



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

ANCSA 14(c)(3) AND THE MUNICIPAL LANDS TRUSTEE PROGRAM

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Senate Community &
Regional Affairs Committee
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History of MLT Program

Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA) requires all Native village corporations that receive land under the provisions of Sections 14(a) and (b) of ANCSA to convey certain lands to the existing municipality in the village **or**, if no municipality exists, to the State in trust for any municipality that may be established in the future. Acceptance of the trust responsibility is found in Alaska Statute (AS) 44.33.755, which defines “municipality” as “only first or second-class cities incorporated under the laws of the state.” The lands conveyed to the State in trust are called “municipal trust lands.”

The role of the MLT Program is basically two-fold:

- 1. Accepting land into trust from Village Corporations, and**
- 2. Managing and administering municipal trust land until the village incorporates as a city.**



ANCSA Communities in MLT Program

AHTNA

Cantwell ^{IP}
 Chistochina ^N
 Chitna ^N
 Copper Center ^C
 Gakona ^P
 Gulkana ^Z
 Mentasta Lake ^Z
 Tazlina ^{IP}

ALEUT

Akutan ^I
 Atka ^I
 Belkofski ^N
 False Pass ^I
 Nelson Lagoon ^C
 Nikolski ^N
 Pauloff Harbor ^N
 Saint George ^I
 Unga ^N

ARCTIC SLOPE

Atkasuk ^I
 Point Lay ^P

BERING STRAITS

Council ^C
 King Island ^Z
 Mary's Igloo ^N
 Solomon ^C

BRISTOL BAY

Chignik ^I
 Chignik Lagoon ^C
 Chignik Lake ^C
 Egegik ^I
 Ekuk ^C
 Igiugig ^C
 Iliamna ^C
 Ivanof Bay ^C
 Kokhanok ^C
 Koliganek ^C
 Levelock ^C
 Naknek ^Z
 Pedro Bay ^C
 Perryville ^C
 Pilot Point ^I
 Portage Creek ^C
 South Naknek ^C
 Twin Hills ^P
 Ugashik ^C

CALISTA

Akiachak ^N
 Atmautluak ^N
 Bill Moore's Slough ^N
 Chuloonawick ^N
 Crooked Creek ^P
 Georgetown ^P
 Hamilton ^N
 Kasigluk ^N
 Kipnuk ^P
 Kongiganak ^P
 Kwigillingok ^P
 Lime Village ^P
 Napaimute ^C
 Newtok ^N
 Ohagamiut ^N
 Oscarville ^P
 Paimiut ^N
 Pitka's Point ^C
 Red Devil ^N
 Sleetmute ^P
 Stony River ^N
 Tuluksak ^N
 Tuntutuliak ^P
 Tunanak ^N
 Umkumiute ^N

CHUGACH

Chenega ^C
 Nanwalek ^N
 Port Graham ^N
 Tatitlek ^C

COOK INLET

Chickaloon ^N
 Knik ^Z
 Ninilchik ^C
 Salamatof ^Z
 Tyonek ^{IP}

DOYON

Beaver ^N
 Birch Creek ^N
 Chalkyitsik ^N
 Circle ^Z
 Dot Lake ^C
 Eagle ^N
 Evansville ^C
 Healy Lake ^N
 Manley Hot Springs ^C
 Minto ^P
 Northway ^N
 Rampart ^N

Stevens Village ^{IP}
 Takotna ^C
 Tanacross ^C
 Telida ^C

KONIAG

Afognak ^N
 Ayakulik ^N
 Kaguyak ^Z
 Karluk ^C
 Uganik ^N
 Uyak ^Z
 Woody Island ^Z

NANA

Noatak ^N

SEALASKA

Klukwan ^N

C - Completed 14(c)(3)
 Reconveyance
 Z - Completed w/ No
 MLT Lands
 P - Partial Reconveyance
 IP - In Process
 N - No Progress
 I - Incorporated City



Appropriate Village Entity (AVE)

In most villages there is a village organization that represents local residents in decisions about trust lands. This may be a village council, a community association, or some other group established in the community. The recognized group is called the "appropriate village entity" (AVE). The role of the AVE is to speak for village residents.

The AVE is a partner with the MLT Program in identifying land for conveyance under ANCSA 14(c)(3). In communities that do not have an AVE, land uses are voted on by local residents in a village meeting conducted by MLT staff. Of the 83 communities still subject to the MLT program, 58 have an identified AVE.

Once land is conveyed into trust, it is only available for use with the approval of the AVE.

The MLT Program invites each AVE to make long term plans for trust land. These plans help both the community and MLT consider what land uses are in the best interest of residents now and in the future. The goal of the MLT Program is to work closely with the AVE to ensure a good faith partnership.



