

SCOMM

#10:52A

LISA RUDD  
2827 LORE ROAD  
ANCHORAGE, ALASKA 99507

7/13/79  
Lisa  
Queen

7/8/79

Dear Arliss -

This article illustrates the problem that you and I were talking about.

The lawyer quoted here does not understand that although a unique trust relationship exists in law between Alaska

Natives (and other American Indians) and the federal government, the same type of relationship does not exist between Natives and the state.

Nor should it, in my view -

Best -

Lisa

# Interior villages sue over land disposal

by Molly McCammon  
for the TUNDRA TIMES

Three Native villages in the Interior have charged the State of Alaska with unlawfully proposing certain lands adjacent to them be included in the state's open-to-entry land disposal program.

The village councils of Minto, Tetlin, and Tanacross, and William Burke, a trapper from Nenana, filed suit in Fairbanks Superior Court June 18 against Commissioner of Natural Resources Bob LeResche and

the State of Alaska. The suit asks for a permanent injunction against the land disposal scheduled for the Tok Hills, Dugan Hills, and Cathedral Bluffs areas. A total of 2,210 one-to-five acre sites were made available in those three areas. According to Public Information Officer Pete Buist, the State Division of Lands North-central Office accepted about 350 applications for those sites between May 15 and June 15. The land (See VILLAGES, Page Five)

## ● Interior villages sue over land disposal

(Continued from Page One)  
is scheduled to be awarded on June 30.

The plaintiffs' basic claims, said Mike Walleri, an attorney working as a village government specialist for the Tanana Chiefs' Conference in Fairbanks, is that the state failed to allow maximum public participation when first making the decision on which lands to make available.

"The law provides that local residents be provided meaningful participation," Walleri said. "Every single person who testified at a hearing in Manley was opposed to the disposal, and no favorable comments were received at the hearing in Tok. You can hardly call that meaningful participation when the state holds hearings but ignores everything that was said."

Walleri said hearings should also have been held

in Tetlin and Tanacross, and in fact Dot Lake had requested but was denied such a hearing.

Burke a resident of Nenana who traps and owns land in Dugan Hills, claims that he and other adjacent landowners were never consulted about the state's plans.

The suit also contends that the land disposals in dispute are not consistent with the intent of the Alaska Land Disposal Act. That act basically called for land to be made available for homesites near communities with existing services and for scattered recreational sites. Maintained Walleri, "Instead, the state is essentially taking these areas and creating new communities where there were none before."

The suit also claims that

the Alaska Lands Act (AS 38.05), which was passed by the State Legislature in 1976, is racially discriminatory against Native Alaskans. The law requires that state chartered municipal corporations, such as boroughs and cities, be given notice and provided the opportunity for meaningful participation in proposed land disposal.

None of the three villages are organized as cities. The village councils of Minto and Tetlin are organized under the Indian Reorganization Act of 1934, (IRA), and Tanacross has a traditional Native village council. All three councils are recognized by the federal government as the governing bodies for those communities, but none are recognized as such by the State.

"This situation tends to

be racially discriminating," said Walleri, "since most non-Native communities organize as cities, whereas Native communities have a choice of either becoming a city and/or having an IRA or traditional council."

"As originally written the Alaska Lands Act required that notice of all land disposals be given to all organized communities and

adjacent land owners," Walleri said. "Then the Aleut corporation filed suit against some disposals and in 1976 the State Legislature changed the wording of the act so that only municipalities were required to be notified. By doing this, the state has essentially attempted to disenfranchise the entire Native Population."

\* Only under federal law!



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PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

## RECOGNITION OF "VILLAGES"

### PROBLEM:

Villages have expressed a desire for recognition by the State of Alaska--that is for a certain legal status. This has been seen as a way of expediting the disposition of the land entitlements designated "for community expansion and appropriate rights-of-way for public use, and other foreseeable community needs" under the Alaska Native Claims Settlement Act (Section 14 (c) (3)).

### POSSIBLE COURSES OF ACTION:

1. Do nothing and allow the Municipal Lands Trustee Program to function as trustee until such time as the villages incorporate as municipalities. (See attached copy of the functioning of the program)
2. The State could formally recognize the problem and could initiate action to have the Federal Government recognize second class cities for purposes of BIA funding, Indian Self-Determination Act funds, or special HUD Block Grants for Indian Tribes and Alaska Natives.
3. Legislation could be developed which would classify "villages" as third class cities which would have minimal organizational requirements but which would be legally recognized entities for purposes of revenue sharing and land entitlements under 14 (c) (3). (See Pat Poland's bill attached for the basic concept of the 3rd class city)

## MUNICIPAL LANDS TRUSTEE PROGRAM

### INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA) mandated that the approximately 200 Alaska Native Villages will obtain nearly 22 million acres of the 40 million acres received from the settlement with the federal government. Village selections range from 69,120 to 161,280 acres, with exception of those in Southeast which are 23,040 acres. According to Section 14(3)(c) of ANCSA, each village, through it's corporation, must convey at least 1,280 acres (two square miles) of "The remaining surface estate of the improved land on which the native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs to the municipal corporation or in trust (to the state)".<sup>1</sup>

### TRUSTEE ROLE OF THE STATE

Currently, about (100) of the ANCSA recognized villages are also municipal incorporated entities or are located within one (the overwhelming majority of them being second class cities). For the remaining 100 unincorporated communities, the state has accepted (AS 44.47.150) the responsibility as

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1. Section 14(c)(3) of the Alaska Native Claims Settlement Act.

trustee for those lands. This role does not allow the state to "acquire title, nor administer the municipal lands for its own sovereign use or benefit".<sup>2</sup> "Rather the lands will be conveyed and administered "in trust" for any municipal corporation established in the native village in the future".<sup>3</sup>

The Department of Community and Regional Affairs has the responsibility to administer the program under the following four basic guidelines:

- 1) All transfers of trust lands (irrespective of the mode of transfer) must first have the approval of a recognized "appropriate Village entity".<sup>4</sup>
- 2) The trustee program will be conducted in a manner in which Villages will not feel pressured to incorporate to obtain control of their lands.

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2. Handling The Municipal Land Trust Program. A Trust Philosophy, Alaska Native Management Report, 9/15/77 page 4.

3. Ibid.

4. "Appropriate Village Entity" as defined by the proposed regulations (19 AAC 90.120) for the Municipal Trust Lands is "an active organization (but not necessarily a formal organization having its own independent legal identity) which represents, in a traditional or democratic manner, the collective views of bona-fide residents of the Village..."

- 3) Any financial benefits derived from the trustee lands will be given to the future municipality.
- 4) Title to and interest in trust lands can only be obtained through the trustee program (and not by adverse possession or prescription).

#### VILLAGE PARTICIPATION

The state views the Village residents as co-trustees in making land selection determinations for possible future municipalities. They wish this decision-making process to be a joint effort. The state, nevertheless, recognizes its obligation as the legal trustee to the beneficiary (the future municipality) and therefore is not required to accept the suggested lands by the appropriate Village entity. The state in trust, according the program administrator, "seems to have a legitimate role in identifying and accepting land to be conveyed in trust"<sup>5</sup>. This is obviously a potential point of conflict between the Village and state.

#### VILLAGE CORPORATION ROLE

The village corporation will be the interim trustee until the designated lands are transferred to either the municipality or state. If in the event a need arises for public use such as schools, power easements, HUD housing or a sewer lagoon, before the federal government has issued patent or interim

conveyance to the village corporation, the problem of possible construction delay or cancellation may be avoided by the village corporation and the state (in trust) voluntarily executing a contractual agreement. This agreement (or conveyance by promissary note) would simply provide that the land to be used for municipal use would be part of the future 14(c)(3) conveyance and that it would be accepted by the state in trust. The agreement must, in addition to village corporation consent, be favored by a resolution of the appropriate Village entity. In addition, the regional corporation must be given the opportunity to review the action and render advise.

#### CURRENT STATUS OF THE PROGRAM

Presently there are 90 Villages included in the program with a possibility of an additional 19 in the near future. Only 17 of these Villages have received title to even small portions of their lands (none of them have received all their selections). There has not been, as of June 1979, any land transferred into or out of trust status. Hence; implementation of the four basis policies of the trust program has not occurred and therefore the need and effectiveness of the state's involvement can not be determined. The program activities, as to date, have primarily consisted of the state playing the role of mediator between different village corporations and municipalities concerning land selections and conducting discussions with and giving assistance to villages concerning future public facility sites.

FUTURE STATUS OF THE PROGRAM

The State of Alaska anticipates transfers of land or commitments to transfer in the immediate future. This is based on the following events:

1. The Program Regulations will be soon adapted.
2. BLM will convey a substantial amount of lands to village corporations.
3. Village awareness and understanding of the program will be greatly enhanced.
4. Construction of public facilities (i.e. schools) will increase in the Villages and thereby increase the amount of land involved in the trustee program.

SECTION 14(c)(3) of the ALASKA NATIVE CLAIMS SETTLEMENT ACT:

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents;

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

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ALASKA STATUTES 44.47.150:

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

(b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. Such approval shall be by resolution filed with the department.

(c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality which includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.

(d) Separate accounts shall be maintained in the name of each village for the land, including the revenues from the land, acquired from each village corporation under this section, and within 90 days of the close of each state fiscal year a statement of the account for each municipality shall be prepared by the commissioner and be made available to the village and to the public upon request.

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

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

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

# Jenks explains state municipal lands trust program

BY SHARON MCCONNELL

200 villages would form corporations and receive title to land. The Act also stated that every village corporation would convey "no less than 1,280

acres" of land to the community's municipality for community needs and expansion.

Presently, about 100 of the village corporations are part of a municipality and can, after receiving title to land, convey lands to the community municipality. The other 100 village corporations, which are located where no city government exists, will place the conveyance of these land titles to the state in trust for future municipalities in the community.

Bob Jenks, the State Municipal Lands Trustee for the Municipal Lands Trust Program, which will keep the lands in trust for future city govern-

ments, said at the present time the program officials are "developing the procedures and rules by which the program will operate." He said hearings will be held in villages involved in the Trust Program sometime soon. Jenks added that "in it (the program's) fullness, it will probably be going into effect with the adoption of official regulations sometime this summer."

Jenks said there are several basic principals of the Trust Program. "First of all, the state in this program is not acting on behalf of the State of Alaska itself, it's acting on behalf of the community. The ultimate beneficiary of these

trust lands is not the State of Alaska, but is a future first or second class city that may later be established in the Native village."

The State Municipal Lands Trustee also said another major principle of the program is the lands in trust "may not be transferred by sale, lease, easement, or right of way, until the local community through an appropriate village entity has approved it in advance."

Copies of the regulations and rules for the Trust Program will be available soon, Jenks said, and can be obtained by writing: Municipal Lands Trustee, 511 West 4th Avenue, Anchorage, Alaska 99501.

## PUBLIC NOTICE

Regular meeting of the Board of Directors of Northern Alaska Health Resources Association, Inc.

The purpose of this meeting is to give final approval of all documentation required for final designation (Federal Grant Application and Budget, Health Systems Plan and Annual Implementation Plan) and to develop recommendations for the State funded Community Mental Health Center Applications. The Board will also review Fairbanks Memorial Hospital's application for Certificate to Need for a laboratory computer. The meeting will begin at 6:00 PM Friday, May 5, 1978 in the Alaskan Room of the Fairbanks Inn, 1521 Cushman and will continue there at 9:00 AM Saturday, May 6, 1978.

Northern Alaska Health Resources Association, Inc.  
529 5th Avenue - Suite 8  
Fairbanks, Alaska 99701

## Statewide Classified Marketplace

### OPPORTUNITY

POSITION: URBAN PLANNER  
UNIT OF OPERATION: CITY OF BETHEL, ALASKA

#### DUTIES AND RESPONSIBILITIES:

Under the direction of the City Manager or designee, responsible for the development and coordination of a five (5) year comprehensive development plan for the Municipality of Bethel; grant applications pertaining to HUD's Community Development Block Grant Program, the performance of work activities assigned by the Municipality's Planning Commission; the establishment of a data base which could include but not be limited to zoning, subdivision regulation, land use policies and procedures, first class local government structure and the effects of required government on the Municipality; and the implementation of other duties at the discretion of the City Manager or Planning Commission.

#### QUALIFICATIONS:

M.A. degree in Urban Planning/Community Development or related academic field with related experience preferred.

SALARY: \$1,500/month-higher salary negotiable depending upon experience. Benefits includes health/

seek out and consider minority business enterprises as potential subcontractors. Each bidder intending to submit part of the contract work shall make contact with potential minority business enterprise subcontractors to affirmatively solicit their interest, capability, and prices, and shall document the results of such contacts. A bidder's failure to submit this certification or submission of a false certification shall render his bid nonresponsive."

Certification form 25A320 will be included with the bidding documents.

Plans and specifications may be obtained by all who have a bona fide need for them for bidding purposes from the Chief Road Design Engineer, P.O. Box 1467 Juneau, Alaska 99802 at a charge of \$10.00 (non-refundable) for each assembly. Checks or money orders should be made payable to: State of Alaska, Department of Transportation and Public Facilities. Plans may be examined at Regional Department of Transportation and Public Facilities offices in Anchorage, Fairbanks, Valdez.

