

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 20, 2023

1:41 p.m.

MEMBERS PRESENT

Senator Forrest Dunbar, Chair
Senator Elvi Gray-Jackson
Senator Jesse Bjorkman
Senator Cathy Giessel

MEMBERS ABSENT

Senator Donald Olson, Vice Chair

COMMITTEE CALENDAR

OVERVIEW: ALASKA NATIVE CLAIMS SETTLEMENT ACT 14(C)(3) AND THE MUNICIPAL LANDS TRUSTEE PROGRAM

- HEARD

SENATE BILL NO. 79

"An Act relating to the reclassification of first class cities as second class cities; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

SANDRA MOLLER, Director and Municipal Lands Trust Officer
Division of Community and Regional Affairs (DCRA)
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Presented an overview of the Municipal Lands Trustee Program and the Alaska Native Claims Settlement Act 14(c)(3).

NATHAN MCCOWAN, Chair
Alaska Native Village Corporation Association
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony pertaining to the Alaska Native Claims Settlement Act.

BEN MALLOTT, Vice President
Internal Affairs
Alaska Federation of Natives (AFN)
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony pertaining to the Alaska Native Claims Settlement Act.

CHRIS GRUNDMAN, Program Manager
Municipal Lands Trustee Program
Division of Community and Regional Affairs
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to the Municipal Lands Trustee Program and the Alaska Native Claims Settlement

ACTION NARRATIVE

[1:41:17 PM](#)

CHAIR FORREST DUNBAR called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:41 p.m. Present at the call to order were Senators Giessel, Bjorkman, and Chair Dunbar. Senator Gray-Jackson arrived immediately thereafter.

OVERVIEW: ALASKA NATIVE CLAIMS SETTLEMENT ACT 14(c)(3) AND THE MUNICIPAL LANDS TRUSTEE PROGRAM

[1:41:51 PM](#)

CHAIR DUNBAR announced an overview of the Alaska Native Claims Settlement (ANCSA) 14(c)(3) and the Municipal Lands Trustee (MLT) Program.

[1:42:27 PM](#)

SENATOR GRAY-JACKSON joined the meeting.

[1:43:04 PM](#)

SANDRA MOLLER, Director and Municipal Lands Trust Officer, Division of Community and Regional Affairs (DCRA), Department of Commerce, Community and Economic Development, Anchorage, Alaska, presented an overview of the Municipal Lands Trustee (MLT) Program and the Alaska Native Claims Settlement (ANCSA) Act 14(c)(3). She began on slide and described how the MLT Program got started:

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.

[1:45:54 PM](#)

MS. MOLLER summarized slide 3, which listed all the ANCSA villages in the MLT Program by regional corporation and geographic area. Village corporations that received land under ANCSA 14(c)(3) are on this list and in the MLT Program. She pointed out that not all Alaska communities are ANCSA villages. She said there were 103 communities in the program initially, and about 12 to 13 are abandoned communities. For example, residents no longer live on the island of Unga. However, the Aleut Corporation still has the land and the requirement to transfer the property to a public entity. The division calls these vacant villages; they still have land but nobody to transfer it to because there is no community.

[1:47:13 PM](#)

SENATOR DUNBAR said it is clear why some communities are still in the MLT Program, but it is unclear why other communities remain in the program. He asked why fairly well-established and functioning communities stay in the MLT program.

MS. MOLLER replied that the MLT Program permits DCRA to take two actions:

- it can accept land from a village corporation, and
- it can transfer land to a new city.

MS. MOLLER said that populations in MLT areas have communities, but they have not decided to create a city. The program requires a land transfer to a city, not a community association. This is the big issue DCRA faces. The division can lease the land to these communities.

[1:48:35 PM](#)

SENATOR GRAY-JACKSON asked about the letters next to community names on slide 3.

MS. MOLLER directed the committee to the legend in the lower right corner of the slide. She pointed out that the letter "C" means the community "Completed 14(c)(3) Reconveyance" and "Z" means "Completed with no MLT Lands." She said each community has a back story, and the division can give more details if members are interested.

[1:49:24 PM](#)

MS. MOLLER reviewed slide 4:

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.

[1:50:09 PM](#)

MS. MOLLER advanced to slide 5, which shows a snapshot of the history of the MLT Program. She noted that ANCSA passed in 1971, and the first lands the state took into trust as a partial settlement happened nine years later. She explained some details about the settlement process, stating communities vary in their interest and involvement. DCRA works with communities that are interested in the program. DCRA does not randomly reach out to communities in the MLT Program; the role of DCRA is not that of ANCSA 14(c)(3) enforcer. She reviewed slide 5:

Timeline Since Passage of ANCSA

Year	Milestone
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 partial settlement (Karluk)
1981	Passage of ANILCA, amending total acreage required for reconveyance Implementation of MLT regulations Recognition of Appropriate Village Entities (AVEs) begins Completion of the first evaluation of tender for land settlement (Takotna)
1990	First deed for complete 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)

[1:53:07 PM](#)

MS. MOLLER reviewed slide 6, which shows some of the progress that has been made:

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

[1:55:10 PM](#)

SENATOR BJORKMAN asked about the unincorporated community of Ninilchik that transferred a small parcel of land to the State to be held in trust. He wondered what the benefit is for a community to do this.