Timeline Since Passage of ANCSA

<u>Year</u>	<u>Milestone</u>
1971	Passage of ANCSA
1975	Enactment of AS 44.47.150 accepting trust responsibility
1977	MLT program starts operations
1980	First lands taken into trust as a <u>partial</u> settlement (Karluk)
1981	Passage of ANILCA, amending total acreage required for reconveyance Implementation of MLT regulations Recognition of Appropriate Village Entities (AVE's) begins Completion of first evaluation of tender for land settlement (Takotna)
1990	First deed for <u>complete</u> settlement (Ugashik)
1991-2022	Work with communities on settlement agreements and leases
2023	Pending completion of 14(c)(3) reconveyance to the State in Trust (Cantwell)



Summary of MLT Community Status

There were originally 101 communities included as part of the MLT program. A total of only eight (8) communities have incorporated into a municipality, the latest being in 1995. Another six (6) communities have approved zero-acre settlement agreements as a “vacant village”, and one (1) other settlement with the re-conveyed lands granted to a borough. All lands were conveyed out of trust for three (3) other communities. This leaves 83 communities that are still covered under the MLT program, with approximately 11,500 acres currently held in trust.

The status of village corporations (MLT program) satisfaction of the 14(c)(3) reconveyance obligations.

• Complete	Incorporated	8
• Complete	No MLT Acreage	10
• Complete	With MLT Acreage	30
• Partial	With MLT Acreage	12
• In-Process	With no MLT Acreage	4
• Not Complete	No Progress	37



When the Trustee Role Ends

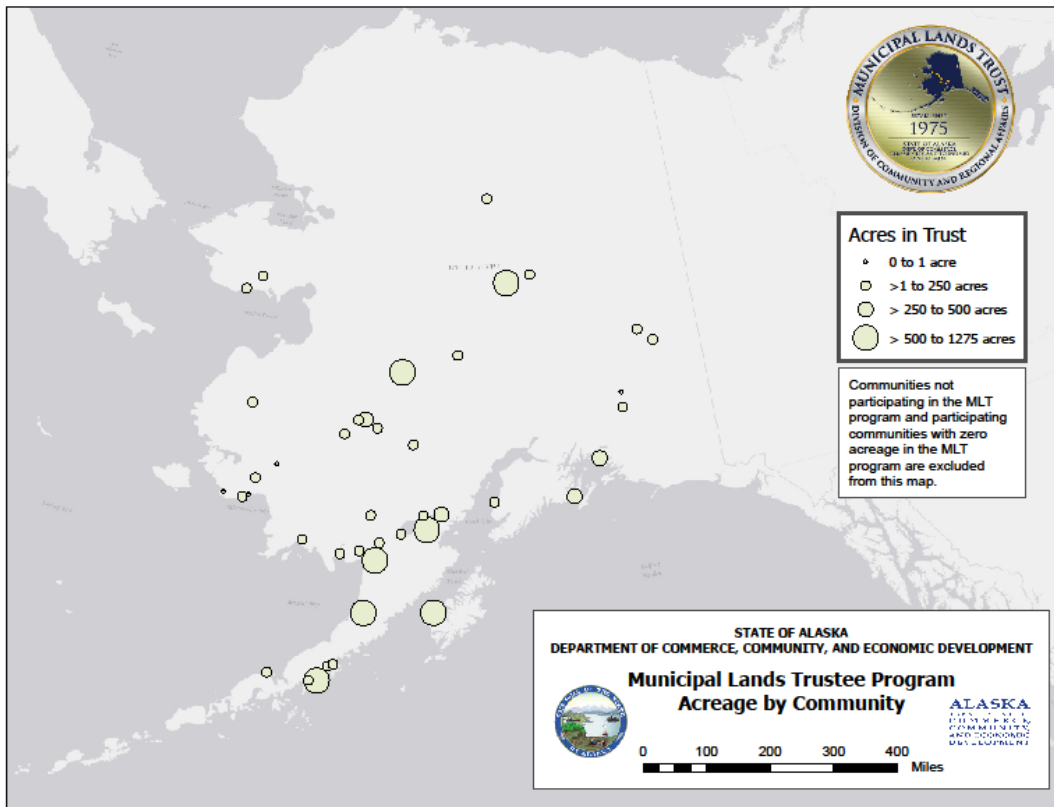
When a village incorporates as a city, the State will convey to the city all the municipal trust land it holds. An accounting will be made for all revenues received, and these funds may be transferred to the city.

A village may incorporate into a municipality prior to the State accepting any reconveyance of municipal trust lands. The newly formed city would then be responsible for pursuing the transfer of municipal trust lands under ANCSA 14(c)(3).

<u>Village</u>	<u>Year of Incorporation</u>
Akutan	1979
Atkasuk	1982
Chignik	1983
St. George	1983
Atka	1988
False Pass	1990
Pilot Point	1992
Egegik	1995



Communities where State owns Land in Trust





Site Control on Municipal Trust Land

Most of the Municipal Trust Land remains vacant where raw land comprises approximately 9,760 acres. Known improvements with active site control, such as leases, easements, or permits, total around 1,750 acres. The number of residential improvements or occupied acreage (housing) has not been previously tracked and is currently being evaluated.