Donald Harris  
Commissioner

### OPPORTUNITIES

THE BREAST CANCER DETECTION CENTER IS NOW OPEN, for appointment call 456-2945, open Monday to Thursday, at 420 4th Avenue.

### LEGAL NOTICE

#### PUBLIC NOTICE

In accordance with regulation 19 AAC 85.040(b) notice is hereby provided that the Department of Community and Regional Affairs has received an application and certified that need exists for 25 senior citizen dwelling units in the following locations and numbers: McGrath (4), Shageluk (2), Holy Cross (2), Anvik (2), Grayling (1), Nulato (4), Ruby (2), Tanana (2), Atkasaget (2), and Ft. Yukon (4). The project application has been received from the Tanana Chiefs Conference on behalf of the named communities. Other applications and proposals for the same areas should be received by May 8, 1978 to receive consideration by the Department. For information, contact Bill Arterburn, Senior Citizen Housing Bond Fund, Department of

## IMPORTANT NOTICE AUCTION

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# STATE OF ALASKA

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**  
**DIVISION OF LOCAL GOVERNMENT ASSISTANCE**

*JAY S. HAMMOND, GOVERNOR*

225 CORDOVA, BUILDING B  
ANCHORAGE, ALASKA 99501

August 28, 1979

The Honorable Arlis Sturgulewski,  
Senator  
Alaska State Senate  
2957 Sheldon Jackson Street  
Anchorage, Alaska 99501

Dear Senator Sturgulewski:

Re: Indian Self-Determination and BIA  
Contracting

In 1975 the U.S. Congress enacted the Indian Self-Determination and Education Assistance Act. This act had a pronounced effect upon the administration of Federal Indian programs. Nationally, the result was a decentralization of Federal Bureaucracies and a corresponding move towards local reservation control and administration of Indian and Native American programs. In Alaska, the result has been the strengthening and growth of Alaska Native Non-profit Corporations through the availability of increased Federal program dollars.

In the Indian Self-Determination Act it specifically identifies Alaska Native villages, or regional or village corporations as having "Indian Tribe" status. The act further states that any recognized Indian tribe with an accountable "Tribal Organization" can negotiate and contract for services normally provided to Indian and Native Americans by the U.S. Department of Interior and HEW.

There are a variety of federally funded programs currently being contracted out to Alaska Native Non-Profit Corporations. The Bureau of Indian Affairs (BIA) contracts to the non-profits for the provision of Social Services, Employment Assistance and Johnson O'Malley funds (educational). HEW through Indian Health Service (IHA) contracts for the provision of health services to a variety of Alaska Native Health entities. The U.S. Department of Labor contracts Indian and Native American CETA funds to 14 Native Non-

The Honorable Arlis Sturgulewski  
August 28, 1979  
Page 2

profit corporations throughout Alaska. HUD contracts to regional Native Housing Authorities for the provision of adequate Native housing.

Each of these Federal funding agents requires that the contracting non-profit have the support of the regional Native communities for which it is contracting. The Bureau of Indian Affairs is actively involved in the process of Indian Self-Determination implementation. The procedures BIA has developed for determining local support for contracting to a regional non-profit illustrate the inherent strengths and weaknesses of Indian Self-Determination.

The Indian Self-Determination Act specifically identifies Alaska Native villages as being eligible for the contracting of Federal Indian programs. Each recognized Alaska Native community must pass a resolution of support for any entity seeking a service contract from the BIA. In the Calista Region, all fifty of the villages must decide whether or not to support the AVCP (Area Village Council Presidents) in their bid for the BIA contracted services. If only twenty communities pass resolutions supporting the AVCP initiative, the AVCP will receive funding for only those communities. The balance of the communities will continue to be served by the BIA or negotiate for their non-profit service contracts. Individual Native communities or sub-regional Native non-profit corporations can (with proven accountability and resolutions) contract for the provision of BIA funded services. Municipal governments have no say in the process of Indian Self-Determination. The IRA council or traditional council is the body which decides who will provide the contracted services for their community.

Through the Bureau of Indian Affairs, Indian Self-Determination has provided for a more equitable distribution of services. However, this is accomplished at the risk of a decrease in the efficiency of service delivery.

On a local level, the need for specific services and the best manner of delivery of such services can be tailor made through regional control. The variety and applicability of available services can increase the delivery of essential services. In addition, local or regionally contracted Native Non-profits are strengthened financially and professionally by the availability of program dollars. From this process of self determination, Alaska Native people have begun to have a greater sense of control over their own destinies.

However, as with most processes of change, there are many unanticipated problems. Indian Self-determination in Alaska

has created some specific challenges.

- 1) there has been no increase in BIA funding levels. However, with the proliferation of Native Non-profit service organizations, the total administrative costs have vastly increased. This has resulted in an overall reduction in available program dollars.
- 2) Each community has the right to support a particular non-profit in its bid for BIA contracts or provide the services themselves. This can lead to the fractionalization of region-wide non-profits and further divide available program and administrative dollars.
- 3) Each contracting Federal agency has its own limits on the allowable administrative costs. CETA programs have congressionally mandated administrative cost limits. BIA and IHS negotiate their allowable administrative cost levels independently. This can result in a Native non-profit corporation having 3 or 4 administrative cost levels. None of the federal agencies wants their program to be absorbing a disproportionate share of total administrative costs. Frequently, audits result in a Federal agency disallowing administrative costs they feel give a disproportionate share to their agency. This has created serious financial problems for many non-profits. This fosters the breaking apart of regional non-profits into separate non-profits offering specific functions (Health Authority, Housing Authorities, CETA organizations, etc.) The net effect is a reduction in cost efficiency and program coordination.

#### Conclusions:

There are some aspects of Indian Self-Determination that can be used. This process does allow regional priorities to be set and control to be established at the local level. The contracting of programs to regional non-profits allows these organizations to grow professionally and achieve financial solvency. Most importantly, the inhabitants of the regions have greater accessibility to the needed services and local native people can begin to integrate into the employment areas previously reserved for "outsiders".

There are liabilities involved in this self-determination process. There is a potential for continuing regional fractionalization of regional non-profits. This could result in the proliferation of sub-regional or village service delivery entities and a greater sub-dividing of the

The Honorable Arlis Sturgulewski  
August 28, 1979  
Page 4

State. The differing Federal agency administrative cost levels encourages the creation of separate regional non-profits. These two factors could lead to a decreased efficiency in the utilization of Federal funds and encourage the formation of sub-regional boundaries.

Sincerely,

James C. Sanders

JCS:sj

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF COMMUNITY PLANNING

225 CORDOVA, BUILDING B  
ANCHORAGE, ALASKA 99501

November 21, 1979

Ms. Marjorie Gorsuch  
Legislative Assistant  
Senate Community & Regional  
Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Dear Ms. Gorsuch:

In response to your phone request of November 19th, I am enclosing an advance final copy of the Municipal Trust Land regulations. AAC Register #71 which contains the official printing was scheduled for mailing by the printers last week; however, it has not yet been received.

Additionally, as you requested, I am enclosing information which supplements previous annual report data, listing villages for which the Municipal Lands Trustee Program on behalf of future cities has received either a formal or an informal interest in lands. Additional related activity and information is also included in the chart.

As I indicated on the phone, the MLT program is generally well accepted across the State by regional and village leaders, especially where it has been discussed in detail. Testimony received from over 50 people at 14 hearings on the regulations was highly supportive and related only to fine-tuning certain provisions.

Certain adverse commentaries respecting the so-called 1,280 acre conveyance issue which have come to my attention, relate to the existence of ANCSA Section 14(c)(3), itself, rather than to the present role of the State in trust. Such comments mostly emanate from a few, relatively uninformed, for-profit corporation officials (often from villages which already have municipal governments) who are unhappy there is any requirement at all for reconveyance of Municipal Lands, regardless of whether to a city or to a future city. Alternatively, they prefer to grant any such lands, since conveyance is a legal requirement, to an ethnic organization such as an IRA council, rather than to a city or to a future city. It is the municipal ownership concept to which they object. It is my observation, however, that knowledgeable, state-wide Native leadership (e.g., AN and

Ms. Marjorie Gorsuch  
November 21, 1979  
Page 2

the ANCSA Land Managers Association) and those from villages in which the MLT program has been explained, strongly support the MLT program as it is presently constituted and operating. We are continuing to meet personally with the remainder of the 90 to 100 unincorporated village in the State as rapidly as possible; oral discussions are essential to conveying an understanding and developing acceptance of the program.

I trust the information will be useful.

Sincerely,

  
Robert L. Jenks  
Municipal Lands Trust Officer

Enclosures

cc Lee McAnerney  
Commissioner

Lawrence H. Kimball, Jr.  
Director

## MUNICIPAL TRUST LANDS PROGRAM

Venetie-- Venetie is covered under Section 19 of Alaska Native Land Claims Settlement Act which means they opted for shares of stock in the village corporation and surfact as well as subsurface rights to a larger land mass than that obtained by other areas. They, like Tetlin, Savonga, and Gambell do not receive any land under 14 (c) (3). Legally speaking, they are not a reservation. However, they are attempting to get their reservation status reinstated (Don Wright their consultant supports this effort) as they found that as a reservation they had identifiable reservation control by the IRA Council. Now there are clashes between the IRA Council and the Village Corporation.

Those communities organized under Sections 12 & 16 of ANCSA receive two stock certificates --

Conversation with Jenks--11/19/79

Presently agreements have been made with 8-10 communities to hold land in trust for specific purposes (these are for parcels rather than for full 1280 entitlement).

Tyonek wanted land in own name--IRA Council wanted entitlement but is currently working with Municipal Trust Program.

Manley Hot Springs and Akutan thought about forming 2nd class cities

Jenks works with Village Council and Regional Corp. in planning for lands to be in trust. Does paper work and explains. (Made mention of John Schaeffer having mentioned that some second class cities in the NANA region were having problems handling their land and were thinking of giving up 2nd class status and letting Municipal Trust Program handle land).

Technical assistance is greater through the Trust Program than through what they would receive as 2nd class cities.

Under the Trust Program, lands to be conveyed under 14 (c) (3) are surveyed by BLM.

If a city goes 2nd class, look at the way they would receive technical assistance as well as who will provide that assistance.

(Talk to Kimball re amount of assistance given to 2nd class cities by Community Planning)

Department of Community & Regional Affairs  
Municipal Lands Trustee Program  
November 15, 1979

SUMMARY OF MLT ACTIVITIES  
(from inception to  
November 15, 1979)

<u>ACTIVITY</u>	<u>TOTALS</u> (pending)	<u>NOTES &amp; COMMENTS</u>
Villages having received Patent or Interim Conveyance from BLM.	34	Of the 34 villages having Patent or IC from BLM, 3 have insufficient interests or acreage to convey municipal trust lands; approximately 70% of the potential MLT villages still have insufficient title under ANCSA to make 14(c)(3) grants.
Villages involved in discussions concerning MLT program.	45	This represents approximately 60% of all MLT villages currently having more than a half-dozen residents. An estimated 1/3 of all MLT villages are currently ineligible for municipal incorporation due to insufficient population.
Villages having discussed and now considering tender of MLT land.	37	92 unincorporated villages currently have federal selection certification; 7 more are expected, for a total of 99.
Villages having made formal or informal tenders, including Letters of Intent.	20	Some of these are of necessity only letters of intent because of lack of fee simple title under ANCSA from BLM to the village corporations. 21 transactions have been finalized and 1 transaction is pending.
Villages where MLT program has a legal interest in land by formal agreement or conveyance.	13	Most transactions are for the purpose of providing adequate site control for expenditure of public funds for capital improvement projects. 8 transactions have been completed with 12 more pending.
Reconveyance out of trust. (Number of villages).	12	These transactions generally involve lands for schools, housing, airports, and electrification. 8 transactions are complete. 11 transactions are pending.
Villages where land training has been given by MLT program.	13	Training is conducted in conjunction with regional training workshops, provides an understanding of the ANCSA 14(c)(3) and the MLT program, and leads to conveyances of municipal trust lands.

(Region) VILLAGE	Villages having received Patent concerning MLT program.	Villages involved in discussions now considering MLT program.	Villages having discussed and informal tenders, including Letters of Intent.	Villages having made formal and a legal agreement or conveyance including formal or	Villages where MLT program has Reconveyance out of trust.	Villages where land training has been given by MLT program.
(Ahtna)						
CANTWELL		X	X			
CHISTOCHINA	X					
CHITINA		X				
COPPER CENTER		X	X	X	X	X
GAKONA		X				
GULKANA	X	X				
MENTASTA LAKE	X	X	X			
TAZLINA	X	X	X			
(Aleut)						
AKUTAN	X	X	X	X		
ATKA		X	X	(3)	3 pending	3 pending
BELKOFSKI	X					
FALSE PASS	X					
NELSON LAGOON	X					
NIKOLSKI	X			X		
ST. GEORGE	X	X	X	X		
UNGA	X					
(Arctic Slope)						

(Region) VILLAGE	Villages having received Patent or Interim Conveyance From BLM.	Villages involved in discussions concerning MLT program.	Villages having discussed informal tenders, Letters of Intent now considering tender of MLT land.	Villages having made formal and a legal interest in land by formal agreement or conveyance.	Villages where MLT Program has Reconveyance out of trust.	Villages where land training has been given by MLT program.
(Arctic Slope) POINT LAY	X	X	X	X		
(Bering Straits) COUNCIL						
KING ISLAND		X	X	X		
MARY'S IGLOO		X				
SOLOMON						
(Bristol Bay) CHIGNIK	X					
CHIGNIK LAGOON	X					
CHIGNIK LAKE	X					
EGEGIK	X					
EKUK	X	X	X			
IGIUGIG						
ILIAMNA						
IVANOFF BAY	X					
KOKHANOK		X	X	X	X	X
KOLIGANEK	X	X	X	X	pending	
LEVELOCK	X					
NAKNEK		X				

Villages where land training has been given by MLT program.

