in the history abstract but money has been received by BLM, refer the file to the Escrow Coordinator (961) at this time. The Escrow Coordinator will audit the file and take any necessary actions. The adjudicator does not have to wait for the audit to be complete prior to issuing the decision.

Lands Administered by Other Agencies

If the land to be conveyed is under the jurisdiction of another agency, such as the Forest Service, that agency is responsible for collecting the amount due and transmitting the funds to the escrow account. However, it is the responsibility of the ANCSA adjudicator working the case to send a copy of the interim conveyance to the administering agency when the conveyance is issued.

s Document Process

The work plat should be used to guide the adjudicator in writing the decision. Other reference materials should be used where needed. Use Glossary 624(a) for standard wording using the various options (cards) to fit the specific situations. In those cases where no standard wording is available, use creative writing skills. The decision should flow in a sequence similar to that outlined in the glossary:

Document Preparation

* Decision Heading	Card a
* Introduction Information	Card f
- Background Information	
- Legal References	
* Analysis of conflicting Applications	Card t
* Lands proper for conveyance	Cards u-v
* Navigable/Submerged/Tidal Status	Cards w-1
* Exclusions	Card 2
* Easements/Reservations	Cards 3-5,7-D
* Subject to's	Cards E-G,J
* Conveyance to date	Cards M
* Appeals & CC list	Card S

NOTE: If a DDIC is to be prepared the document is double spaced and issued to the:

- * Regional Corporation
- * State of Alaska
- * Federal Land Managing Agency (e.e., Forest Service)

There is no deadline for comments. It may be suggested in the cover letter that comments be submitted within 60 days.

If there are significant changes, a second draft may be required; however, this is normally not the case.

9 Publication Process

NOTE: This process is completed when issuing a DIC, not at time of DDIC.

If lands are being approved for conveyance in the decision, notice must be published once in the Federal Register and once a week for four consecutive weeks in

a newspaper of general circulation in the vicinity of the lands being approved for conveyance, 43 CFR 2650.7(d). Decisions issued solely for rejecting an application are not published.

Publication notices for the newspaper and the Federal Register are prepared simultaneously with the DIC and are double-spaced.

a Federal Register Publication Notice

Use Glossary 200a to publish when the decision involves only one serial number;

Use Glossary 199a to publish a decision involving more than one serial number;

Use Glossary 135a when a previously published decision is modified and modification needs to be published.

See Illustrations 4-6 for examples of the glossaries listed above.

After the notice has been drafted and all the necessary changes/corrections are made, prepare a final package which includes:

- Four originals
- BLM reading file
- Branch reading file
- Case file(s)
- Originator copy

Before mailing the notice to the Office of the Federal Register, take the following steps to ensure that the notice is properly processed for payment in accordance with IM AK 91-18, change 2:

Complete a Document Face Sheet (Form 1310-5). See Illustration 7 for an example.

The Accounting Technician (AK 953A) is responsible for assigning the Document Control Number. This number will always start with L974G.

For FY93, the cross-reference number is 3-00163. This number is assigned by the Washington Office and changes with the fiscal year. The schedule or Block Number is 4310-JA. This number is always the same.

Indicate on the Document Face Sheet what is being published.

Complete the Weekly Report for Federal Register Notices Form (AK-1550-4). See Illustration 8 for an example.

Send the following to the Accounting Technician (953A):

- Completed Document Face Sheet;
- A copy of the first page of what is to be published;
- A completed Weekly Report for Federal Register Notices Form.

The Accounting Technician will assign a document control number and return to the originator. After these steps are completed, the originator is responsible for sending the documents to the Office of the Federal Register for publication.

Send the four double-spaced signed originals to the Office of the Federal Register. Attach a routing and transmittal slip (Form 1542-4) to each one with the following information:

- The Federal Register Office Number
- Action needed
- Name of originator
- Date and telephone number

See Illustration 9 for an example.

If the notice is being sent by regular mail, use this address:

- Office of the Federal Register
- National Archives and Records
- Administration
- Washington, D.C. 20408

If the notice is being sent by overnight mail, use this address:

- Office of the Federal Register
- Room 8301
- 1100 L Street NW
- Washington, D.C. 20005

NOTE: Do not send the Document Face Sheet to the Federal Register.

When the Federal Register is ready to publish the notice, a representative will call and provide the publication and appeal dates. These dates are stamped in the blank space in the Newspaper Publication Notice and the decision.

If a Federal Register representative does not call with the information within a few days, call 8-523-3187 and verify receipt of the notice and request the publication and appeal dates.

NOTE: Copies of the Federal Register Publication Notice are not mailed-out with the decision.

Federal Register publications are made daily. Copies of each week's Federal Register are sent to the Division of Conveyance Management. The Division Secretary checks for

notices that affect the Division and makes copies of them. The Secretary then routes a copy of the Federal Register page in which the notice appears to the appropriate Branch.

The originator of the publication notice will in turn forward a copy of the notice to the Accounting Technician (953A) so payment can be made. A copy of the published notice should also be incorporated in the appropriate case files.

b Newspaper Publication Notice

Use Glossary 39a for the newspaper cover letter;

Use Glossary 198a when the decision involves only one serial number;

Use Glossary 197a to publish a decision involving more than one serial number;
or

Use Glossary 217a when the previously published decision is modified and the modification needs to be published.

See Illustrations 10-13 for examples of the glossaries listed above.

The final package should include copies for:

- BLM reading file
- Branch reading file
- Case file(s)
- Originator
- Public Room

NOTE: Copies of the newspaper publication notice are not mailed with the decision.

Before mailing the letter and notice to the newspaper, complete all information required on the advertising order (AO) form (AK 1510-9) with the exception of those areas which are to be left blank. Fill in the date in the space provided on the AO stating that publication in the newspaper should begin in the issue closest to the date (give date) notice was published in the Federal Register (see Illustration 14 for an example). The only persons currently authorized to approve AOs are the Branch Chiefs.

Submit the AO, along with a copy of the newspaper publication notice to Procurement (AK-953B). The procurement clerk will assign an AO number; provide a purchase order number; and have a contracting officer sign and date it. No order numbers will be given out over the telephone. A copy of the AO along with the original advertisement will be sent back to the originator to forward to the newspaper. At this time, the decision, which now includes the Federal Register publication date and the appeal date, is ready to issue.

NOTE: Try to date the decision with the same date the notice was published in the Federal Register.

Send the cover letter, double-spaced notice for newspaper publication, and three copies of the advertising order to the newspaper.

A tear sheet of the first issue will be sent to originator for proofing. If the tear sheet is not received shortly after the approximate first date, call the newspaper. Request a FAX copy (BLM FAX number 271-5425) of the publication notice, so that if necessary, there will be time for corrections prior to the next publication date. After receiving the tear sheet, immediately notify the newspaper if corrections are needed.

The proof of publication must come directly to procurement in order to be matched with the original AO. A copy of the original AO and proof of publication from the newspaper will be sent together to the originator for verification. At that time, the originator is to proof the advertisement, sign the bottom of form AK 1510-9 as the verifying officer and return only the AO to procurement. The original proof of publication is to remain in the case file. Remember that at least four to five weeks would have passed since the first publication of the notice, but if an unusual amount of time has gone by, it may be necessary to check to see if proof of publication has been received in Procurement (953B). If proof has not been received, call the newspaper. Then, proceed with the necessary steps to ensure that this process is completed.