Disposals of municipal trust land by deed is also an option, however certain covenants must be included in the conveyance to allow for the transfer of the land to a city when incorporated. Majority of prior conveyance by deed have been for residential purposes. Approximate acreage are shown for the following uses:

990 acres	Airport Properties (mostly managed by ADOT&PF)
75 acres	Schools (DEED, Boroughs, or Regional/Village Corp.)
225 acres	Landfills and Sewage Lagoons
105 acres	Other Infrastructure
240 acres	Easements and ROWs (Public Access and Utilities)
114 acres	Water Facilities/Well Houses/Public Works Facilities
11 acres	Bulk Fuel Storage and Power Plants



(MLT) Program Philosophy

The Municipal Lands Trustee Program is guided by a Statement of Trust Philosophy. Among other things, the Statement of Trust Philosophy provides:

1. The State CANNOT acquire title to nor administer municipal trust lands for its own sovereign use and benefit.
2. Municipal trust lands are held for a future city and are for the ultimate general welfare of all inhabitants, now and in the future.
3. Great weight will be given by the Trustee to the views of the residents.
4. The Trustee has the duty to be responsive both to present needs of the village and to foreseeable needs of any future city.
5. The village should not find it necessary to incorporate as a city only for the purpose of obtaining control of the municipal trust lands.



Accepting Municipal Trust Land

Reaching a 14(c)(3) agreement is best done by interaction between the AVE, the village corporation, and the MLT Program. Sharing of information, cooperation, and the involvement of local residents are vital to a successful 14(c)(3) settlement.

MLT asks five questions in deciding to accept a 14(c)(3) proposal:

1. Is acceptance of the 14(c)(3) land in the best interest of a future city?
2. Does the proposal include all improved land in the village?
3. Is there enough land included which is clearly essential to meet all present or foreseeable community needs?
4. Would future land use patterns created by the conveyance impair the economic viability of the village corporation?
5. Is the acceptance of the land consistent with the views of the village residents?

The end product is a 14(c)(3) agreement that works for all parties. The 14(c)(3) land will reflect the community's view of the future.



Management of Municipal Trust Lands

After municipal trust land is identified and conveyed to the State in trust, the MLT Program takes on the role of land manager. A land status record and history of each parcel of land is maintained. The MLT staff also takes any action necessary to dispose of land or interest in land such as the issuance of leases, easements or permits. In regard to disposals, the MLT Program is guided by some important legal and regulatory requirements:

1. No disposal may be made without prior public notice.
2. The AVE or village residents must approve of the disposal action.
3. Disposals will be for at least fair market value unless waived.
4. The fair market value requirement may be waived for public or charitable purposes, village relocation, equitable interest, or for residential expansion.

MLT staff are currently tasked with the following priorities:

- Inventorying all known improvements located on municipal trust lands.
- Secure site control (leases, easements, or permits) when and where appropriate.
- Convey by deed, when possible, lands to the owners of the improvements.
- Update and keep current the status of all lands in GIS and the MLT dashboard (both under development).



Current situation and next steps

Reality is

- Villages struggle to, or even resist incorporating into a municipality.
- Some village corporations and tribes desire for the lands to be conveyed back to the village corporation or to the tribe, or be released from the obligation entirely.
- A cloud on title remains on village corporation lands subject ANCSA 14(c)(3) to reconvey lands to a city or the State in Trust. Any use of the land authorized by the village corporation requires the State's written disclaimer of interest.
- The State's trust responsibility under ANCSA requires that "all" municipal trust lands be transferred to a city when incorporated. This conflicts with current MLT regulations that provide for the disposal of lands by deed.
- No deadline to transfer the lands.
- State does not benefit from owning isolated parcels of land across rural Alaska.
- The division supports maximum local self governance.



Issues and priorities

Issues to be addressed through changes in federal law, state regulations, and department policy:

- Federal legislation to amend ANCSA would be required to remove the 14(c)(3) obligation.
- If 14(c)(3) were to be amended, consideration should be given as to what to do with private improvements, public airport properties and schools, as well as preserving public access.
- Changes to State regulations may be needed to address the conflict with the State's trust responsibility and the ability to convey land by deed without requiring overly stringent covenants such as reversionary clauses to that would transfer the land and improvements to the city upon incorporation.



Need more information?

Website:

www.commerce.alaska.gov/web/dcra/PlanningLandManagement/MunicipalLandTrusteeProgram

The following publications are available:

- ❖ *An Overview of the Municipal Lands Trustee Program*
- ❖ *Getting Started on ANCSA 14 (c) (3)*
- ❖ *Statement of Trust Philosophy*
- ❖ *Municipal Trust Land Regulations*
- ❖ *Program Flyer: What is an "Appropriate Village Entity?"*



Thank You

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