Reconveyance out of trust.

Villages where MLT program has a legal interest in land by formal agreement or conveyance.

Villages having made formal or a legal interest in land by formal agreement or conveyance.

Villages having discussed and informal tenders, Letters of Intent.

Villages having discussions now considering tender of MLT Land.

Villages involved in discussions concerning MLT program.

Villages having received Patent or Interim Conveyance from BLM.

(Region)  
VILLAGE

(Bristol Bay)							
PEDRO BAY							
PERRYVILLE	X						
PILOT POINT							
PORTAGE CREEK		X	X	X			
SOUTH NAKNEK							
TWIN HILLS	X						
UGASHIK							
(Calista)							
ANDREAFSKI		X	X				
BILL MOORE'S							
CHULONAWICK							
CROOKED CREEK		X	X	X	X	X	X
GEORGETOWN							X
HAMILTON							
KIPNUK		X	X	X	1 final 1 pending	1 final 1 pending	X
KONGIGANAK							X
KWIGILLINGOK		X	X	pending	pending	pending	X
LIME VILLAGE		X	X				X

Villages where land training has been given by MLT program.

Reconveyance out of trust.

Villages where MLT program has a legal interest in land by formal agreement or conveyance.

Villages having made formal or a legal interest in land by formal tenders, including Letters of Intent.

Villages having discussed informal tenders of Letters of Intent.

Villages involved in discussions now considering MLT program.

Villages having received Patent concerning MLT program from BLM.

Villages having received Patent or Interim Conveyance from BLM.

(Region)  
VILLAGE

(Region) VILLAGE	Villages having received Patent concerning MLT program from BLM.	Villages involved in discussions now considering MLT program.	Villages having discussed informal tenders of Letters of Intent.	Villages having made formal or a legal interest in land by formal tenders, including Letters of Intent.	Villages where MLT program has a legal interest in land by formal agreement or conveyance.	Reconveyance out of trust.	Villages where land training has been given by MLT program.
(Calista)							
NAPAIMUTE							
OSCARVILLE							
PITKAS POINT							
PAIMIUT		X	X				
RED DEVIL		X	X				X
SLEETMUTE		X	X				X
STONY RIVER		X	X				X
TUNTUTULIAK		X	X	X	X	X	X
UMKUMIUTE							
OHOAMIUT							
(Chugach)							
CHENEGA	X	X	X	X			
ENGLISH BAY	X	X	X				X
PORT GRAHAM	X	X	X				X
TATITLEK	X	X	X	X	2 pending	2 pending	X
(Cook Inlet)							
CHICKALOON							
KNIK	3% only. On appeal.	X					

Villages where land training has been given by MLT program.

Reconveyance out of trust.

Villages where MLT program has a legal interest in land by formal agreement or conveyance.

Villages having tenders, including formal tenders, and Letters of Intent.

Villages having discussed and informal tenders of Letters of Intent.

Villages now considering tender of MLT land.

Villages involved in discussions concerning MLT program.

Villages having received Patent or Interim Conveyance from BLM.

(Region)  
VILLAGE

(Region) VILLAGE	Villages now considering tender of MLT land.	Villages having discussed and informal tenders of Letters of Intent.	Villages having tenders, including formal tenders, and Letters of Intent.	Villages where MLT program has a legal interest in land by formal agreement or conveyance.	Reconveyance out of trust.	Villages where land training has been given by MLT program.
(Cook Inlet) TYONEK	X	X				
SALAMATOF						
(Doyon) BEAVER						
BIRCH CREEK						
CHALKYITSIK						
CIRCLE						
DOT LAKE		X	X			
EAGLE		X	X	Discussed possible exchange of lands.		
EVANSVILLE		X	X			
HEALY LAKE						
MANLEY HOT SPRINGS		X	X			
MINTO		X	X			
NORTHWAY	1% only. On appeal.	X				
RAMPART						
STEVENS VILLAGE						
TAKOTNA		X	X	X	2 final, 1 pending	2 final, 1 pending

(Region) VILLAGE	Villages having received Patent or Interim Conveyance from BLM.	Villages involved in discussions now considering MLT program.	Villages having discussed informal tenders, Letters of Intent.	Villages having made formal and a legal agreement or conveyance.	Villages where MLT program has Reconveyance out of trust.	Villages where land training has been given by MLT program.	
(Doyon) ELIDA							
(Koniag) FOGNAK	X						
AGUYAK	10% only						
ARLUK	X	X	X	X	2 pending	2 pending	
ODY ISLAND							
(Nana) ATAK		X	X	X	pending	pending	
(Sealaska) UKWAN		X	X				
		Discussed possible exchange of lands.					
TOTALS (pending)	34*	45	37	22 (1)	8 (12)	8 (11)	13

\* Of the 34 villages having Patent or IC, 3 have insufficient interests or amounts to convey municipal trust lands.

Information current as of November 15, 1979

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

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CHAPTER 90.  
MUNICIPAL TRUST LANDArticle  
Article

1. Tender, Acceptance, and Conveyance of Municipal Trust Land (19 AAC 90.010-19 AAC 90.065)
2. Official Recognition of Village Entities Under AS 44.47.150(b) (19 AAC 90.110-19 AAC 90.150)
3. Ascertaining the Views of Village Residents Where No Organized Village Entity Is Recognized (19 AAC 90.210-19 AAC 90.290)
4. Management of Municipal Trust Land (19 AAC 90.310-19 AAC 90.340)
5. Disposal by State of Municipal Trust Land (19 AAC 90.410-19 AAC 90.490)
6. Disposition of Land and Funds upon Incorporation of a Municipality in a Native Village (19 AAC 90.510-19 AAC 90.560)
7. General and Miscellaneous Provisions (19 AAC 90.910-19 AAC 90.990)

## ARTICLE 1.

TENDER, ACCEPTANCE, AND CONVEYANCE  
OF MUNICIPAL TRUST LAND

## Section

10. Municipal trust land
15. Procedure for tender, acceptance, and conveyance
20. Standards to be applied by commissioner in determining whether to accept tender
25. Form of document of conveyance
30. Form of agreement to convey land
35. Partial tender
40. Less-than-fee interests
45. Completion of municipal trust land conveyance requirements
50. Notification of commissioner of proposed village corporation land transactions
55. Procedure to clear corporation land title for conveyance to third parties
60. Review by regional corporations
65. Unincorporated villages within existing political subdivisions

19 AAC 90.010. MUNICIPAL TRUST LAND. All land conveyed to and accepted by the State of Alaska in trust for future cities under sec. 14(c)(3) of the Alaska Native Claims Settlement

Act (ANCSA), AS 44.47.150, and this chapter is to be known for so long as it is held by the state in trust as "municipal trust land." Title to municipal trust land will be held in the name of the State of Alaska in trust for any municipal corporation established in and for the village with reference to which the land was conveyed to the state. Municipal trust land will be managed under this chapter and is not considered part of the state public domain. Laws applicable to the management and disposal of state public domain land or to land held by incorporated municipalities do not apply to municipal trust land. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150  
AS 44.47.160

19 AAC 90.015. PROCEDURE FOR TENDER, ACCEPTANCE, AND CONVEYANCE. Land and interests in land will be accepted by the commissioner as municipal trust land in accordance with the following procedure:

(1) A village corporation having an obligation under sec. 14(c)(3) of the Alaska Native Claims Settlement Act to convey land to the State of Alaska in trust for any municipality which might in the future be incorporated in and for the Native village corresponding to that corporation may make one or more written tenders to the commissioner of specifically identified land in satisfaction of that obligation. Where land status circumstances present technical reasons for postponement of a final tender which would fully satisfy the acreage obligation, a tender or tenders which will partially satisfy the obligation are encouraged by the commissioner, especially where certain land needed for public community facilities can be identified for conveyance.

(2) Upon receipt of a written tender, the commissioner will begin consultation and evaluation procedures to determine, within 120 days after receipt of the tender, whether the land tendered should be accepted. Before making such a determination, the commissioner will consult with the village entity formally recognized under secs. 110-150 of this chapter as representing the views of the village residents or, if no such village entity is formally recognized, with a meeting of the village

residents under secs. 210-290 of this chapter. In determining whether to accept the tender, the commissioner will take into account the views expressed by the village residents through the recognized village entity or a village meeting resolution or referendum. Standards set out in sec. 20 of this chapter will be applied in evaluating the tender.

(3) The commissioner's determination as to whether a tender will be accepted will be stated in a written decision. If the determination is not consistent with the views expressed by the entity (or, if applicable, the meeting of village residents), then the commissioner's written decision will include a specific statement of the reasons why those views have not been accepted. The decision will be published and posted publicly in the manner provided by sec. 910(b) of this chapter. The posting period will be at least 30 days. The decision becomes final at the expiration of 30 days following publication or after 30 days of continuous posting, whichever is later, unless an appeal has been filed under sec. 940 of this chapter.

(4) With prior approval in writing of both the village corporation and the recognized village entity (or village meeting, where appropriate), the commissioner will, in his discretion, waive the publication and posting requirements of (3) of this section. Under such circumstances, the decision to accept a tender of a specific parcel of land becomes final immediately, without a waiting period. Such a waiver and immediate acceptance are applicable only when a disaster or other emergency has occurred or exists and where an expedited transfer of title to the specific parcel of land is necessary to alleviate a threat to life, property, or the welfare of persons in the village.

(5) After the decision to accept a tender of land has become final, it will be communicated formally to the village corporation, which may then either execute and deliver a document of conveyance to the state or, if necessary, execute an agreement to convey land. After inspecting the document of conveyance (or, if applicable, the agreement to convey land) and determining that it is consistent with the accepted tender and complies with sec. 25 of this chapter (or, if applicable, sec. 30), the commissioner will formally accept delivery of the document and

will cause it to be recorded promptly in the manner provided for by AS 34.15. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
 AS 44.17.030  
 AS 44.47.150(a)  
 AS 44.47.160

**19 AAC 90.020. STANDARDS TO BE APPLIED BY COMMISSIONER IN DETERMINING WHETHER TO ACCEPT TENDER.** In determining whether to accept a tender of land under this chapter, the commissioner will, after consulting with the recognized village entity or (if applicable) with the village residents as provided in secs. 110-290 of this chapter and with the borough if the land tendered is located in an organized borough, evaluate the land included in the tender to determine whether its acceptance would be in the best interests of any future city which might be incorporated in respect to the Native village. In so doing, the commissioner will consider, specifically but not by way of limitation, the following standards and considerations:

(1) whether all tenders of the village corporation collectively include all improved land on which the Native village is located which is subject to reconveyance under sec. 14(c)(3) of ANCSA;

(2) whether all tenders of the village corporation collectively include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential to meet all present or foreseeable public community needs of any first or second class city which might be established in the Native village, including (without limitation) community expansion and appropriate rights-of-way for public use;

(3) whether, considering future land-use patterns which would be created by acceptance of the tendered land, the effect upon community growth and development of accepting that land would not significantly impair the economic viability of the village corporation or deprive it of a reasonable entrepreneurial opportunity;

(4) whether acceptance of the land tendered

to the state in trust is consistent with the views of the village residents, as expressed by the recognized village entity or (if applicable) by the village residents in a village meeting resolution or a village referendum;

(5) whether with respect to land which is located within a borough or other municipality having municipal powers, the tenders include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential within the foreseeable future to the proper execution of municipal powers; and

(6) whether acceptance of the land by the state in trust would be consistent with the good execution of the commissioner's responsibility to any future municipality which might be incorporated in the Native village. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.025. FORM OF DOCUMENT OF CONVEYANCE.** Upon a determination by the commissioner to accept a tender of land by a village corporation under sec. 20 of this chapter, the village corporation shall promptly execute and deliver to the commissioner a modified quitclaim deed to the State of Alaska. The deed must be in a form which, in the commissioner's judgment, will effectively pass title to the surface estate upon its acceptance by the commissioner, and which contains a representation and warrant that there has been no previous conveyance and that there are no liens, encumbrances, charges, or claims (other than those arising under ANCSA) affecting the surface rights to the land being conveyed which were created by or are the result of any action taken by the village corporation. Acceptance of the deed will be signified by the written endorsement of the commissioner upon the face of the deed. Except in the case of less-than-fee interests (described in sec. 40 of this chapter), the deed must convey all present and after-acquired title held by the corporation in the surface estate. (Eff. 9/21/79, Reg. 71)