NOTE: If there is more than one newspaper serving the same area, alternate publication between them by publishing the next DIC for lands in the area in another newspaper.

10 Applicant/Interested Parties

The decision must be sent to the regional corporation and the parties identified on the standard "cc" list in Glossary 624a. Also provide a copy of the decision to any other interested parties identified in the adjudicative process or any parties who have requested a copy of the decision.

APPEAL PROCESS

After issuance, the decision is subject to appeal by any party claiming a property interest in the land being conveyed. If an appeal is filed, the appellant must file the notice of appeal with BLM and must also serve a copy of the notice on all adverse parties listed in the decision. (It is critical that all adverse parties be listed in the appeals paragraph in the decision if they aren't listed as addressees.) BLM will send the notice of appeal and copies of pertinent case files to the Interior Board of Land Appeals (IBLA).

The appeal must be filed within 30 days after the decision is served on the parties. The 30-day period is determined by referring to the date the addressee signed a receipt for the decision. Proof of receipt can either be by the Certified Mail-Return Receipt Requested (CM-RRR) green card or by personal service receipt. The receipt should show the date the addressee signed to receive the decision. If the date is not shown, the 30-day period starts on the day the card is received back at BLM. If the appealing party was not served by certified mail, the appeal must be filed within 30 days after publication in the Federal Register to be valid. After the 30-day period has expired, the adjudicator

must wait an additional 10-days before issuing a conveyance to allow for receipt of any appeals that may be in the mail.

If an appeal is filed, the following actions must be completed within **FIVE** working days:

Make sure that the subject case file is in order and that the computer has been updated to reflect all adjudicative actions completed. **NOTE:** The Paralegal Staff is responsible for coding appeal information.

Make two readable copies of every document in the subject case file that pertains to the lands being appealed, including current status plats and HIs.

Insert the copies into case file folders and attach a form AK-1274-9 (Case Records Advice cover sheet) to the front of each file. The two files should be clearly marked as dummy files.

Have Docket bar-code one of the files to indicate it is a dummy file (e.g., AA-6789/D; "D" is for dummy).

Hand carry the original and both dummy files to the Paralegal. The unserialized dummy file will be sent to the Regional Solicitor's office. The serialized dummy file will be sent to IBLA. The original case file will be retained by BLM.

The Paralegal should be made aware of any pertinent information or documents regarding the case file after the appeal is transmitted.

NOTE: If the adjudicator receives an original Notice of Appeal, verify that the Paralegal has seen it. The Paralegal keeps the original copy.

If an appeal is filed after the 30-day period it is still necessary to transmit the administrative record to IBLA for action (dismissal).

Once an appeal is filed, no further adjudicative action can be taken on the lands involved in the appeal until IBLA issues a decision or order, 43 CFR 4.401. More information can be found in 43 CFR Subpart J, 4.415. IBLA can issue a segregation order which segregates the lands in dispute and allows BLM to continue processing the unaffected lands towards conveyance.

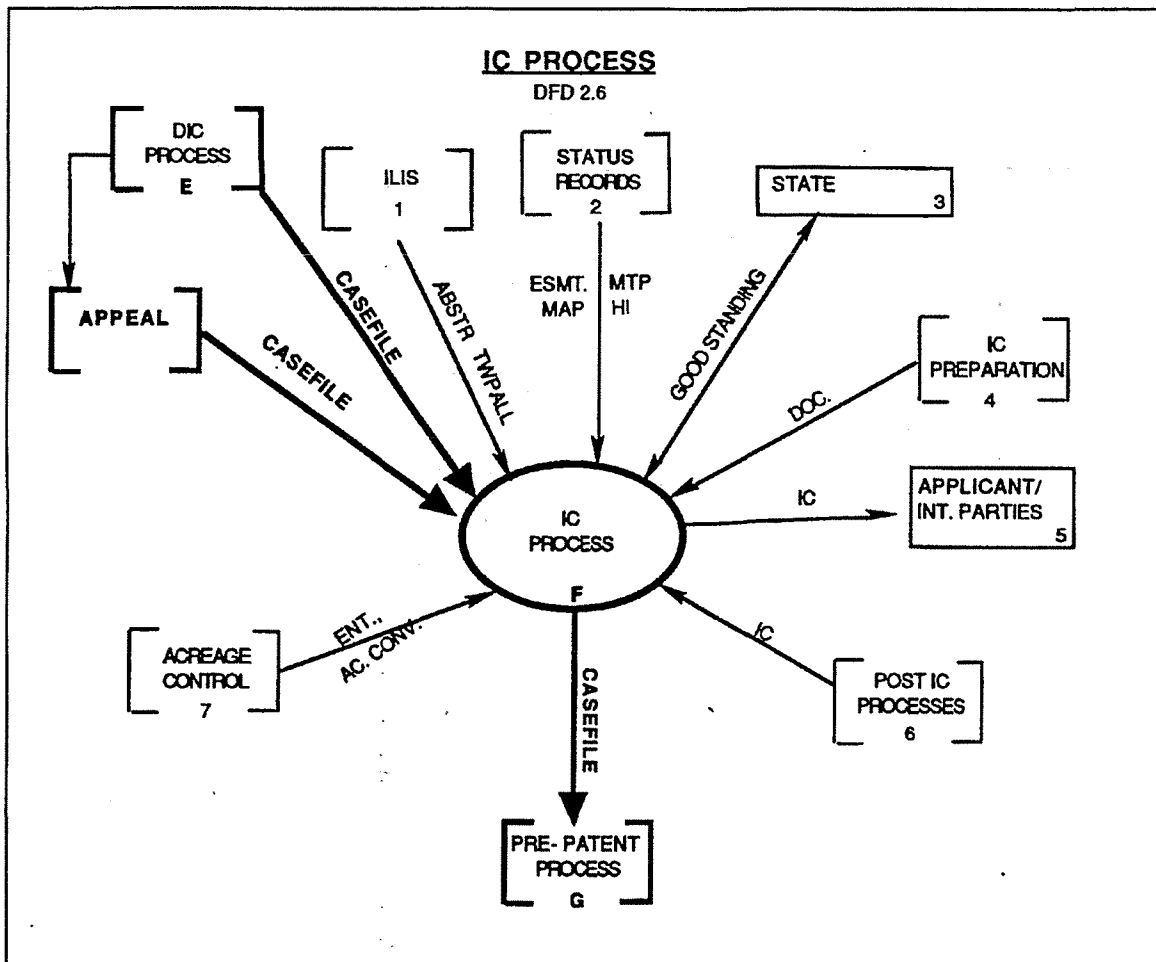
When the files are returned from IBLA, complete the following steps:

Check the file(s) out to yourself with your docket card;

Wait 60 days from the IBLA decision date to consolidate the dummy file and the newly returned permanent file. If a petition for reconsideration is filed within the 60 day timeframe for filing, make sure all original documents that have been filed in the dummy file since the initial appeal are placed in the original file prior to retransmittal to IBLA and keep copies for the dummy file;

If a petition for reconsideration is not filed, consolidate all original documents from the dummy file to the original file. Discard duplicate copies from the dummy file;

Send the empty dummy file folder to Docket with a note that the original and dummy files have been consolidated and that they can take the dummy off their case file control system. The Solicitor's Office keeps their dummy and disposes of it.