MS. MOLLER sought clarification about the question.

SENATOR BJORKMAN asked why a community would deed land to the State to be held in trust.

MS. MOLLER replied that the State of Alaska only wants to accept land into trust if the community has a strategy for its use. The State is not interested in owning scattered sites around Alaska. The Bureau of Land Management pushed to get ANSCA 14(c)(3) settled in the early 1980s, and some communities just transferred deeds in the momentum of the push. The State received the bulk of deeds in that push, and it carries this bureaucratic burden on behalf of future communities. She expressed her belief that holding the land in trust only benefits communities with plans for a future city.

[1:58:23 PM](#)

CHAIR DUNBAR clarified that the term "land into trust" has a specific meaning in the federal context, and there are legal

reasons for putting land into a federal trust. He emphasized the federal meaning differs from land held in trust under ANCSA 14(c)(3). He sought confirmation that communities are no longer actively seeking this out and that the State does not particularly want it.

MS. MOLLER replied yes, that is exactly right. She thanked him for the clear distinction between federal and State trusts. She said the terminology is often confusing. She reiterated that the land held in trust to the State is specific to villages that received land under ANCSA.

[1:59:16 PM](#)

MS. MOLLER summarized slide 7:

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
Atqasuk	1982
Chignik	1983
St. George	1983
Atka	1988
False Pass	1990
Pilot Point	1992
Egegik	1995

[1:59:48 PM](#)

MS. MOLLER advanced to a map on slide 8, which showed a snapshot of where the State owns land in trust. The circles on the map depict the acreage the State has in full deeds. DCRA is carefully looking at lands identified for conveyance; the State only wants to accept more land into trust if a community puts effort into becoming a city.

[2:01:11 PM](#)

MS. MOLLER reviewed slide 9, which identifies how lands held in trust are used:

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

[2:03:10 PM](#)

MS. MOLLER reviewed slide 10:

(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.

[2:03:48 PM](#)

MS. MOLLER summarized slide 11, which identifies lands that potentially should or should not go into trust:

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.

[2:04:19 PM](#)

MS. MOLLER reviewed slide 12:

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).

[2:05:44 PM](#)

MS. MOLLER reviewed slide 13:

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.

[2:07:19 PM](#)

MS. MOLLER advanced to slide 14, stating the idea of the MLT Program was great initially but has probably run its course. The State requires federal legislation to address this issue differently, which DCRA supports. The COVID pandemic stalled legislation introduced that addressed this issue. DCRA is interested in discussions that sunset the MLT program. She said the State should retain some lands for airports and rights of way. She reviewed slide 14:

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.

MS. MOLLER advanced to slide 15, which reads:

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?"

[2:09:07 PM](#)

SENATOR GRAY-JACKSON asked whether the MLT program manages unoccupied land.

MS. MOLLER answered the program manages both. It manages vacant land and about 1,700 acres with a purpose, like a water treatment plant or a school.

SENATOR GRAY-JACKSON asked about DCRA's relationship with a village after it becomes a city, like Akutan.

MS. MOLLER replied that DCRA wishes them well and graduates them from the MLT Program. She said that local government specialists help graduated cities with elections and setting up policies.

CHAIR DUNBAR moved down the agenda and asked Mr. McCowan to begin his invited testimony.

[2:10:27 PM](#)

NATHAN MCCOWAN, Chair, Alaska Native Village Corporation Association (ANVCA), Anchorage, Alaska, gave invited testimony about the Alaska Native Claims Settlement Act. ANVCA is a nonprofit entity organized to advocate for the specific needs of village and urban corporations pursuant to ANCSA. He highlighted the history of ANCSA, stating there were about 220 village corporations originally. That number has declined to 176 due to mergers in the late 1970s and 1980s. Some member entities completed the ANCSA 14(c) process, and others are still in the process and encountering problems. He said ANCSA was a complex piece of legislation that involved balancing a State land freeze with land selections at play, the development of Prudhoe Bay, and the extinguishment of claims of the Alaska Native people. One of the questions that arose was what to do with the individual localities, the individual villages, cities, and the private property interests of individuals who had created homes in some of the unincorporated portions of the state.

[2:12:20 PM](#)

MR. MCCOWAN briefly described ANCSA 14(c):

- ANCSA 14(c)(1) allowed individuals who had homes or businesses to receive a quitclaim deed to their property.
- ANCSA 14(c)(2) did the same thing with nonprofits, which affects mostly churches.
- ANCSA 14(c)(3) and (4) had to do with turning over land, existending local city municipalities, future municipalities, and airstrips and airports.

MR. MCCOWAN said ANSCA has different provisions for different needs.

[2:13:23 PM](#)

MR. MCCOWAN said only eight communities created cities after ANCSA. He noted that most of them have fisheries as a base of operations. He pointed out that St. George created a city to capture a fish tax. The primary reason cities are built is for the oversight and maintenance expenses of government. He said that it becomes a difficult proposition for many of these locales, from a cost-benefit analysis, to justify having a city government if the locale cannot generate a stable tax regime. He

pointed out that for some of these locales, having a city government can limit communities from a flexibility standpoint.