Authority: AS 34.15  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.030. FORM OF AGREEMENT TO CONVEY LAND.** In any case where a tender has been accepted and the corporation demonstrates to the satisfaction of the commissioner that it is presently unable to execute a deed which complies with sec. 25 of this chapter, the commissioner will, in his discretion, in place of immediate delivery of such a deed, accept a written agreement to convey land. Acceptance of the agreement to convey will be signified by written endorsement and execution of the agreement by the commissioner. An agreement to convey land must be in a form which may be recorded in a manner provided for by AS 34.15 and which, under the circumstances and in the commissioner's judgment, sufficiently identifies the land which is subject to the agreement, conveys a right to enter the land, and contains such other terms and provisions relating to the future conveyance of title to the land to the state in trust as appear appropriate. (Eff. 9/21/79, Reg. 71)

Authority: AS 34.15  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.035. PARTIAL TENDER.** The commissioner will, in his discretion, accept a tender of land from a village corporation which only partially satisfies that corporation's acreage obligation under Sec. 14(c)(3) of the Alaska Native Claims Settlement Act. If such a partial tender is accepted, the commissioner will credit that land against the corporation's remaining acreage obligation. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.040. LESS-THAN-FEE INTERESTS.** Less-than-fee interests in land will, in the commissioner's discretion, be accepted by the commissioner under this chapter. Where conveyance of a less-than-fee interest is made necessary because identical less-than-fee interest was conveyed to a village corporation by the United States, the acreage subject to such a less-than-fee interest will be credited against the corporation's acreage obligation under sec. 14(c)(3) of ANCSA under sec. 45 of this chapter. Other less-than-fee interests will, in the commissioner's discretion, be accepted by the commissioner and credited under sec. 45 of this chapter only if the commissioner determines in

writing, after consultation with the recognized entity (or, if applicable, the residents of the village by a village meeting or referendum), that there is an appropriate reason to accept less than the entire fee interest in land which the village corporation has tendered and that the interests of any future city would not be prejudiced by that acceptance. The commissioner will not accept a conveyance which contains a reversionary clause or condition subsequent created by the village corporation. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.045. COMPLETION OF MUNICIPAL TRUST LAND CONVEYANCE REQUIREMENTS.** The commissioner will issue a "Certificate of Satisfaction" to the village corporation when the village corporation has fully discharged its obligation to convey municipal trust land. This certificate will be in a form which the village corporation may cause to be recorded in the manner provided by AS 34.15. The provisions of sec. 20 of this chapter and sec. 14(c)(3) of ANCSA will be the basis upon which the commissioner will make this determination. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.050. NOTIFICATION OF COMMISSIONER OF PROPOSED VILLAGE CORPORATION LAND TRANSACTIONS.** Before the completion of a village corporation's conveyance of 14(c)(3) land to the state in trust as evidenced by issuance of a "Certificate of Satisfaction" by the commissioner under sec. 45 of this chapter, the village corporation is requested and urged to notify the commissioner of its pending land transactions, with the exception of statutory reconveyances which arise out of ANCSA, sec. 14(c)(1) and 14(c)(2). This notification should occur no later than the notification which the village corporation must provide until December 18, 1981 to the appropriate regional corporation under ANCSA, sec. 14(c)(5), or as soon as practicable under the circumstances after December 18, 1981. The purpose for notifying the commissioner under this section is to reduce the possibility that the proposed land transactions may involve land

which uniquely meets the standards of municipal trust land as set out in ANCSA, sec. 14(c)(3), and sec. 20 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.055. PROCEDURE TO CLEAR CORPORATION LAND TITLE FOR CONVEYANCE TO THIRD PARTIES.** At any time before the completion of a corporation's conveyance of all 14(c)(3) land to the state in trust, the commissioner will, in his discretion and upon the request of the corporation, execute a written disclaimer of interest under ANCSA, sec. 14(c)(3), and AS 44.47.150 for any specific parcel of land or interest in it which the corporation proposes to convey to a third party. In determining whether to execute a waiver of interest under this section, the commissioner will evaluate the specific parcel with reference to the standards set out in sec. 20 of this chapter, and will consult the recognized village entity (or, if applicable, the residents themselves under secs. 210-290 of this chapter). If the commissioner decides to issue a disclaimer of interest contrary to the views of the recognized village entity (or, if applicable, the residents themselves under secs. 210-290), he will issue a written determination which will include a specific statement of the reasons why those views have not been accepted, and no final disclaimer of interest will be issued until after that determination has been published and posted and becomes final in the manner prescribed by sec. 15(3) of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA sec. 14(c)(3)  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.060. REVIEW BY REGIONAL CORPORATIONS.** Before December 18, 1981 the commissioner will not officially accept delivery from a village corporation of any document of conveyance or agreement to convey until the appropriate Native regional corporation has been afforded by the village corporation the opportunity to review and render advice to the village corporation with respect to that land transaction or has filed with the commissioner a notice that it has waived its

right to that opportunity. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3) and (5)  
AS 44.47.150(a)  
AS 44.47.160

19 AAC 90.065. UNINCORPORATED VILLAGES WITHIN EXISTING POLITICAL SUBDIVISIONS. In the case of a village corporation for a Native village lying wholly or partly within a borough or unified home rule municipality incorporated under state law, the commissioner will interpose no objection to a sec. 14(c)(3) reconveyance by the corporation to the borough or unified home-rule municipality rather than to the state in trust if he finds upon presenting the reconveyance proposal to the village entity officially recognized under secs. 110 - 150 (or, if applicable, to the residents of the village in the manner set out in secs. 210 - 290) of this chapter, that they approve of the proposal. The commissioner will construe such an approval by the recognized village entity or meeting of village residents and subsequent reconveyance to the borough or unified home-rule municipality by the village corporation as a final and complete discharge of any further potential trust obligation by the state on behalf of a future municipal corporation in the Native village with respect to the provisions of ANCSA, sec. 14(c)(3) and AS 44.47.150, and he will issue a "Certificate of Satisfaction" to the village corporation as provided in sec. 45 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.47.150(a) and (b)  
AS 44.47.160

## ARTICLE 2. OFFICIAL RECOGNITION OF VILLAGE ENTITIES UNDER AS 44.47.150(b)

### Section

- 110. Recognized village entities
- 120. Minimum eligibility requirements
- 130. Priorities among entities eligible for official recognition
- 140. Recognition procedure
- 150. Change of recognized village entity

19 AAC 90.110. RECOGNIZED VILLAGE ENTITIES. With respect to each village covered by AS 44.47.150, the commissioner

will, in his discretion, upon petition by any person or group, or upon his own motion, officially recognize an "appropriate village entity" within the meaning of AS 44.47.150(b). After its recognition, this entity will be consulted by the commissioner in accordance with the provisions of this chapter. In the case of an action or decision concerning village corporation or municipal trust land in respect to which no such recognized entity exists, the commissioner will consult with the residents of the village and ascertain their views under the procedures set out in secs. 210 - 290 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

19 AAC 90.120. MINIMUM ELIGIBILITY REQUIREMENTS. To be eligible for consideration for recognition as an "appropriate village entity," an entity must, at minimum, meet all of the following standards:

(1) the entity must be an active organization (but not necessarily a formal organization having its own independent legal identity) which represents, in a traditional or democratic manner, the collective views of the bonafide residents of the village; and

(2) there must be no substantial and particularized objection by any bonafide resident to the entity's suitability to represent accurately and effectively the collective views of the bonafide residents of the village; however, such an objection will only constitute a bar to eligibility if it is substantial in the judgment of the commissioner and if it addresses itself to the entity's overall suitability rather than only to the entity's position on a specific substantive issue. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

19 AAC 90.130. PRIORITIES AMONG ENTITIES ELIGIBLE FOR OFFICIAL RECOGNITION. (a) If more than one entity is determined by the commissioner to be eligible under the standards for recognition in sec. 120 of this chapter, then, as a general rule, the commissioner will give preference among eligible entities according to the following descending order of priorities:

(1) a traditional village council, as defined in sec. 990 of this chapter;

(2) a village council organized under the Indian Reorganization Act (Act of June 13, 1934, 48 Stat. 984, as amended);

(3) a joint village entity constituted of representatives of more than one existing local entity or group for the specific purpose of functioning as a recognized village entity under the regulations of this chapter;

(4) any other entity meeting the minimum eligibility requirements of sec. 120 of this chapter.

(b) If none of the entities listed in (a) of this section has been recognized, then the commissioner will recognize a meeting or referendum of village residents as the proper method of ascertaining the views of the residents. In that event, the commissioner will follow the procedures set out in secs. 210 - 290 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.140. RECOGNITION PROCEDURE.** (a) Any entity wishing to be recognized by the commissioner under this chapter may initiate proceedings to obtain formal recognition by filing with the commissioner a written petition for recognition.

(b) Upon receipt of a petition for recognition, or upon his own motion, the commissioner will make an informal preliminary determination of whether the entity might be able to meet the minimum eligibility requirements set out in sec. 120 of this chapter. If he so determines, then the commissioner will, on his own motion, publish and post a written notice, as provided in sec. 910 of this chapter, advising the public of the receipt of the petition or the matter of potential recognition of an entity, soliciting comments on the petition or potential recognition, and stating that any other entity which wishes to be considered for recognition must within 30 days after the date of posting and publishing that notice file a petition for recognition.

(c) No less than 40 days nor more than 60

days after posting and publishing the notice, if no other entity has filed a petition and no adverse written comments have been submitted on the initiating petition, the commissioner will, in his discretion, either deny the petition or issue a written "Statement of Intent to Recognize" the entity under consideration. The "Statement of Intent to Recognize" will be posted and published in the same manner as the original notice.

(d) If more than one entity has filed a petition for recognition in respect to a particular Native village, or if adverse written comments are received by the commissioner in response to the original notice or the "Statement of Intent to Recognize," then the commissioner will schedule an informal hearing in the village. The informal hearing will be held upon public notice in the village, as provided in sec. 910 of this chapter, and anyone present may state his views as to the propriety of recognizing the petitioning entity. The commissioner is not required to maintain a formal written record or tape-recording of the informal hearing. However, if, after an informal hearing, a written "Request for Formal Hearing" signed by at least 10 bonafide residents or 15 percent of the bonafide residents (whichever is less) is filed, then the commissioner will initiate a formal decision-making procedure under sec. 950 of this chapter. The commissioner may elect to proceed directly with a formal decision-making procedure without first holding the informal hearing which is otherwise required under this section.

(e) Upon compliance with the procedures prescribed by this section, the commissioner will make a single final written determination upon all petitions for recognition pending in respect to the village. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.150. CHANGE OF RECOGNIZED VILLAGE ENTITY.** The commissioner will, in his discretion, review the official recognition of a village entity upon receipt of a petition signed by 15 percent of the residents of the village, or upon request of the village entity itself, or upon his own initiative, at any time. Ordinarily, as a general working goal but not as a legal

requirement, the commissioner will review the recognition of each recognized village entity at least every two years. The procedure, upon review of a formal recognition under this section, will be the same as that prescribed in secs. 140(b) - (e) of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**ARTICLE 3.  
ASCERTAINING THE VIEWS OF VILLAGE  
RESIDENTS WHERE NO ORGANIZED  
VILLAGE ENTITY IS RECOGNIZED**

**Section**

- 210. Applicability
- 220. Procedure for convening meeting of village residents
- 230. General procedure for conducting meetings of village residents
- 240. Village meeting resolution
- 250. Request for reconsideration
- 260. Initiation of village meeting by residents
- 270. Village referendum
- 280. Participation by bonafide village residents only
- 290. Vacant villages

**19 AAC 90.210. APPLICABILITY.** In the case of any decision or determination to be made by the commissioner under this chapter in respect to a village as to which no village entity is formally recognized under secs. 110 - 150 of this chapter, the commissioner will first consult with a meeting of village residents. A meeting of village residents will be convened and conducted under the procedures set out in secs. 210 - 290 of this chapter. After the first meeting of village residents held under secs. 210 - 290, the commissioner will, in his discretion, consult with and obtain the views of the residents by the village referendum method set out in sec. 270 of this chapter, in place of convening a meeting if use of the referendum method has been approved by a prior village meeting. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.220. PROCEDURE FOR  
CONVENING MEETING OF VILLAGE**

**RESIDENTS.** Whenever consultation with a meeting of village residents is required, the commissioner will initiate a village meeting by giving notice of the meeting in the manner required by sec. 910 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.230. GENERAL PROCEDURE  
FOR CONDUCTING MEETINGS OF VILLAGE  
RESIDENTS.** A meeting of village residents convened by the commissioner under this chapter will be conducted under the general direction of the commissioner, who may designate a chairman pro tempore to preside over the meeting. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.240. VILLAGE MEETING  
RESOLUTION.** Whenever prior approval of a village acting through a meeting of village residents is required, that prior approval must be in the form of a written village meeting resolution adopted under this section or a village referendum adopted under sec. 270 of this chapter. A resolution must bear the signatures of all of the village residents in attendance who wish to be recorded as supporting or opposing the resolution. A village meeting resolution which has the support of the simple majority of those who have signed it will be regarded by the commissioner as the official position of the village meeting as to the proposed action to which it refers. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.250. REQUEST FOR  
RECONSIDERATION.** The position of the village residents as expressed in a resolution adopted by a village meeting under sec. 240 of this chapter will be treated by the commissioner as final unless a request for reconsideration is made by a village resident who signed the resolution as a member of the majority which supported or opposed the resolution, as may be the case. In order to be effective, a request for reconsideration made to the commissioner must be received (or postmarked, if transmitted by mail) within 10 days from the meeting when the

resolution was adopted. Where a disaster or other emergency has occurred or exists, reconsideration may be waived in a resolution adopted by a meeting of village residents under this chapter, where expedited transfer of title involving municipal trust land is necessary to alleviate a threat to life, property, or the welfare of persons in the village. In the event of a request for reconsideration, the commissioner will reconvene the village meeting, upon notice, at least 20 but not more than 45 days after the date of the request for reconsideration. No request for reconsideration of the vote of the residents may be made respecting a position adopted by the village residents in a meeting held as a result of a request for reconsideration. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.260. INITIATION OF VILLAGE MEETING BY RESIDENTS.** No meeting of village residents has any legal effect under this chapter unless it is convened by the commissioner in the manner required by this chapter. Village residents who wish to initiate a village meeting for any purpose falling within the scope of this chapter may do so by making a written request for one to the commissioner signed by at least 10 percent of the village residents. Upon receiving the request, the commissioner will initiate the procedure to convene a meeting. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.270. VILLAGE REFERENDUM.** (a) For a village as to which no village entity is formally recognized under secs. 110 - 150 of this chapter, the commissioner will, in his discretion, consult with and ascertain the views of village residents by the use of a village referendum if

(1) a meeting of the village residents has, within the two years immediately past, adopted a resolution authorizing the use of a village referendum as an alternative to a village meeting;

(2) no notice to rescind has been filed under (c) of this section; and

(3) the commissioner determines, in his discretion and on a case-by-case basis, that the

views of the village residents regarding a certain proposed action or determination can be obtained effectively by referendum.