F Interim Conveyance (IC) Process

1 ILIS

In preparation for issuing the IC, retrieve a current TWPALL and abstracts for the selection file and any associated case files. Check the TWPALL to verify that there are no new applications filed on the lands and that the status of any associated files has not changed.

When issuing the IC, it will be necessary to update the case history abstracts and land descriptions by adding the appropriate codes. It may also be necessary to add any codes that were not entered during previous case processing at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Master Title Plat (MTP)

Prior to issuing the IC, it is critical to review the MTP to insure that the status is current and that no changes have occurred since the decision was issued. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat. If there have been no changes, proceed in the IC Process.

If there has been a change, carefully compare the new MTP and the work plat to determine whether it affects the conveyance area. It may not be necessary to update the work plat if there have been no changes to the pertinent status. If changes have occurred which affect the lands to be ICd, such as new applications being filed on the lands, it may be necessary to postpone issuing the IC until the matter is resolved. In such cases, it may be necessary to modify the DIC or take some other action as determined on a case-by-case basis before issuing the IC.

NOTE: If a Native allotment which was previously excluded in the DIC has been replotted prior to IC but remains on lands that were approved for conveyance in the DIC, exclude the allotment in its current location in the IC and explain the action taken in the cover letter accompanying the document.

b Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the conveyance area, replace the existing copy with a new HI.

c Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20). The easement file will have a different base serial number from the selection but with the same suffix.

Request blackline work copies of the easement map(s) for the selection area from Title and Land Status (T&LS) using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application documents in the selection case file, verify that the selection pattern is correctly noted to the easement map. It is recommended that the work map be noted to reflect any amendments, relinquishments, or rejections using the color code suggested in E-2 of the DIC Process.

If the selection is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the telephone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the corporation and put it on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the corporation and request that it take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

4 IC Preparation

Prepare the IC using the land description, reservations, and "subject to's" contained in the DIC. Use Glossary 52a for standard wording using the appropriate options (cards) shown below:

Glossary 52a (Surface and Subsurface Estates to Regional Corporation);

* IC Introduction	Card a
- Corporation Name	
- Authority	
- Land Description	
* Navigable/Submerged/Tidal Status	Cards b & c
* <i>Now Know Ye</i> Paragraph	Card d
* Reservations	Cards e & g
* Subject to's	Cards i-k
* Date/Signature Paragraph	Card m

For examples, refer to the bound books containing the most recently issued ICs found in the Division of Conveyance Management.

5 Applicant/Interested Parties

After the IC is signed and numbered, it is issued to the regional corporations, all parties identified on the standard "cc" list, and any other interested parties identified in the adjudicative process, along with a transmittal letter (Glossary 741a).

6 Post-IC Processes

a T&LS

Once the IC has been signed, make sure the "yellow dot" copy has been filed in the case file. Request T&LS (973C) to note the ICs to the records by completing a T&LS request form (AK 1275-20). Route the case file and the request form to T&LS for notation.

b Mineral Law

If mining claims or oil and gas leases or applications were involved in the ICd area, the Branch of Mineral Law (982) should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to (982) for them to take whatever actions are necessary to close or otherwise update their casetypes (including waiving administration).

c Land Resources

If the lands were previously withdrawn or were originally part of an ANCSA Sec. 3(e) determination, the Withdrawal Staff in the Branch of Land Resources (932) should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to (932) for them to take whatever actions are necessary to close or otherwise update their casetypes.

d Waiver of Administration

For any use authorizations within the conveyance area, (except for oil and gas leases) prepare an appealable waiver of administration decision immediately after the IC is issued. See Illustration 3. The waiver should be addressed to both the corporation and the holder of the use authorization.

After the waiver decision becomes final, send the original case file to the appropriate District Office (DO). Identify whether the interest waived was entirely or partially on conveyed land. If all the lands were conveyed, request the DO to send a duplicate case file to the corporation, update the records and close the file.

If only a portion of the authorized use is on conveyed land, request the DO to send a copy of the appropriate portions of the case file to the corporation and update the records.

e Native Escrow

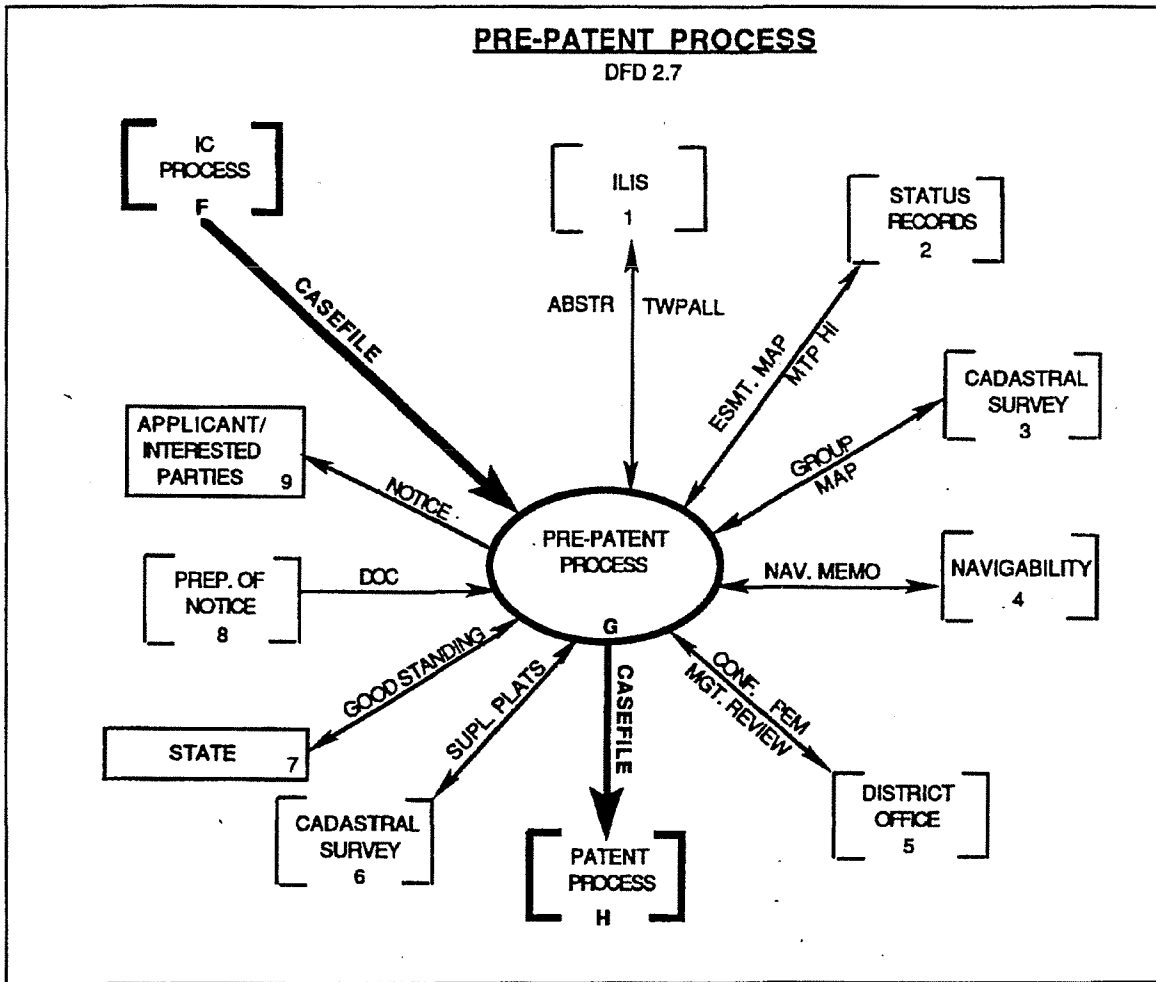
After the IC is issued and any waiver of administration decisions are final, forward any revenue generating case files and a copy of the IC to the Escrow Coordinator (961) for processing the payment of the escrow funds to the village corporation.