MR. MCCOWAN said that ANVCA is seeking a solution to the cumbersome MLT Program for members challenged with the development of critical infrastructure, the expansion of housing, the development of a new cemetery, and other projects. ANVCA would like to see program improvement akin to the 2004 [Alaska Land Transfer Acceleration Act] to hasten the process of getting land back in the hands of village corporations. ANVCA shares some of the concerns DCRA has about rights of access, private property interests, and other matters. However, member interests are better served over the long term by returning lands to village corporations. He said village corporations can make more productive decisions on the ground than working with the small but mighty group in the MLT Program.

CHAIR DUNBAR thanked Mr. McCowan and asked Mr. Mallott to begin his invited testimony.

[2:16:57 PM](#)

BEN MALLOTT, Vice-President, Internal Affairs, Alaska Federation of Natives (AFN), Anchorage, Alaska, gave invited testimony about the Alaska Native Claims Settlement Act. He gave an overview of the AFN organization and said that AFN and ANVCA are closely aligned on this issue and its resolution. AFN affirms its self-determination and the direct management and interest of its own lands. ANCSA 14(c)(3) served a purpose decades back, but now the Act is a relic from the past. He said that he has worked with Congress to address these issues. The State has offered limited or no clear direction on what to do about this issue. He appreciated the director's testimony, which addressed barriers on a federal level. He said that many communities have no interest in becoming a city, and there are more efficient routes to resolve these land issues.

[2:19:54 PM](#)

SENATOR DUNBAR underscored some of the topics discussed, stating about 10,000 acres are in limbo. These lands are fairly valuable, near communities or historic communities. He expressed his belief that these lands should be put to beneficial use back in the hands of Alaskans. The legislature, administration, and other stakeholders need to work together on this program; his aim is for the legislature to speak to Congress with one voice about this issue.

[2:20:50 PM](#)

SENATOR BJORKMAN asked for recent examples of lands placed in trust to the state.

MS. MOLLER answered that DCRA has not accepted any lands in the last five years. She directed the question to Mr. Grundman, who might have the exact date when the last deed occurred.

[2:21:27 PM](#)

CHRIS GRUNDMAN, Program Manager, Municipal Lands Trustee Program, Division of Community and Regional Affairs, Department of Commerce, Community and Economic Development, Anchorage, Alaska, answered that the most recent community to have nearly completed the process was Cantwell. It went through the approval and selection of lands process, the survey was completed, and the deed is now under negotiation. DCRA is doing a final review of the title and addressing two minor encroachment issues. The deed will be conveyed to the State and held in trust around the end of the fiscal year.

SENATOR BJORKMAN asked why Cantwell chose to put those lands into trust.

MR. GRUNDMAN answered that one benefit is that it removes the encumbrance on the title for that village corporation. The village corporation's hands are tied; the corporation has to have the State's concurrence to convey any other land or authorize third-party land uses until the corporation is clear of its ANCSA 14(c)(1), (2), and (3) obligations. Once the obligation is clear and the reconveyance settled, all the remaining lands are free to use as appropriate.

[2:23:25 PM](#)

CHAIR DUNBAR sought clarification that village corporations put land in trust, not communities.

MR. GRUNDMAN answered correct. The land comes from village corporations, but communities review, select, and approve which lands are conveyed to the State. This process requires the State's concurrent review and approval.

CHAIR DUNBAR asked when the last time was that lands came out of trust and into the hands of another entity that could use it.

MR. GRUNDMAN expressed his belief that the last city was incorporated in 1995. He said cities can use one of two methods to acquire title to ANCSA 14(c)(3) lands:

- The city can negotiate it directly from the village corporation or

- The State can transfer lands it holds in trust within one fiscal year, along with all the proceeds from the rent or sale of the properties.

[2:24:40 PM](#)

SENATOR BJORKMAN asked about projects a village corporation might want to do with land other than land placed into trust for a potential city.

MR. GRUNDMAN answered that several community projects, like public services, water treatment facilities, landfills, and utilities, may benefit the community. These types of services are done at a local level with state assistance. Corporations identify and select lands for residential development through housing authorities for residential purposes.

MR. GRUNDMAN clarified that those lands in trust are available for those same purposes; however, they must go through the regulatory process for review and approval. It requires public notice and a resolution from the AVE or village resident. DCRA can authorize public service projects through a lease, deed, or easement.

[2:26:46 PM](#)

MS. MOLLER expanded on her comments, stating a community that graduates out of the MLT Program would work with the Local Boundary Commission to become a city. DCRA would continue to work with the community on local government matters regardless of its municipal status. She expressed appreciation to the committee for taking the time to hear the ANCSA and MLT Program presentation.

[2:27:34 PM](#)

There being no further business to come before the committee, Chair Dunbar adjourned the Senate Community and Regional Affairs Standing Committee meeting at 2:27 p.m.