(b) A village meeting resolution authorizing subsequent village referenda must contain a listing of the names and mailing addresses of all bonafide village residents eligible to vote on a village referendum.

(c) If a notice to rescind a village meeting resolution authorizing village referenda has been signed by at least 10 percent of the bonafide residents of the village and filed with the commissioner, then the commissioner will not initiate a village referendum, but will instead treat the resolution authorizing use of referenda as rescinded and will initiate a meeting of the village residents to consider, among other things, the approval of a new village meeting resolution authorizing village referenda.

(d) A village referendum must be taken by mail. The commissioner will mail a written statement of the specific proposed action or determination to each person listed in the authorizing village meeting resolution as a bonafide village resident of the village, giving each an opportunity to vote upon the proposition and return his ballot to the commissioner within 30 days. A majority vote of the ballots timely cast and returned to the commissioner will determine the outcome of the proposition; however, if the majority vote cast is less than 25 percent of the village residents listed on the authorizing village meeting resolution, the proposition fails. Individual votes will be kept confidential. The tabulated results of the balloting will be mailed to each listed resident. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.280. PARTICIPATION BY BONAFAIDE VILLAGE RESIDENTS ONLY.** Only persons who are bonafide residents of the village, as that term is defined in sec. 990 of this chapter, on the date of a meeting or referendum may vote on a proposition or sign a resolution. A person whose claim as a bonafide village resident is challenged by another bonafide village resident may cast a challenged vote at a village meeting, or sign a resolution or referendum under protest. A challenged vote

will be given weight by the commissioner, if at all, only if its inclusion in the tabulation of votes would determine the outcome of votes on the proposition. If it is necessary to determine the validity of a challenged vote, the commissioner will

(1) attempt to resolve the dispute by informal discussion and mediation at the time and place where the dispute first arises;

(2) failing successful discussion and mediation, hold an informal hearing to resolve the dispute; or

(3) instead of or after the steps in (1) or (2) of this section, initiate formal decision-making procedures under sec. 950(3) of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

**19 AAC 90.290. VACANT VILLAGES.** If a village with respect to which a village corporation has an obligation under ANCSA, sec. 14(c)(3), is vacant of bonafide residents at a time when the commissioner is obligated under this chapter to respond to a corporation's tender or to make any other decision in respect to municipal trust land under this chapter, the commissioner will recognize under secs. 110 - 150 of this chapter any appropriate village entity, if any, which may exist for that village. If no such entity qualifies for recognition, the commissioner will recognize as the village entity pro tempore, a group consisting of all persons duly enrolled under sec. 5 of ANCSA to that village who are at least 18 years of age or, if less than 18 years of age, the heads of household. The commissioner will consult with and obtain the views of this group in a village meeting convened and conducted in accordance with secs. 220 - 280 of this chapter at a place in Alaska, if any, where the majority of that group resides or can conveniently assemble at their own expense, or by mailed referendum if a meeting in Alaska of a majority of the group is impossible or impracticable in the judgment of the commissioner. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(b)  
AS 44.47.160

#### ARTICLE 4. MANAGEMENT OF MUNICIPAL TRUST LAND

##### Section

- 310. Inventories of landholdings
- 320. Advisory land planning
- 330. Planning, platting, and zoning
- 340. Trespass

**19 AAC 90.310. INVENTORIES OF LANDHOLDINGS.** For each village as to which municipal trust land is accepted by the state, the commissioner will maintain a separate inventory of landholdings. This inventory of landholdings will include, at a minimum

(1) the land status history of each parcel of municipal trust land;

(2) an account of the number of acres of land which have been conveyed by the village corporation to the state in trust under ANCSA, sec. 14(c)(3), and this chapter, including determinations of acreage credits made under sec. 35 of this chapter and separate accounts of acreage as to which the corporation conveyed less than its entire fee interest in the land under sec. 40 and of acreage as to which only equitable title has been conveyed pursuant to agreements to convey land;

(3) documentation of the creation and administration of each third party interest in the land; and

(4) an account of revenues received in respect of the land. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(d)  
AS 44.47.160

**19 AAC 90.320. ADVISORY LAND PLANNING.** The commissioner will, within resources of the municipal land trustee program, use his best efforts to identify and evaluate the resource and locational values of municipal trust land and will, in consultation with the recognized village entity or village residents, as appropriate, formulate and adopt advisory community land-use plans to serve as guideposts for future management and disposal actions involving municipal trust land. Such advisory land-use plans will recognize and conform to any

requirements of a planning, platting, and zoning authority as provided in sec. 330 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a) and (b)  
AS 44.47.160

19 AAC 90.330. PLANNING, PLATTING, AND ZONING. (a) Where municipal trust land is located within the boundary of any municipality having planning, platting, and zoning powers, it is subject to the regulations and ordinances of that municipality pertaining to planning, platting, and zoning.

(b) Where municipal trust land is located outside the boundary of any municipality having planning, platting, and zoning powers, it is subject to all statutes and regulations, if any, of the State of Alaska concerning planning, platting, and zoning which would apply to privately owned land similarly located. (Eff. 9/21/79, Reg. 71)

Authority: AS 29.33.070 AS 44.17.030  
AS 29.43.040 AS 44.47.150(a)  
AS 38.05.037 AS 44.47.160  
AS 40.15.075

19 AAC 90.340. TRESPASS. If the commissioner is advised as to the existence of trespass, waste, or other tortious or criminal actions or conditions taking place on or relating to any municipal trust land, he will take action (including, in appropriate cases, reference of the matter to the attorney general for the initiation of legal proceedings) to curtail the action or condition and obtain compensation for it where appropriate. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a) and (f)  
AS 44.47.160

ARTICLE 5.  
DISPOSAL BY STATE OF  
MUNICIPAL TRUST LAND

Section

- 410. General
- 420. Prior public notice
- 430. Prior written approval of entity
- 435. Rescission or modification of prior approval by entity or village residents
- 440. Commissioner's approval required for disposal

- 450. Disposals for fair market value
- 460. Waiver of fair market value requirement
- 470. Preference right based on equity
- 480. Accounting of surcharged appraisal fees and allocable shares of survey and certain other expenses of land disposal
- 490. No prescriptive rights

19 AAC 90.410. GENERAL. The commissioner will, in his discretion, dispose of municipal trust land or interests in it in any manner provided for by AS 44.47.150(b), under the procedures set out in secs. 410 - 490 of this chapter. No action purporting to create any interest or legal right to, or in respect of, municipal trust land has any legal effect whatsoever unless it is taken in strict compliance with AS 44.47.150 and this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150  
AS 44.47.160

19 AAC 90.420. PRIOR PUBLIC NOTICE. No disposal authorized by AS 44.47.150(b) may be made without prior public notice in the manner prescribed by sec. 910 of this chapter. This requirement may be waived by the commissioner with the prior approval by resolution of the recognized village entity (or meeting of village residents, where applicable) when a disaster or other emergency has occurred or exists and where expedited transfer of title to a specific parcel of municipal trust land is necessary to alleviate a threat to life, property, or the welfare of the persons in the village. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

19 AAC 90.430. PRIOR WRITTEN APPROVAL OF ENTITY. Before any disposal, the commissioner will obtain written approval by resolution of the recognized village entity or a meeting or referendum of village residents, as appropriate. No disposal will be made based upon such a resolution which was approved by the recognized village entity or a meeting or referendum of village residents more than 13 months before the proposed action. Any written approval granted under this section which ultimately results in a disposal will be filed by the commissioner with the appropriate

inventory of landholdings maintained under sec. 310 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a),(b) and (d)  
AS 44.47.160

**19 AAC 90.435. RESCISSION OR MODIFICATION OF PRIOR APPROVAL BY ENTITY OR VILLAGE RESIDENTS.** A recognized village entity (or meeting of village residents, where appropriate) may rescind or modify a prior resolution of approval to dispose of municipal trust land or interests in it. The commissioner will postpone, modify, or cancel a pending disposal action as he may judge appropriate under the circumstances if a recognized village entity timely files a resolution of rescission or modification with the commissioner (or if the residents of a village not having a village entity recognized under secs. 110 - 150 of this chapter timely file a request, under sec. 260 of this chapter, for the convening of a village meeting for the purpose of rescinding or modifying a prior resolution or referendum of approval). A resolution of a recognized village entity or a request for a village meeting will be considered timely filed for the purposes of this section if received by the commissioner before a vesting of property rights in a prospective grantee of municipal trust land which had been previously approved for disposal by a recognized village entity, meeting, or referendum of village residents. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a) and (b)  
AS 44.47.160

**19 AAC 90.440. COMMISSIONER'S APPROVAL REQUIRED FOR DISPOSAL.** The commissioner will not dispose of specific municipal trust land or interests in it if he finds that the disposal would be inconsistent with the good faith execution of his trust responsibility to any first or second class city which might be incorporated in the Native village. A resolution of a recognized village entity (or of a meeting of village residents where appropriate) requesting and approving the disposal of specific municipal trust land will not unilaterally impose a duty upon the commissioner to make such a disposal. If the commissioner does not approve of a specific disposal as requested and approved by resolution of the recognized village entity (or village meeting, if appropriate), he will, within 120 days from receipt of such a resolution, state to the recognized village entity or village

residents, in a written decision, his reasons for deciding not to proceed with that specific disposal. The commissioner will cause a copy of that written decision to be posted publicly in the manner provided by sec. 910(b)(2) of this chapter for 30 days. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.450. DISPOSALS FOR FAIR MARKET VALUE.** Except in the case of a disposal as to which a waiver has been issued by the commissioner under sec. 460 of this chapter, all disposals of municipal trust land or interests in it must be for at least fair market value as defined in sec. 990 of this chapter. Where this requirement applies, the fair market value of a parcel will be determined by the commissioner in writing in advance of a final consultation with the recognized village entity or meeting of village residents concerning that specific parcel. In determining the fair market value of a parcel, the commissioner may obtain an independent appraisal, in which event the appraisal fee must be added as a surcharge to the fair market value and the disposal may not be made for less than the aggregated amount. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a),(b) and (d)  
AS 44.47.160

**19 AAC 90.460. WAIVER OF FAIR MARKET VALUE REQUIREMENT.** The commissioner will, in his discretion, with the specific approval of the recognized village entity (or meeting of village residents, if appropriate), make a written waiver in whole or in part of the fair market value requirements of sec. 450 of this chapter as to the disposal of specific parcels of municipal trust land under the following circumstances and subject to the following terms and conditions:

(1) Disposal for Public or Charitable Purposes. No waiver under this paragraph is effective unless it sets out with specificity the public or charitable purpose or character of the proposed use of the parcel for which disposal is proposed. When a parcel is disposed of pursuant to a waiver under this paragraph, the deed, lease, or other document of conveyance issued by the commissioner is valid only if it contains a condition subsequent which insures that if the land is used for any purpose other than the

purpose set out in the condition, title and all other interests automatically revert to the state in trust or to any successor municipality established in the Native village in the future.

(2) Disposal for Village Relocation or Reestablishment Purposes. No waiver under this paragraph is effective except as to land conveyed to a person who is a resident or occupant of the Native village at the time of a general relocation or reestablishment of the village as determined and approved by the recognized village entity (or the residents of the village, where appropriate). The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expense set out in sec. 480 of this chapter.