If the ICd land is under the jurisdiction of another agency, such as the Forest Service, that agency should have appeared on the "cc" list and received a copy of both the DIC and IC. A copy of the IC must be sent to the agency responsible for disbursing any escrow funds they have collected to the regional corporation.

7 Acreage Control

Once the IC is issued, update any acreage control tracking systems in accordance with Branch policy.

NOTE: An ILIS Subsystem will be used to monitor conveyed acreage in the near future.



G Pre-Patent Process

Native corporations receive title to unsurveyed land by interim conveyance (IC). Conveyances made by IC are subject to confirmation of the boundary description of the lands after approval of survey, 43 CFR 2650.0-5(h). A patent for the lands confirming the boundary description and acreage may only be issued after survey has been completed and the approved plats filed.

This process is followed **only** if the lands to be patented have been previously conveyed by IC and a "confirmatory patent" is being issued after survey has confirmed the boundary description and acreage of the ICd lands.

If surveyed lands were approved for patent in the decision to issue conveyance (DIC), do not use the Pre-Patent Process. Go directly to the Patent Process (Chapter II-H) for guidance on preparing a patent.

NOTE: Many of the requests and actions required in the Pre-Patent Process are generated by the Patent Plan Process (PPP). For detailed information concerning PPP see Appendix E.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file and any associated case files. Check the TWPALL to verify that there are no new applications filed on the lands and whether the status of any associated case files has changed.

When preparing to issue the patent, it will be necessary to update the case history abstracts and land description by adding the appropriate codes for any requests that are made. It may also be necessary to add any codes that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

2 Status Records

a Survey Plat

Obtain a copy of the survey plat(s) and any U.S. Surveys or supplemental plat(s) for the patent area from the Public Room. The survey plats are filed in the case file with the MTP(s) and will help in determining whether the ICd lands can be patented.

b Master Title Plat (MTP)

Obtain a current MTP from the Public Room and write the "current to" date in the lower right hand corner using the date the plat was pulled and prepare a color-coded work plat for the subject lands. Verify that the status is correct and that the survey(s) are correctly noted on the MTP. If not correctly noted, send to T&LS with corrections using Form AK 1275-20 for updating. Place the corrected MTP in the case file. It is also suggested that the folded plats be noted on the lower right hand corner with the "current to" date, township and range, and survey status.

The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that may affect the lands to be patented. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the confirmatory patent (e.g., has the selection been previously rejected as to each Native allotment within the patent area).

Carefully compare the new plats with the IC to determine whether any changes have occurred that affect the patent area. If changes have occurred, such as new applications being filed on the lands, it may be necessary to postpone issuing the patent until the matter is resolved. The need for taking such actions must be determined on a case-by-case basis.

Using a calculator, prepare an acreage tape identifying the lands to be patented section-by-section and attach to the remarks column of the MTP.

c Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the patent area, replace the existing copy with a new HI.

d Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20).

Request blackline work copies of the easement map(s) for the selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application and conveyance documents in the selection case file, verify that the selection and conveyance patterns are correctly noted to the easement map. It is recommended that the work map be noted to reflect any amendments, relinquishments, or rejections using the suggested color code as shown above.

If the selection or conveyance is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 Cadastral Survey

It is suggested that a group map be obtained and used to depict the overall status for the region using the color codes recommended under **Status Records** in this process.

4 Navigability

The Submerged Lands Act of May 22, 1953, P. L. 31, 43 U.S.C. 1391, provided that title to the land beneath navigable water bodies in Alaska would pass to the State at the time of statehood unless reserved to the U.S. The Navigability Section (924) reviews water bodies and makes navigability recommendations. Lakes less than 50 acres in size and rivers less than 3 chains wide which are determined navigable are identified in a navigability report. The State-owned submerged lands can then be excluded from the patent and not charged against the Native corporations' acreage entitlement.

In February of 1987, the standards used by BLM to determine navigability were redefined as a result of an appeal concerning navigability of the Gulkana River. The District Court determined that streams and rivers suitable for watercraft carrying a commercial quantity of goods (about a thousand pounds or more of cargo) are potentially navigable, Alaska v. United States et al., No. A80-359 Civil (D. Alaska 1987). The so-called "Gulkana Standard" was subsequently upheld by the Ninth Circuit Court of Appeals in December of 1989, State of Alaska v. Ahtna, Inc., 891 F.2d 1401 (9th Cir. 1989).

If the lands were ICd before February of 1987, navigable water bodies were identified in the decision and subsequent IC based on the pre-Gulkana criteria. BLM cannot review previously ICd lands and issue a navigability redetermination using the new Gulkana standards unless permission is granted by the land owner. The regional corporation must give permission before BLM can issue a redetermination.

Review the selection files to ascertain whether the corporation has been asked if it wants a navigability redetermination. If it has never been afforded the opportunity for a redetermination, use Glossary 762a to ask the corporation if it wants a redetermination.

If the corporation has requested a redetermination, verify that the redetermination has been completed for all the lands to be patented and that a copy of the redetermination is in the file. If there is no file copy, request one from the Navigability Section (924). If the corporation refused to give permission, proceed to patent without a redetermination.

If the lands were ICd after February of 1987, navigable water bodies were not specifically named in the decision or subsequent IC. BLM deferred such action by making an exclusion statement in the IC. See glossary 52a, card b for details.

Review the selection files to determine if a navigability report has been filed. If there is no report in the file, request one from the Navigability Section (924).

NOTE: Navigability reports and redeterminations are completed based on the PPP. Refer to Appendix F for detailed information on the PPP.

5 District Office (DO)

a Patent Easement Memo (PEM)

Prior to issuing a confirmatory patent for ICd lands which have been surveyed, the DO must review all easements previously reserved to the U.S. pursuant to Sec. 17(b) of ANCSA and issue a PEM. District Office procedures for preparing the PEM are outlined in detail in IM AK-974-09 (change 2) dated January 24, 1989.

Request a PEM from the DO by memorandum including the following information:

Line item number from the DO easement report, if DO uses this method of tracking;

The land description of that portion of the IC(s) to be reviewed;

The date or timeframe that the completed PEM is required;

The PPP window number if there is one identified.

Early guidelines for Sec. 17(b) easements allowed U.S. reservations for recreational, shoreline, ditches and canals, railroads, and telegraph and telephone lines, among others. These guidelines were challenged by the Native corporations in 1975 and successfully litigated. As a result, new easement regulations were issued on November 27, 1978 prohibiting such easements.

Prior to issuing a confirmatory patent for lands ICd with easements reserved under the old standards, the DO must review and eliminate any easements that do not conform with the 1978 regulations. Patent cannot be issued until all easements have been conformed by the DO.

The DO also reviews all easements previously reserved within ICd lands after survey and makes any necessary corrections, either to the easement maps or the easement description, before the patent is issued.