(3) Disposal Based Upon Equitable Interest. No waiver under this paragraph is effective except as to a parcel of land conveyed to a person who has a valid claim of equitable interest in improvements located upon that parcel which is recognized under sec. 470 of this chapter. The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expense set out in sec. 480 of this chapter.

(4) Disposal to Village Residents for Residential Expansion Purposes. No waiver under this paragraph is effective except as to a parcel of land conveyed to a bonafide village resident of the respective village, as defined by sec. 990 of this chapter, who seeks the parcel for development and use as his personal place of residence. The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expenses set out in sec. 480 of this chapter. When a parcel of municipal trust land is disposed of pursuant to a waiver under this subsection, the deed, lease, or other document of conveyance issued by the commissioner must contain a condition subsequent which insures that if the land is used for any use other than residential use for a period of 10 years after the disposal, title reverts to the state in trust or to any successor municipality established in the Native village in the future. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a) and (b)  
AS 44.47.160

19 AAC 90.470. PREFERENCE RIGHT BASED ON EQUITY. Upon first obtaining the general approval by resolution of the recognized village entity (or meeting of village residents, if appropriate) that a specific parcel of improved municipal trust land should be made available for disposal under this section, the commissioner may offer and grant, to any person who has a valid claim based upon equity in the improvements located on that parcel, a preference right to acquire that parcel. In order to be eligible for a preference right under this section, the claimant's equity must be based upon improvements existing on the parcel before tender of that parcel by the village corporation under secs. 10 - 65 of this chapter. Before conveying land or interest in land under this section, the commissioner will first give public notice of the proposed transaction as provided in sec. 910 of this chapter. The notice will require that any person having an adverse equity interest in the improvements located on that parcel must file notice of that claim with the commissioner within 30 days from publication of the notice in order that the adverse claimant's interests may be considered before disposal of the parcel. If a conflict arises between two or more claimants under this section, the commissioner will give each party an opportunity to present evidence to support his claim of equitable interest in the improvements before making a written decision concerning an award of a preference right. The commissioner will also give the recognized village entity (or meeting or referendum of village residents, if appropriate) an opportunity to review the evidence presented by the parties in the conflict and to make a recommendation to the commissioner concerning the relative equities of the parties. A written decision of the commissioner as to the appropriate party having a sufficient interest superior to all others, if any, which justifies granting a preference right under this section will be final unless any aggrieved party within 60 days from receipt of the written decision files an action in a court of competent jurisdiction to obtain a judicial determination as to which party has the superior equitable interest in improvements located upon the parcel. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a) and (b)  
AS 44.47.160

19 AAC 90.480. ACCOUNTING OF SURCHARGED APPRAISAL FEES AND ALLOCABLE SHARES OF SURVEY AND CERTAIN OTHER EXPENSES OF LAND DISPOSAL. If expenses are incurred by the state in connection with a disposal of municipal trust land, the commissioner will account for any expenses related to appraisal, publication of notice of disposal action, and survey or other expenses which affect either a physical improvement to the land or an addition to the land or an addition of economic value to the land and thereby enhances the level of income which the state derives on behalf of the future municipality from the disposal. Any such expense will be prorated acre-for-acre and allocated on that basis to each affected parcel. When attributable revenues are reported to a future municipality incorporated in the Native village under sec. 530 of this chapter, the net proceeds reported from each disposal will include deductions for all such expenses which are to be accounted for under this section. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(d) and (e)  
AS 44.47.160

19 AAC 90.490. NO PRESCRIPTIVE RIGHTS. No right will be recognized in any third party to compel the commissioner to grant any interest in municipal trust land, nor to compel the commissioner to initiate a decision-making procedure upon any proposal for it. No title or interest in municipal trust land may be acquired by adverse possession or prescription, except as to any title or interest which may be granted under sec. 470 of this chapter involving improvements existing before tender of municipal trust land. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a) and (f)  
AS 44.47.160

ARTICLE 6.  
DISPOSITION OF LAND AND FUNDS  
UPON INCORPORATION OF A  
MUNICIPALITY IN A NATIVE VILLAGE

Section

510. Applicability  
520. Conveyance of title to municipal trust land  
530. Reporting of attributable municipal trust land proceeds

540. Transfer of administration of third-party interests in municipal trust land  
550. Transitional management agreements  
560. Development cities

19 AAC 90.510. APPLICABILITY. The provisions of secs. 510 - 560 of this chapter apply in any instance where a first or second class city is incorporated in, or encompasses in whole or part, a Native village in respect of which municipal trust land has been accepted by the state in trust. (Eff. 9/21/79, Reg. 71)

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150(c) and (g)  
AS 44.47.160

19 AAC 90.520. CONVEYANCE OF TITLE TO MUNICIPAL TRUST LAND. Within one complete state fiscal year after incorporation of the city, the commissioner will convey by one or more quitclaim deeds, without cost to the city, all municipal trust land held by the state in trust for the city. The conveyance is effective upon delivery and acceptance by the city of the deed or deeds. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(c) and (g)  
AS 44.47.160

19 AAC 90.530. REPORTING OF ATTRIBUTABLE MUNICIPAL TRUST LAND PROCEEDS.

Upon the conveyance of municipal trust land to a city under sec. 520 of this chapter, the commissioner will account to the city in writing for all proceeds received by the state which are attributable to that municipal trust land. The accounting of proceeds will reflect, for each parcel of municipal trust land

- (1) the gross receipts;
  - (2) allocable costs prorated under sec. 480 of this chapter;
  - (3) the profits represented by the excess of gross receipts over prorated allocable costs; and
  - (4) interest or other income earned on or imputed to the profits. (Eff. 9/21/79, Reg. 71)
- Authority: AS 44.47.150(e)  
AS 44.47.160

19 AAC 90.540. TRANSFER OF ADMINISTRATION OF THIRD-PARTY INTERESTS IN MUNICIPAL TRUST LAND. Upon the conveyance of municipal trust land to a city under sec. 520 of this chapter, all prerogatives and responsibilities for administration of third-party interests in respect of that land will be regarded as transferred automatically and by operation of law to the city. The commissioner will notify all affected third parties in writing to that effect, and will relinquish to the city all records maintained with respect to the third-party interests. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(c)  
AS 44.47.160

19 AAC 90.550. TRANSITIONAL MANAGEMENT AGREEMENTS. The commissioner will, in his discretion, enter into a transitional management agreement with a city established in the Native village in the future in anticipation of the conveyance of municipal trust land to that city under sec. 520 of this chapter, under which agreement the city will have the opportunity to participate in any decisions relating to the administration of third party interests. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.47.150(a) and (g)  
AS 44.47.160

19 AAC 90.560. DEVELOPMENT CITIES. Any conveyance of municipal trust land under sec. 520 of this chapter to a city established under AS 29.18.220, et seq., will contain an automatic reversion requiring that title revert to the state in trust for any future first or second class city, if the development city is dissolved under AS 29.18.290(d). (Eff. 9/21/79, Reg. 71)

Authority: AS 29.18.290(d)  
AS 44.47.150(a) and (g)  
AS 44.47.160

ARTICLE 7.  
GENERAL AND MISCELLANEOUS  
PROVISIONS

Section

- 910. Public notice procedure
- 920. Procedure rescheduling noticed meeting or hearing
- 930. Delegation of authority by commissioner
- 940. Appeal to commissioner

- 950. Decision-making procedure in contested cases
- 960. Conflicts of interest
- 970. General trustee's authority
- 980. Non-discrimination
- 985. Severability
- 990. Definitions

19 AAC 90.910. PUBLIC NOTICE PROCEDURE. (a) Whenever public notice is required under a regulation in this chapter, unless the regulation specifically requires a different kind of notice, the public notice must contain, at a minimum

(1) an informative summary of the proposed or requested action;

(2) a statement of the time, place, and nature of any meeting, hearing, or other proceeding to be held in respect to the proposed or requested action; and

(3) a reference to the legal authority under which the action is proposed or requested to be taken.

(b) Publication and posting of public notice under this chapter must consist of at least

(1) publication of a notice in the Tundra Times and one other newspaper of general circulation distributed within the village, if any, at least once, no more than eight and not less than two weeks before the date of the proposed action or proceeding; and

(2) posting of a written notice in at least one conspicuous public location in the Native village for a substantially uninterrupted duration of at least one week within the time period during which publication is permitted by (1) of this subsection, or for at least one week immediately before any proposed meeting, hearing, or other proceeding, unless the village is a "vacant" village as described in sec. 290 of this chapter; where notice concerning a vacant village is involved, the posting requirement of this paragraph is not applicable, except that posting of the written notice must occur in at least one conspicuous public location in the locality in Alaska, if any, where the majority of the group

described in sec. 290 resides. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150  
AS 44.47.160

**19 AAC 90.920. PROCEDURE FOR RESCHEDULING NOTICED MEETING OR HEARING.** If a meeting or hearing for which notice has been given cannot be convened because the commissioner or his designee is absent for reasons such as illness or transportation problems, the meeting time will be postponed on an hour-to-hour basis that same day until 8:00 p.m., and thereafter to the same hour on the following day as the meeting or hearing was originally scheduled. If the commissioner is unable to convene the meeting due to his unavoidable absence on that next day, the meeting may be postponed from day to day as is necessary under this section and as stated in the public notice of the meeting or hearing. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150  
AS 44.47.160

**19 AAC 90.930. DELEGATION OF AUTHORITY BY COMMISSIONER.** The commissioner will, in his discretion, delegate in writing to the municipal land trust officer his authority to make any decision or take any action authorized or contemplated by this chapter. Such delegation of authority will have legal effect only if it is made in writing, is executed by the commissioner, and is filed with the lieutenant governor's office. Any such delegation is prospectively revocable in writing. If revoked, the written order of revocation will be filed with the lieutenant governor's office. Any decision or action taken by the municipal land trust officer acting under a delegation of authority from the commissioner is subject to review by the commissioner in the manner prescribed in sec. 940 of this chapter. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.010 AS 44.47.150  
AS 44.17.030 AS 44.47.160

**19 AAC 90.940. APPEAL TO COMMISSIONER.** A decision or action taken by the municipal land trust officer may be appealed to the commissioner by any person whose interests are adversely affected by the decision

or action. To warrant consideration, any such appeal must be postmarked, if mailed by the appellant, or otherwise received by the municipal land trust officer, within 30 days after the date of delivery of the decision or the date of publication, whichever is later. The municipal land trust officer shall transmit the appeal to the commissioner within 15 days of its receipt. Within 120 days from the filing of the appeal with the municipal land trust officer, the commissioner will act to modify, reverse, or affirm the prior decision or action of the municipal land trust officer, and will issue a written decision setting out the reasons for the modification, reversal, or affirmation. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.950. DECISION-MAKING PROCEDURE IN CONTESTED CASES.** If a dispute arises regarding a discretionary determination or proposed action to be taken by the commissioner, the following procedure is applicable unless another specific procedure is prescribed in respect to the dispute by another provision of this chapter:

(1) the commissioner will, in his discretion, first attempt to mediate the dispute informally;

(2) instead of, or after attempting, mediation, the commissioner will, in his discretion, call for written submissions by all interested parties; after receiving the written submissions, the commissioner will

(A) make a written determination of the matter, or

(B) convene an informal public meeting, upon notice, wherein the views and arguments of all interested parties may be stated orally and on the record, or

(C) treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62 et seq., and request that a hearing officer be appointed by the governor's office;

(3) instead of, or after the steps in either (1) or (2) of this section, the commissioner will, in

his discretion, treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62, and request that a hearing officer be appointed by the governor's office. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

**19 AAC 90.960. CONFLICTS OF INTEREST.** Neither the commissioner, the deputy commissioner, the municipal land trust officer, nor any employee of the Department of Community and Regional Affairs, nor any relative of the first degree of such a person, nor any legal entity which is owned or controlled by such a person or relative, may acquire, directly or indirectly, any interest in municipal trust land or any interest in land held by a village corporation which has or had an obligation to convey land to the state in trust under this chapter, with the exception of land required to be reconveyed under ANCSA, sec. 14(c)(1) or (2), or as a part of any general distribution of land to shareholders of a village corporation. This prohibition remains in effect

(1) as to municipal trust land, until one year following termination of the person's employment with the department; and

(2) as to other land held by the village corporation, until one year following completion of the corporation's conveyance of all required municipal trust land to the state in trust. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150  
AS 44.47.160

**19 AAC 90.970. GENERAL TRUSTEE'S AUTHORITY.** The commissioner reserves the authority to take any action in the exercise of his duties as a trustee which is not forbidden by law. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150  
AS 44.47.160

**19 AAC 90.980. NON-DISCRIMINATION.** It is the policy of the commissioner respecting the acceptance, administration, management, and disposal of unimproved municipal trust land not to discriminate against any person because of

sex, race, religion, color, national origin, marital status or changes in marital status, pregnancy, or parenthood. (Eff. 9/21/79, Reg. 71)

Authority: Alaska Constitution, Art. I, Sec. 3  
AS 18.80.210  
AS 18.80.240(2)  
AS 44.47.150  
AS 44.47.160