NOTE: If both selected and ICd lands are included in the survey and the selected lands are identified for conveyance to the corporation, follow the Pre-Decision Process (Chapter II-C) for requesting easement identification on the selected lands at this time. After the easements are received, the selected lands may then be approved for patent in a decision. Barring any complications (appeals, etc.) the lands approved for patent in the decision can be included in the confirmatory patent with the previously ICd lands.

6 Cadastral Survey

Review the records to determine if supplemental survey plats are needed and request them at this time. For example, supplemental plats may be required to exclude a conflicting claim or to adjust hydrography as a result of a navigability redetermination.

7 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the phone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the corporation and put it on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the corporation and request that they take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

8 Preparation of Notice

Use the following procedures when issuing a confirmatory patent for lands previously conveyed by IC to a Native corporation. These procedures are separate and apart from those for surveyed lands which need not be ICd prior to patent:

a General Information

A confirmatory patent for lands previously ICd to a Native corporation will be drafted after the ICd lands are surveyed and the plats are officially filed.

A confirmatory patent may include lands or portions of lands from one or more ICs issued to the same corporation. The IC(s) will be identified by number and date of issuance. Recording information may also be included, if available.

Surveyed land selected by the corporation and prioritized for conveyance but not previously ICd may be included in the confirmatory patent only after the land has been approved for patent in a decision (see Decision Process Chapter II-E).

Prepare a Notice of Intent to Issue Patent covering all lands to be patented in the draft confirmatory patent. Include the following information in the notice:

Identify any ICd lands which the corporation has reconveyed to the U.S.;

State whether or not all necessary title affirmations for surveyed inholdings have been executed within the ICd area being patented;

Address any township grid shifts which have occurred between IC and patent as a result of survey;

Identify acreage chargeability;

State whether or not any easements have changed as a result of easement review(s);

Identify any changes in reservations or "subject to's" that have occurred between IC and patent;

State whether or not any changes in navigability determinations have been made; and

Explain any typographical changes, such as the correction of a misspelled name or an erroneously typed number, which have occurred between IC and patent.

b Disposal of ICd Lands by Native Corporations

The corporation may have disposed of some or all of its ICd lands prior to receipt of a confirmatory patent which may affect the lands described in the confirmatory patent.

If all interest in any of the ICd land was transferred from the corporation to the U.S., do not include the land description in the confirmatory patent. To do so could be misunderstood to indicate that the transferred land is being patented to the corporation. Include an explanation of the land transferred to the U.S. in the notice.

If only a portion of the estate in the ICd lands was transferred from the corporation to the U.S., (e.g., the U.S. acquired a partial estate, such as a scenic easement) include the legal description of the lands in the confirmatory patent and reserve the scenic easement (or other acquired interest) to the U.S. in the document. Include an explanation of the interest transferred to the U.S. in the notice.

c Inholdings

Inholdings are pending or approved applications of record for lands which may conflict with selections made by the corporation (e.g., Native allotments). Inholdings were excluded from the IC based on their location on the MTP at time of conveyance. As a result of survey, inholdings may no longer be located as originally shown on the MTP at time of IC.

Surveyed inholdings may "move" drastically from the location originally described in the IC. The degree of inholding "movement" will determine the manner in which the confirmatory patent is processed.

If an inholding was ever excluded in any IC issued to the corporation, it will not be included in a confirmatory patent after survey. If the inholding was excluded from any IC issued to the corporation in a location other than where it appears on the plat of survey at the time of patent, the former location of the inholding will be conveyed to the corporation in the confirmatory patent without further adjudication.

If the surveyed inholding remains anywhere within the section from which it was excluded in the IC, the confirmatory patent will not include the inholding and the remainder of the section will be included as described in the survey. No additional steps are required in this case.

If the inholding appears on the plat of survey but was never excluded in any location from any IC issued to the corporation, the confirmatory patent will include the lands within the inholding. If the inholding is later determined to be a valid claim that BLM should have granted, title to the land must be recovered from the corporation and conveyed to the claimant (see Title Recovery Handbook for specific procedures).

If an inholding was excluded from any IC to the corporation but moves out of the section onto any other lands ICd to the corporation after survey, request concurrence from the corporation as to the new location using Glossary 566a (Title Affirmation on Survey of Inholdings).

Once executed, the title affirmation permits conveyance of surveyed tracts of land to private applicants and eliminates any questions of title conflicts with the corporation.

It is necessary to execute all required title affirmations concerning survey of inholdings within the IC area prior to issuance of the notice for the confirmatory patent.

d State Surveys

State of Alaska surveys which have been approved by BLM may be used as a land description in patents. However, the MTPs must reflect and identify such State surveys.

e Township Grid Shifts

Because the protraction diagrams and quadrangle maps upon which the selections were made depict unsurveyed lands, the location of the township and section lines shown were only approximate. As a result of survey, significant grid shifts within the conveyance area may have occurred.

A major purpose of providing the notice, draft confirmatory patent and plat of survey is to notify the corporation of significant grid shifts in the conveyance area. Although some shift will occur in almost every case, the selection is deemed to have been of the surveyed section, not the section as approximated on a quad or other map.

In most cases the shift will be minimal or insignificant. However, if there are significant changes between the selection and the conveyance as surveyed, equitable adjustments may be made in the patent.

For example: Where the selected sections were assumed to include lands along a coastline but the survey places the coastline in sections the selection map showed offshore, the confirming patent will include those sections containing the coastline.

Where a significant topographic feature (river, inlet, promontory, harbor, etc.) moves outside of a selected section and the adjoining section is available (i.e., withdrawn for Native selection and otherwise unreserved and unappropriated public land), the entire topographic feature may be included in the conveyance with the corporation's consent providing other public values or private rights are not affected and it does not result in a conveyance in excess of the corporations' entitlement.

f Lands for Conveyance

The confirmatory patent will include and charge against entitlements (except in certain specific exchange areas), only "uplands". Uplands are depicted on the plat of survey and do not include the submerged lands of meandered water bodies.

g Hydrography

Where water lots are shown on plats of survey, the corporation may request conformance pursuant to the 1973 Manual of Survey Instructions, as revised by 43 CFR 2650.5-2. Any request for conformance will be forwarded to Cadastral Survey (920).

h Acreage Chargeability

The notice will identify the acreage and entitlement against which the lands are being charged:

Entitlement(s);

Patented lands (includes previous patents plus proposed patent);

Remaining ICd acreage;

Total acres charged;

Remaining entitlement;

The acreage calculation table as shown above is not intended to cover every possible acreage charge. Some discretion must be used by the author of the notice to address every entitlement or limitation necessary.

NOTE: Acreage to be charged against entitlement for any lands which were previously ICd and which have been reacquired by the U.S. will also be reflected in the notice.

i Easements

A listing of all easements affecting the lands will be prepared by the appropriate DO for inclusion in the patent. Easements will be described to match the survey description.

Any easements which were excepted and reserved in the IC(s) which have been deleted through the conformance process will not be listed in the confirmatory patent.

Any easements which have been donated to the U.S. will be excepted and reserved in the confirmatory patent.

Adjustments, realignments, vacations or exchanges of reserved easements that have been negotiated with the land owner may be included in the notice. These changes in easement location would be a means of correcting impassable, disconnecting or duplicative easements that were originally reserved without benefit of field investigation. Final easements resulting from this process will be excepted and reserved in the confirmatory patent

j Reservations

All reservations included in the IC(s) will be listed in the confirming patent, except for those which were subsequently vacated by the U.S. (e.g., ditches and canals, railroad and telegraph lines, right to enter upon lands and survey).

Any rights-of-way which should have been listed in the "subject to" portion of the IC but were excepted and reserved instead, will be listed as "subject to" interests in the confirmatory patent. An explanation of the change will be included in the notice.

Any use authorizations (e.g., leases, contracts, rights-of-way, etc.) identified under "subject to's" in an IC which are documented to have expired will not be included in the confirmatory patent.

k Navigability

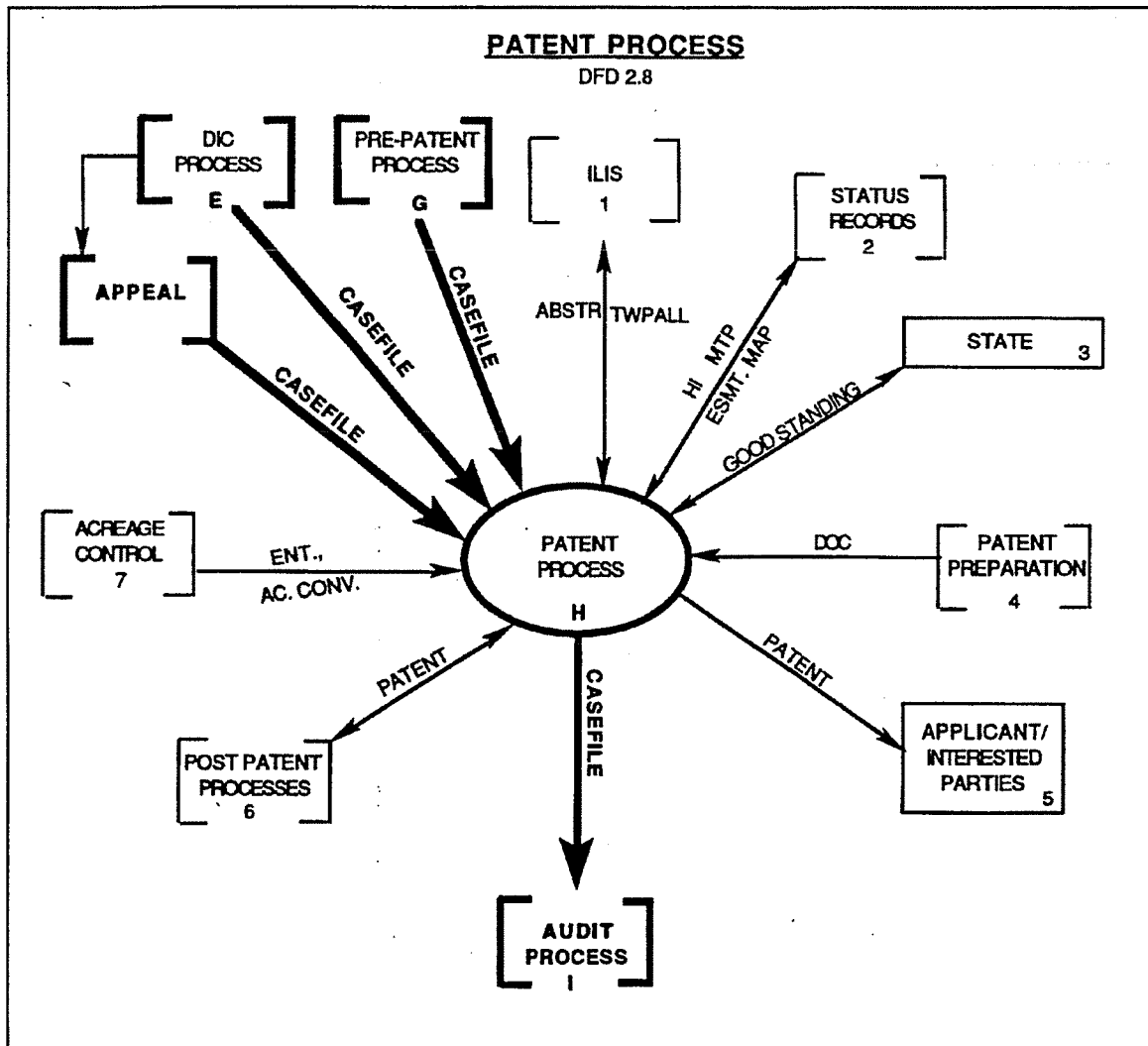
The notice will state whether or not BLM navigability determinations made prior to issuance of the IC(s) remain unchanged (i.e., changes by decision of the IBLA or by a court of competent jurisdiction, or by a redetermination requested by the corporation) and that the lateral extent of navigability or tidal influence was clarified by survey.

9 Applicant/Interested Parties

The notice will be issued by certified mail to the regional corporation with certified mail copies to the State of Alaska, adjacent landowners, and any additional parties whose interests are known. Managing agencies in CSUs and the Forest Service are sent copies where lands are within their exterior boundaries.

The notice will allow sixty (60) days from the date of certified receipt for the corporation and other parties to provide written comments. The notice will not contain an appeal paragraph or be published in the Federal Register or any newspaper.

A thirty (30) day notice will be issued where substantive changes or errors are found regarding the survey or patent issues addressed in the original 60-day notice. The 30-day notice will be issued by certified mail to the regional corporation with certified mail copies to all other parties listed in the original notice.



H Patent Process

Sec. 14 of ANCSA states that a patent will be issued to a qualified Native corporation for the lands to which it is entitled. A patent cannot be issued until the lands have been surveyed. This process is followed only if the selected lands were adequately surveyed and approved for patent to the corporation in a decision which has become final.

If a decision approved selected land for conveyance to the corporation which was either unsurveyed or for which the existing survey was inadequate to properly describe the land and title was subsequently conveyed to the corporation by interim conveyance (IC), begin with the Pre-Patent Process for guidance on issuing a confirmatory patent.

1 ILIS

Retrieve a current TWPALL and abstract for the selection file. When issuing the patent, it will be necessary to update the case history abstract and land description by

adding the appropriate codes. It may also be necessary to add any codes that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

a Survey Plat

Obtain a copy of the survey plat(s) and any U.S. Surveys or supplemental plat(s) for the patent area from the Public Room.

b Master Title Plat (MTP)

Prior to issuing the patent, it is critical to review the MTP and survey plats to insure that the status is current and that no changes have occurred since the decision or notice was issued. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat and that the survey(s) are correctly noted on the MTP. If not correctly noted, send to T&LS with corrections using Form AK 1275-20. Place the corrected MTP in the case file.

The work plat should show any actions, conflicting claims, inholdings, PLOs, third-party interests, etc., that affect the lands to be patented. The work plat should also include a legend explaining what each color represents. For consistency, it is suggested that the following color code be used to depict status on the work plat:

Village-green: Selection (outline), IC (diagonal slash), Patent (solid);

Region-red: Selection (outline), IC (diagonal slash), Patent (solid);

State-yellow: Selection (outline), TA (diagonal slash), Patent (solid);

Other patented lands: Purple;

Native allotments: Brown (outline);

Withdrawals (PLOs): Orange (highlight);

Navigable/meanderable waters: Blue (solid);

Other colors can be used to depict mining claims, leases, homesteads, rights-of-way, etc., as necessary. Include them in the color legend.