**19 AAC 90.985. SEVERABILITY.** If any provision of this chapter or any application of it is held invalid or unenforceable, the remainder of this chapter and any other application of it is not affected by that holding. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.160

**19 AAC 90.990. DEFINITIONS.** In this chapter, unless the context requires otherwise, the following words and phrases have the following meanings:

(1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971, P.L. 92-203, 85 Stat. 688, as amended (43 U.S.C. 1601 et seq.);

(2) "bonafide village resident" means a natural person who is at least 18 years of age or who is the head of a household if less than 18 years of age, as to whom residency in the village can be established on the date for which a determination of residency is required by application of the rules set out in AS 15.05.020;

(3) "commissioner" means the commissioner of the Department of Community and Regional Affairs of the State of Alaska acting as the trustee of municipal trust land, whose incumbent is responsible under AS 44.47.150 to accept, administer, and dispose of such land;

(4) "fair market value" means the appraised price attributable to a parcel of municipal trust land, including the value of any survey which identifies and describes the land, which a willing and knowledgeable buyer would pay and which a willing and knowledgeable seller would accept, with respect to that parcel;

(5) "improved land" means the land conveyed under ANCSA to village corporations which is so changed from its natural state through valuable additions made to the land or

through regular use by the residents of the village, that failure to treat that land as municipal trust land would substantially and adversely affect the community as a whole, of which it forms a part;

(6) "less-than-fee interest," where used in reference to land held by a village corporation, means an interest in land which is less than the entire estate in the land which was received by the village corporation from the United States under ANCSA; and, when used in reference to municipal trust land, means an interest in land which is less than the entire estate in the land which was received from the village corporation by the state in trust for any future city in the Native village;

(7) "municipal land trust officer" means that position within the Department of Community and Regional Affairs whose incumbent is principally responsible, under delegation and general direction of the commissioner, to carry out municipal trust land program activities under AS 44.47.150 and the regulations of this chapter;

(8) "municipal trust land" means land the legal or equitable title to which is held by the State of Alaska in trust for a future first or second class city under ANCSA, sec. 14(c)(3) and AS 44.47.150;

(9) "person" means any qualified person, firm, corporation, cooperative association, partnership, or other legal entity legally capable of entering into an agreement or contract;

(10) "state fiscal year" means the fiscal year described in AS 37.05.310;

(11) "Tundra Times" means that state-wide newspaper which is owned and edited by Eskimo, Indian, Aleut Publishing Corporation, 639 I Street, Anchorage, Alaska 99501;

(12) "village" or "Native village" means any unincorporated community, vicinity, or locality which was certified by the Secretary of the Interior under ANCSA as having selection rights under secs. 12(a) or 16(b) of ANCSA, as amended, and includes all those persons living in the same community, vicinity, or locality, irrespective of race or enrollment under sec. 5 of

ANCSA, who have common community ties or interests;

(13) "village council" means an active local social organization, which need not be a formal organization having its own independent legal identity, functioning in the Native village under tradition which is fundamentally representative of all residents of the Native village;

(14) "village entity" means an organization or group officially recognized by the commissioner under secs. 110-150 of this chapter as being "an appropriate village entity" within the meaning of AS 44.47.150. (Eff. 9/21/79, Reg. 71)

Authority: AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA) mandated that the approximately 200 Alaska Native Villages will obtain nearly 22 million acres of the 40 million acres received from the settlement with the federal government. Village selections range from 69,120 to 161,280 acres, with exception of those in Southeast which are 23,040 acres. According to Section 14(3)(c) of ANCSA, each village, through it's corporation, must convey at least 1,280 acres (two square miles) of "The remaining surface estate of the improved land on which the native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs to the municipal corporation or in trust (to the state)".<sup>1</sup>

TRUSTEE ROLE OF THE STATE

Currently, about (100) of the ANCSA recognized villages are also municipal incorporated entities or are located within one (the overwhelming majority of them being second class cities). For the remaining 100 unincorporated communities, the state has accepted (AS 44.47.150) the responsibility as

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1. Section 14(c)(3) of the Alaska Native Claims Settlement Act.

trustee for those lands. This role does not allow the state to "acquire title, nor administer the municipal lands for it's own sovereign use or benefit".<sup>2</sup> "Rather the lands will be conveyed and administered "in trust" for any municipal corporation established in the native village in the future".<sup>3</sup>

The Department of Community and Regional Affairs has the responsibility to administer the program under the following four basic guidelines:

- 1) All transfers of trust lands (irrespective of the mode of transfer) must first have the approval of a recognized "appropriate Village entity".<sup>4</sup>
- 2) The trustee program will be conducted in a manner in which Villages will not feel pressured to incorporate to obtain control of their lands.

- 
2. Handling The Municipal Land Trust Program. A Trust Philosophy, Alaska Native Management Report, 9/15/77 page 4.
  3. Ibid.
  4. "Appropriate Village Entity" as defined by the proposed regulations (19 AAC 90.120) for the Municipal Trust Lands is "an active organization (but not necessarily a formal organization having it's own independent legal identity) which represents, in a traditional or democratic manner, the collective views of bona-fide residents of the Village..."

- 3) Any financial benefits derived from the trustee lands will be given to the future municipality.
- 4) Title to and interest in trust lands can only be obtained through the trustee program (and not by adverse possession or prescription).

#### VILLAGE PARTICIPATION

The state views the Village residents as co-trustees in making land selection determinations for possible future municipalities. They wish this decision-making process to be a joint effort. The state, nevertheless, recognizes it's obligation as the legal trustee to the beneficiary (the future municipality) and therefore is not required to accept the suggested lands by the appropriate Village entity. The state in trust, according the program administrator, "seems to have a legitimate role in identifying and accepting land to be conveyed in trust"<sup>5</sup>. This is obviously a potential point of conflict between the Village and state.

#### VILLAGE CORPORATION ROLE

The village corporation will be the interim trustee until the designated lands are transferred to either the municipality or state. If in the event a need arises for public use such as schools, power easements, HUD housing or a sewer lagoon, before the federal government has issued patent or interim

conveyance to the village corporation, the problem of possible construction delay or cancellation may be avoided by the village corporation and the state (in trust) voluntarily executing a contractual agreement. This agreement (or conveyance by promissary note) would simply provide that the land to be used for municipal use would be part of the future 14(c)(3) conveyance and that it would be accepted by the state in trust. The agreement must, in addition to village corporation consent, be favored by a resolution of the appropriate Village entity. In addition, the regional corporation must be given the opportunity to review the action and render advise.

#### CURRENT STATUS OF THE PROGRAM

Presently there are 90 Villages included in the program with a possibility of an additional 19 in the near future. Only 17 of these Villages have received title to even small portions of their lands (none of them have received all their selections). There has not been, as of June 1979, any land transferred into or out of trust status. Hence; implementation of the four basis policies of the trust program has not occurred and therefore the need and effectiveness of the state's involvement can not be determined. The program activities, as to date, have primarily consisted of the state playing the role of mediator between different village corporations and municipalities concerning land selections and conducting discussions with and giving assistance to villages concerning future public facility sites.

FUTURE STATUS OF THE PROGRAM

The State of Alaska anticipates transfers of land or commitments to transfer in the immediate future. This is based on the following events:

1. The Program Regulations will be soon adapted.
2. BLM will convey a substantial amount of lands to village corporations.
3. Village awareness and understanding of the program will be greatly enhanced.
4. Construction of public facilities (i.e. schools) will increase in the Villages and thereby increase the amount of land involved in the trustee program.

SECTION 14(c)(3) of the ALASKA NATIVE CLAIMS SETTLEMENT ACT:

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents;

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

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ALASKA STATUTES 44.47.150:

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

(b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. Such approval shall be by resolution filed with the department.

(c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality which includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.

(d) Separate accounts shall be maintained in the name of each village for the land, including the revenues from the land, acquired from each village corporation under this section, and within 90 days of the close of each state fiscal year a statement of the account for each municipality shall be prepared by the commissioner and be made available to the village and to the public upon request.

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

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

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

Native Regional Corporations	Div. of Indian/ Native Affairs CETA FY 79	U.S. Public Health Service Indian Health Services	HUD Indian Housing		HUD FY 79 Community Development Block Grants	Federal Revenue Sharing	State Revenue Sharing	State RDA Grants	BIA Contracted Services	BIA JOM	Rural Cap
			FY 79	other on-going projects							
Cook Inlet Region	2,499,950	1,350,077		2,149,995				20,000	1,721,292	413,656	80,000
Koniag	766,384	446,472	816,000	1,839,701	285,000			78,000	250,223	370,287	172,545
Arctic Slope Region	1,456,761	446,012							767,107		
Administered by AFN											
Bristol Bay Native Corp.	1,164,157	1,062,219			225,000	137,094	143,724	52,150		386,237	285,545
Sealaska	3,950,241 656,862 586,535	711,705			698,000	505,324	557,339	116,200	4,868,621	974,984	381,180
Chugach	397,862	384,521		1,632,000		353,080	470,539	17,000		160,094	96,000
Doyon	3,954,371	1,776,384		10,357,000	191,000	120,248	368,288	61,850	4,736,696	482,622	237,090
AHTNA	190,254	396,617				19,348		40,000		86,784	
Aleutian	583,320	444,000	489,600	6,772,800		80,088	236,508	124,000	136,497	253,023	168,000
Calista	6,642,158	2,794,568	4,161,600	5,793,600	401,350	479,040	763,205	219,000	1,721,766	284,198	1,165,450
Bering Straits	2,010,085	1,574,205		12,741,003	240,000	212,976	503,232	113,877	308,103	11,951	272,180
NAANA	1,466,867	975,174		2,751,854	230,000	161,020	214,533		246,788		
Total	26,325,807	12,382,954	5,467,200	21,557,953	2,683,550	2,069,028	3,257,868	842,077	14,757,093	3,423,836	2,857,990

TABLE 11 FUNDING SOURCES FOR REGIONAL NONPROFIT CORPORATIONS

IDENTIFICATION OF SERVICES AND PROGRAMS PROVIDED BY NON-GOVERNMENT AND QUASI-GOVERNMENTAL ORGANIZATIONS IN THE UNORGANIZED BOROUGH (Cont'd)

TABLE III

Governmental and Non-governmental Structures within the Unorganized Borough

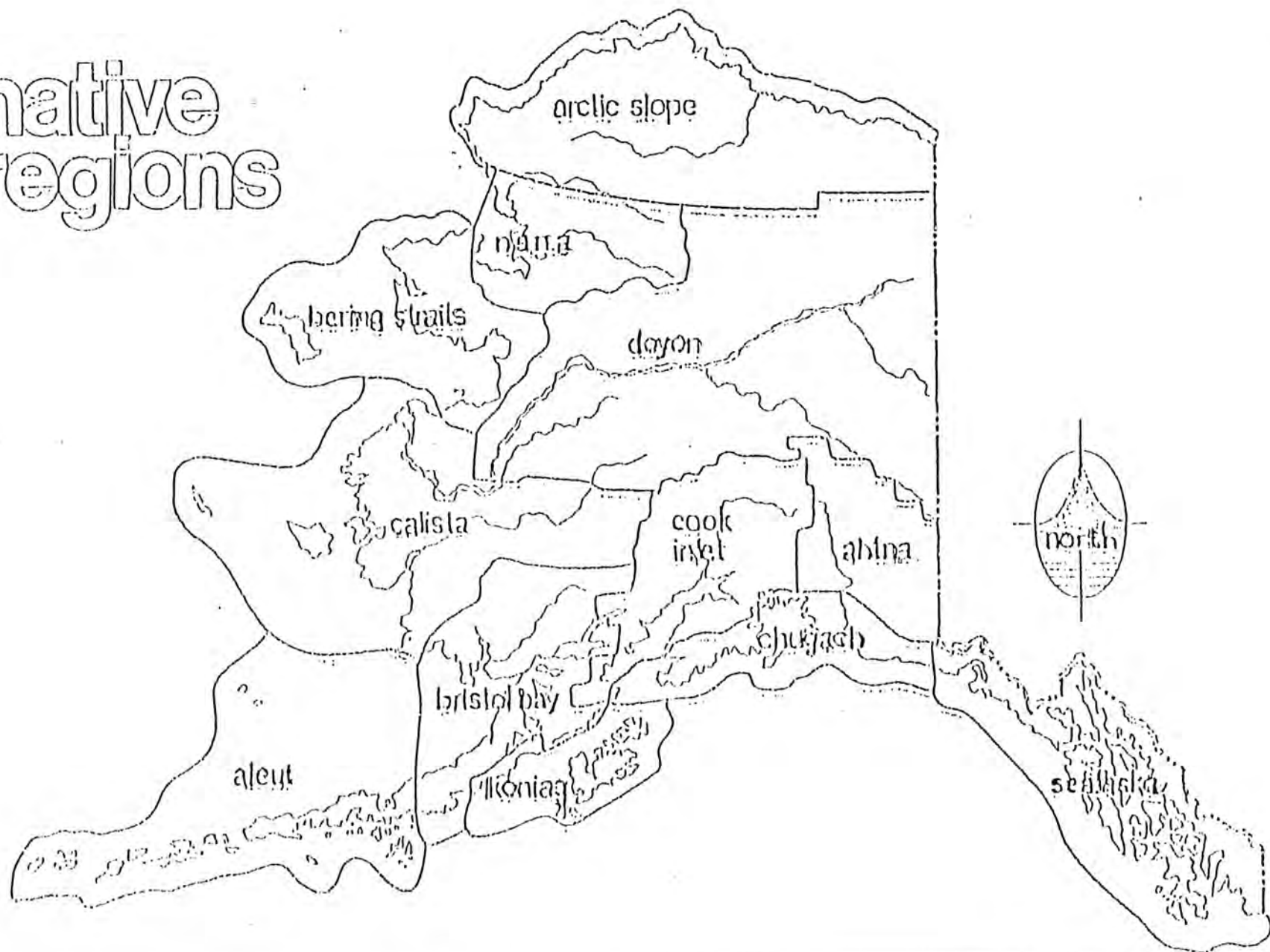
Table III is an attempt to look at the variety and numbers of governmental and non-governmental structures existing within the various regions. Within each region there are the constitutionally recognized forms of local government and public school systems. However, the Indian Reorganization Act (IRA) Councils and the nonprofits represent a system of Federally recognized and funded entities existing outside of the traditional forms of government. This confusion over who controls what in the unorganized borough, combined with the strength of the nonprofits, has resulted in the stagnation of the evolutionary process of regional governments in the unorganized borough.