In addition to color coding, it is advisable to document the facts related to any conflicting applications. Include any written explanations necessary to describe what has occurred by adding them directly onto the work plat to aid in preparing the patent (e.g., has the regional selection been previously rejected as to each Native allotment within the patent area).

Carefully compare the plats with the decision from the DIC Process or the notice from the Pre-Patent Process to determine whether any changes have occurred that affect the patent area. If there have been no changes, proceed in the Patent Process.

If there has been a change, carefully compare the new MTP and the work plat to determine whether it affects the patent area. It may not be necessary to update the work plat if there have been no changes to the pertinent status. If changes have occurred which affect the lands to be patented, such as new applications being filed on the lands, it may be necessary to postpone issuing the patent until the matter is resolved. In such cases, it may be necessary to modify the decision in the DIC Process or notice in the Pre-Patent Process or take some other action as determined on a case-by-case basis before issuing the patent.

Using a calculator, prepare an acreage tape identifying the lands to be patented section-by-section and attach to the remarks column on the MTP.

c Historical Index (HI)

Review the HI in the Public Room and verify it against the case file copy. If anything has changed affecting the patent area, replace the existing copy with a new HI.

d Easement Maps

Request the easement case file from Docket using a case file request form (AK 1274-20).

Request blackline work copies of the easement map(s) for the selection area from T&LS using an ANCSA reproduction request form (AK 1500-8). When ordering easement maps, specify the quad map by name and number (e.g., Selawick B-3). To determine which quad maps to order, refer to Appendix C (Easement Map Index) for additional detailed information.

Using the application and conveyance documents in the selection case file, verify that the selection and conveyance patterns are correctly noted to the easement map. It is recommended that the work map be noted to reflect any amendments, relinquishments or rejections using the suggested color code as shown above.

If the selection or conveyance is incorrectly depicted on the easement map, submit form AK 1500-8 and a paper copy of the easement map showing the corrections to T&LS for revision.

3 State

Prior to issuing the document to the corporation, determine corporate status by calling the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations at 563-2161. Identify the corporation by name and request its status (the information will be provided over the phone). Document the phone call and status information in the case file and proceed as follows:

If the corporation is in good standing, continue with this process;

If the corporation is in non-compliance, continue the process but call the corporation and put it on notice that a conveyance cannot be issued to a dissolved corporation;

If the corporation has been dissolved, stop the process and order a copy of the Certificate of Dissolution for inclusion in the file. Notify the corporation and request that it take the necessary action to be reinstated. Inform them that a conveyance cannot be issued to a non-existent corporation and that no conveyances will be issued until the corporation has notified BLM that it is once again in good standing.

NOTE: For detailed information on corporation qualification requirements, refer to B-8 of the Application Review Process.

4 Patent Preparation

Prepare the patent using the land descriptions, reservations and "subject to's" as stated in the decision prepared in the DIC Process. If the lands have been previously conveyed by IC use the land description, reservations and "subject to's" contained in the notice prepared in the Pre-Patent Process. Use Glossary 88a for the surface and subsurface estate patent to the regional corporation. For standard wording use the appropriate options (cards) shown below:

Glossary 88a (Surface and Subsurface Estates to Regional Corporation):

- | | |
|--------------------------------|-------------|
| * Patent Introduction | Card a |
| - Corporation Name | |
| - Authority | |
| - Land Description | |
| * <i>Now Know Ye</i> Paragraph | Card b |
| * Reservations | Cards c & e |
| * Subject to's | Card g |

5 Applicant/Interested Parties

After the patent is signed and numbered, it is issued by certified mail to the to the regional corporation, those entities identified on the standard "cc" list, and any other interested parties identified in the adjudicative process, along with a transmittal letter (Glossary 741a). Managing agencies in CSUs and the Forest Service are sent copies

where lands are within their exterior boundaries. A copy of the easement map(s) stamped with the patent number should accompany the patent.

6 Post-Patent Processes

a Title and Land Status (T&LS)

Once the patent has been signed, make sure the "yellow dot" copy has been filed in the case file. Request T&LS (973C) to note the patent to the records by completing a T&LS request form (AK 1275-20). Route the case file and the request form to T&LS for notation to the records.

b Mineral Law

If mining claims or oil and gas leases or applications were involved in the patent area, the Branch of Mineral Law (982) should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to (982) for them to take whatever actions are necessary to close or otherwise update their casetypes (Including waiving administration).

c Land Resources

If the lands were previously withdrawn or were originally part of an ANCSA Sec. 3(e) determination, the Withdrawal Staff in the Branch of Land Resources (932) should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to (932) for them to take whatever actions are necessary to close or otherwise update their casetypes.

d Waiver of Administration

For any use authorizations (Except for oil and gas leases) within the patent area, prepare an appealable waiver of administration decision immediately after the patent is issued. See Illustration 3. The waiver should be addressed to both the corporation and the holder of the use authorization.

After the waiver decision becomes final, send the original case file to the appropriate District Office (DO). Identify whether the interest waived was entirely or partially on patented land. If all the lands were patented, request the DO to send a duplicate case file to the corporation, update the records and close the file.

If only a portion of the authorized use is on patented land, request the DO to send a copy of the appropriate portion of the case file to the corporation and update the records.

NOTE: If the lands have been previously ICd, an appealable waiver decision should have already been issued for any affected use authorizations and no additional action should be required at time of confirmatory patent.

e Native Escrow

After the patent is issued and any waiver of administration decisions are final, forward any revenue generating case files and a copy of the patent to the Escrow Coordinator (961) for processing the payment of the escrow funds to the corporation.

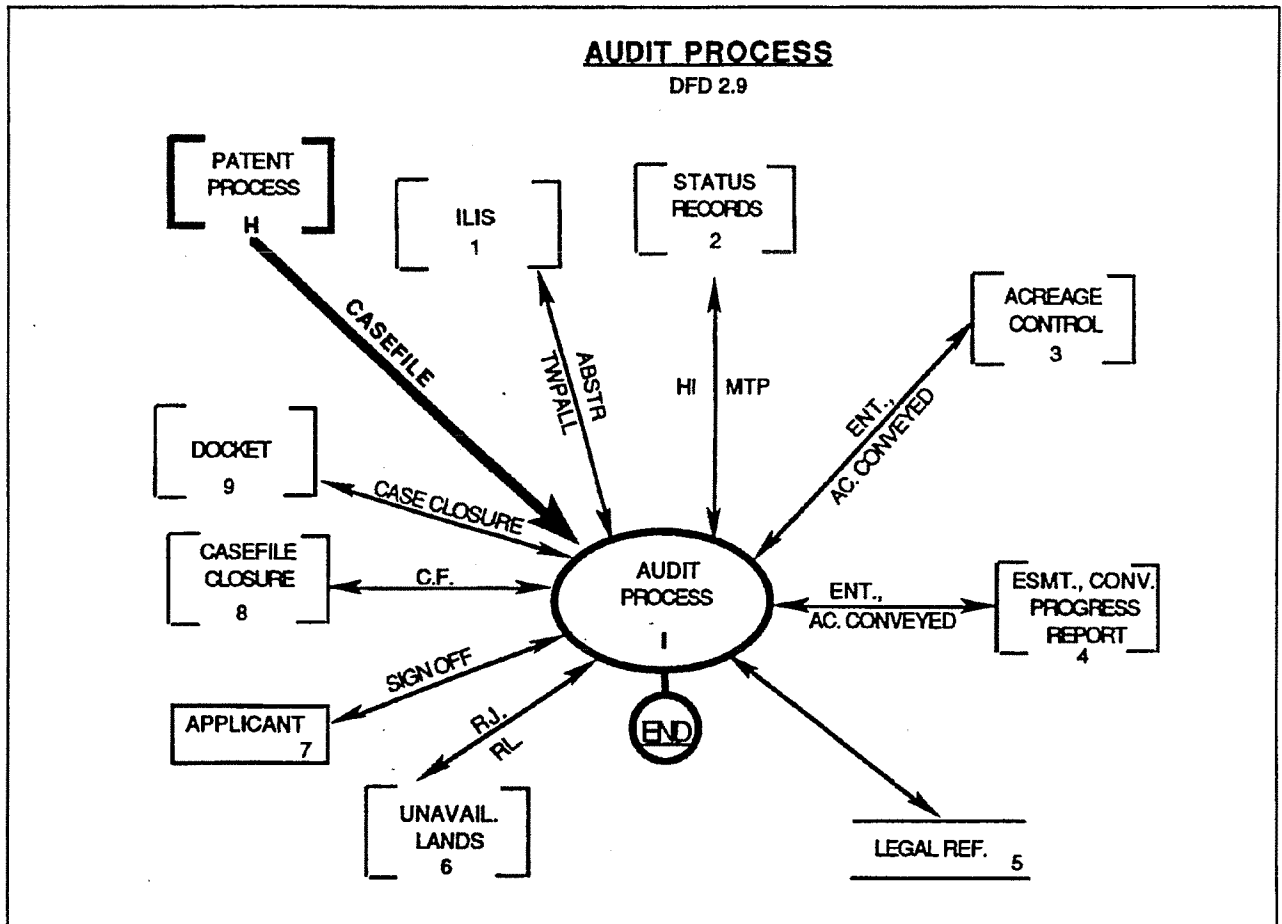
If the patented land is under the jurisdiction of another agency, such as the Forest Service, that agency should have appeared on the "cc" list and received a copy of the patent. A copy of the patent must be sent to the agency responsible for disbursing any escrow funds they have collected to the corporation.

NOTE: If the lands have been previously ICd, the escrow process should have already been completed for any affected revenue generating cases and no additional actions should be required at time of confirmatory patent.

7 Acreage Control

Once the patent is issued, update any acreage control tracking systems in accordance with Branch policy.

NOTE: An ILIS subsystem will be used to monitor conveyed acreage in the near future.



I Audit Process

The audit is the final step in the conveyance process. Begin this process after the corporation has received full entitlement in compliance with the intent of ANCSA.

1 ILIS

Retrieve a current TWPALL and abstracts for the selection file(s). In the Audit Process it will be necessary to update the case history abstracts by adding the audit codes. It may also be necessary to add any land description or history code updates that were not entered during previous case processing or make corrections at this time.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed, the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

2 Status Records

During the Audit Process, it is critical to review the MTP to insure that the status is current. Go to the Public Room and pull the appropriate aperture cards to verify that the date of the last status update has not changed from that of the work plat. If there has been a change, update the work plat.

3 Acreage Control

Verify the total acreage conveyed to the corporation by tabulating the acreage of the legal land description described in each conveyance document and verifying it against the MTPs and survey plats for each conveyance. Compare the total acres conveyed with the regional entitlement adjusted for any limitations that may apply.

4 Easement/Conveyance Progress Report (ECPR)

The ECPR contains information on all conveyances issued to the corporation while AALMRS was in existence. The information in this report can assist the adjudicator in verifying the conveyance information.

5 Legal References

The legal references pertaining to regional selections are found in the Alaska Native Claims Settlement Act and its amendments, subsequent laws, the U.S. Code of Federal Regulations, and various public land orders. For the final audit, review any legislation that may have affected final entitlement. Specific acts, agreements, or orders affecting a corporation are listed in Appendix A.

6 Unavailable Lands

Once it is determined that the corporation has reached full entitlement, any remaining selection applications must be either relinquished or rejected. In accordance with Branch policy, either request the corporation to relinquish any remaining land selections or prepare a decision rejecting the application(s).

7 Applicant

When the corporation has reached entitlement, a sign-off sheet will be completed indicating that final entitlement has been satisfied. The sign-off sheet will be signed by designated representatives for the corporation and BLM. A copy of the sign-off sheet will be incorporated in the appropriate case file(s).

8 Case File Closure

A selection file will be closed when there are no lands remaining within the selection application. If the corporation has reached entitlement, the selection file(s) will be closed if:

All lands within a selection application have been patented, relinquished, or rejected;

A relinquishment is filed for all remaining lands in a selection application;

A decision rejecting all remaining lands within a selection application becomes final.

NOTE: A selection file can be closed when all lands within the application have been patented, relinquished or rejected regardless of whether the corporation has reached entitlement.

Prior to case closure, review the file and update the status records as follows:

a Abstract

Verify that the case status and all required history action codes and township information for the case have been properly coded into the ILIS.

To update a case abstract, refer to the allowable action code listing for the casetype. Submit corrections in accordance with Branch policy. It is suggested that the adjudicator make corrections directly on the abstract with red ink and submit to the Land Law Assistant (LLA) for coding. When completed the LLA should return the marked-up original and the new corrected abstract to the adjudicator for review.

NOTE: It is the adjudicator's responsibility to ensure the accuracy of ILIS data.

b Master Title Plat (MTP)

Verify all MTP notations and request Title and Land Status (T&LS) to make any necessary changes. The selection application must be removed from the MTP for any lands relinquished or rejected. The patent number and reservations must be noted to the MTP if the lands have been patented.

If changes to the MTP are required, complete Form AK 1275-20 and route the case file to T&LS for updating. On the case file route sheet, indicate the file be returned to the adjudicator after the corrections have been made. Upon receipt of the case file from T&LS, review the plat and verify that the notations are complete.

c Historical Index (HI)

Request T&LS to note any ICs or patents to the HI and whether such action resulted in closure of the case file. Rejections and relinquishments are not on the HIs.

If changes to the HI are required, complete Form AK 1275-20 and route the case file to T&LS for updating. On the case file route sheet, indicate the file be returned to the

adjudicator after the corrections have been made. Upon receipt of the case file from T&LS, review the HI and verify that the notations are complete.

9 Docket

Route the case file to Docket with instructions that it be closed.

ANCSA HANDBOOK

CHAPTER 3

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CHAPTER III

III REGIONAL SELECTIONS: (12(a)(1))

BACKGROUND INFORMATION

The Alaska Native Claims Settlement Act (ANCSA) defined and directed the creation of regional corporations and prescribed the manner in which they were to select and receive land conveyances. The following is a summary of key ANCSA sections that apply to in-lieu regional corporation selections.

Sec. 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within the National Wildlife Refuge System or the Alaska Naval Petroleum Reserve, the regional corporation for that village region may select the subsurface estate in an equal acreage from other lands withdrawn by subsection 11(a) within the region, if possible.

Sec. 14(e) of ANCSA provides that the Secretary will convey title to a regional corporation for the surface and/or subsurface estates, as is appropriate, in the lands selected.

Regulations governing the selection and conveyance of lands to regional corporations are found in 43 CFR 2650, 2652 and 2653.