It should be noted that the number of nonprofits is much larger than the actual number of regions. In all of the regions, there is one major nonprofit corporation providing most of the services. However, the majority of the regions have several additional nonprofit corporations offering specific programs; i.e., housing. In some cases this has resulted in the creation of several nonprofit entities within a region operating independently from other nonprofits within the region. Consequently, coordinative efforts become increasing difficult and duplication of efforts is unavoidable. The need to set regional plans and coordinate the flow of Federal and State dollars has been an incentive for the regions to contemplate the formation of regional governments.

TABLE III REGIONAL STRUCTURES

Regional Native Profit Corporations	Organized Boroughs				Incorporated Communities			IRA Councils		Native Profit Corporations	REAA's	Independent School Districts	BIA Schools	Village Corporations
	Unified Home Rule Municipalities	Home Rule	Second Class	Third Class	Home Rule Cities	First Class Cities	Second Class Cities							
Arcic Slope		1				1	3	5		4		1		8
Aleutian						3	1	4		2	1	3		13
AHTNA			1							2	1			8
Bering Straits						1	11	15		4	2	1	10	16
Bristol Bay			2			1	12	14		3	2	2		25
Cook Inlet	1		2		2	3	3	2		2		3		8
NANA							11	8		2	1			1
Galista						1	35	10		6	3	1	27	44
Boyon			2		2	2	18	10		5	4	2	5	27
KANA			1		1		5	1		1		1		14
Chugach			1		3		1	2		2	1	2		5
Sealaska	2		1	1	3	9	7	10		3	3	14		12
Total	3	1	10	1	11	21	107	81		36	18	30	42	181

# native regions



Native Regional Corporations	Adult Basic Education	BIA- Agri-Culture	BIA- ANA grant	BIA Credit	BIA triba operation	BIA Employment Assistance	BIA Higher Education	BIA Housing Improvement	BIA Realty	BIA- Social Services	Community Planning -EDA-	Cultural Preservation	Education JOH	Employment CETA	Health Service	Housing	Local Government Training	Subsistance Resource	Advocacy
Cook Inlet Region	X					X	X			X		X	X	X	X	X		X	
Koniag	X										X		X	X	X	X		X	
Arctic Slope Region		X	X	X	X				X	X		X			X	X			
Bristol Bay Native Corp.											X		X	X	X	X	X	X	
Sealaska				X	X	X		X		X	X	X	X	X	X	X	X	X	
Chugach			X									X	X	X	X	X		X	
Doyon			X		X	X	X			X	X	X	X	X	X	X	X	X	
AHTNA											X	X	X	X	X	X			
Aleutian	X										X	X	X	X	X	X			
Galista	X					X	X			X	X	X		X	X	X	X	X	
Bering Straits	X											X		X	X	X			
NANA			X	X		X	X	X		X	X	X		X	X	X	X	X	

TABLE 1 SERVICES PROVIDED BY NATIVE REGIONAL NONPROFIT CORPORATIONS

FINAL  
REGS.

TITLE 19.  
DEPARTMENT OF COMMUNITY  
AND REGIONAL AFFAIRS

PART 6.  
DIVISION OF COMMUNITY PLANNING.

CHAPTER 90.  
MUNICIPAL TRUST LAND.

FINAL REGS  
AS  
SENT TO  
LT. GOV. by  
AG's office.  
  
Became effective  
on Sept. 21, 1979  
will be printed  
as part of AAC  
Register #71 in  
mid-October, 1979

Article	<u>Page</u>
1. Tender, Acceptance, and Conveyance of Municipal Trust Land (19 AAC 90.010--19 AAC 90.065)	2
2. Official Recognition of Village Entities Under AS 44.47.150(b) (19 AAC 90.110--19 AAC 90.150)	13
3. Ascertaining the Views of Village Resi- dents Where No Organized Village Entity Is Recognized (19 AAC 90.210--19 AAC 90.290)	18
4. Management of Municipal Trust Land (19 AAC 90.310-- 19 AAC 90.340)	24
5. Disposal by State of Municipal Trust Land (19 AAC 90.410--19 AAC 90.490)	27
6. Disposition of Land and Funds upon Incor- poration of a Municipality in a Native Village (19 AAC 90.510--19 AAC 90.560)	36
7. General and Miscellaneous Provisions (19 AAC 90.910-- 19 AAC 90.990)	39

ARTICLE 1.  
TENDER, ACCEPTANCE, AND CONVEYANCE  
OF MUNICIPAL TRUST LAND.

Section	<u>Page</u>
10. Municipal Trust Land	3
15. Procedure for Tender, Acceptance, and Conveyance	3
20. Standards to Be Applied by Commissioner in Determining Whether to Accept Tender	5
25. Form of Document of Conveyance	7
30. Form of Agreement to Convey Land	8
35. Partial Tender	8
40. Less-than-fee Interest	9
45. Completion of Municipal Trust Land Conveyance Requirements	9
50. Notification of Commissioner of Proposed Village Corporation Land Transactions	10
55. Procedure to Clear Corporation Land Title for Conveyance to Third Parties	10
60. Review by Regional Corporations	11
65. Unincorporated Villages within Existing Political Subdivisions	12

19 AAC 90.010. MUNICIPAL TRUST LAND. All land conveyed to and accepted by the State of Alaska in trust for future cities under sec. 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA), AS 44.47.150, and this chapter is to be known for so long as it is held by the state in trust as "municipal trust land." Title to municipal trust land will be held in the name of the State of Alaska in trust for any municipal corporation established in and for the village with reference to which the land was conveyed to the state. Municipal trust land will be managed under this chapter and is not considered part of the state public domain. Laws applicable to the management and disposal of state public domain land or to land held by incorporated municipalities do not apply to municipal trust land. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150  
AS 44.47.160

19 AAC 90.015. PROCEDURE FOR TENDER, ACCEPTANCE, AND CONVEYANCE. Land and interests in land will be accepted by the commissioner as municipal trust land in accordance with the following procedure:

(1) A village corporation having an obligation under sec. 14(c)(3) of the Alaska Native Claims Settlement Act to convey land to the State of Alaska in trust for any municipality which might the future be incorporated in and for the Native village corresponding to that corporation may make one or more written tenders to the commissioner of specifically identified land in satisfaction of that obligation. Where land status circumstances present technical reasons for

postponement of a final tender which would fully satisfy the acreage obligation, a tender or tenders which will partially satisfy the obligation are encouraged by the commissioner, especially where certain land needed for public community facilities can be identified for conveyance.

(2) Upon receipt of a written tender, the commissioner will begin consultation and evaluation procedures to determine, within 120 days after receipt of the tender, whether the land tendered should be accepted. Before making such a determination, the commissioner will consult with the village entity formally recognized under secs. 110--150 of this chapter as representing the views of the village residents or, if no such village entity is formally recognized, with a meeting of the village residents under secs. 210--290 of this chapter. In determining whether to accept the tender, the commissioner will take into account the views expressed by the village residents through the recognized village entity or a village meeting resolution or referendum. Standards set out in sec. 20 of this chapter will be applied in evaluating the tender.

(3) The commissioner's determination as to whether a tender will be accepted will be stated in a written decision. If the determination is not consistent with the views expressed by the entity (or, if applicable, the meeting of village residents), then the commissioner's written decision will include a specific statement of the reasons why those views have not been accepted. The decision will be published and posted publicly in the manner provided by sec. 910(b) of this chapter. The posting period will be at least 30 days. The decision becomes final at the expiration of 30 days following publication or after 30 days of continuous posting, whichever is later, unless an appeal has been filed under sec. 940 of this chapter.

(4) With prior approval in writing of both the village corporation and the recognized village entity (or village

meeting, where appropriate), the commissioner will, in his discretion, waive the publication and posting requirements of (3) of this section. Under such circumstances, the decision to accept a tender of a specific parcel of land becomes final immediately, without a waiting period. Such a waiver and immediate acceptance are applicable only when a disaster or other emergency has occurred or exists and where an expedited transfer of title to the specific parcel of land is necessary to alleviate a threat to life, property, or the welfare of persons in the village.

(5) After the decision to accept a tender of land has become final, it will be communicated formally to the village corporation, which may then either execute and deliver a document of conveyance to the state or, if necessary, execute an agreement to convey land. After inspecting the document of conveyance (or, if applicable, the agreement to convey land) and determining that it is consistent with the accepted tender and complies with sec. 25 of this chapter (or, if applicable, sec. 30), the commissioner will formally accept delivery of the document and will cause it to be recorded promptly in the manner provided for by AS 34.15. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

19 AAC 90.020. STANDARDS TO BE APPLIED BY COMMISSIONER IN DETERMINING WHETHER TO ACCEPT TENDER. In determining whether to accept a tender of land under this chapter, the commissioner will, after consulting with the recognized village entity or (if applicable) with the village residents as provided in secs. 110--290 of this chapter and with the borough if the land tendered is located in an organized

borough, evaluate the land included in the tender to determine whether its acceptance would be in the best interests of any future city which might be incorporated in respect to the Native village. In so doing, the commissioner will consider, specifically but not by way of limitation, the following standards and considerations:

(1) whether all tenders of the village corporation collectively include all improved land on which the Native village is located which is subject to reconveyance under sec. 14(c)(3) of ANCSA;

(2) whether all tenders of the village corporation collectively include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential to meet all present or foreseeable public community needs of any first or second class city which might be established in the Native village, including (without limitation) community expansion and appropriate rights-of-way for public use;

(3) whether, considering future land-use patterns which would be created by acceptance of the tendered land, the effect upon community growth and development of accepting that land would not significantly impair the economic viability of the village corporation or deprive it of a reasonable entrepreneurial opportunity;

(4) whether acceptance of the land tendered to the state in trust is consistent with the views of the village residents, as expressed by the recognized village entity or (if applicable) by the village residents in a village meeting resolution or a village referendum;

(5) whether with respect to land which is located within a borough or other municipality having municipal powers, the tenders include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential within the foreseeable future to the proper execution of municipal powers; and

(6) whether acceptance of the land by the state in trust would be consistent with the good faith execution of the commissioner's responsibility to any future municipality which might be incorporated in the Native village. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.025. FORM OF DOCUMENT OF CONVEYANCE. Upon a determination by the commissioner to accept a tender of land by a village corporation under sec. 20 of this chapter, the village corporation shall promptly execute and deliver to the commissioner a modified quitclaim deed to the State of Alaska. The deed must be in a form which, in the commissioner's judgment, will effectively pass title to the surface estate upon its acceptance by the commissioner, and which contains a representation and warrant that there has been no previous conveyance and that there are no liens, encumbrances, charges, or claims (other than those arising under ANCSA) affecting the surface rights to the land being conveyed which were created by or are the result of any action taken by the village corporation. Acceptance of the deed will be signified by the written endorsement of the commissioner upon the face of the deed. Except in the case of less-than-fee interests (described in sec. 40 of this chapter), the deed must convey all present and after-acquired title held by the corporation in the surface estate. (Eff. / / , Reg. )

Authority: AS 34.15

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.030. FORM OF AGREEMENT TO CONVEY LAND. In any case where a tender has been accepted and the corporation demonstrates to the satisfaction of the commissioner that it is presently unable to execute a deed which complies with sec. 25 of this chapter, the commissioner will, in his discretion, in place of immediate delivery of such a deed, accept a written agreement to convey land. Acceptance of the agreement to convey will be signified by written endorsement and execution of the agreement by the commissioner. An agreement to convey land must be in a form which may be recorded in a manner provided for by AS 34.15 and which, under the circumstances and in the commissioner's judgment, sufficiently identifies the land which is subject to the agreement, conveys a right to enter the land, and contains such other terms and provisions relating to the future conveyance of title to the land to the state in trust as appear appropriate. (Eff. / / , Reg. )

Authority: AS 34.15

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.035. PARTIAL TENDER. The commissioner will, in his discretion, accept a tender of land from a village corporation which only partially satisfies that corporation's acreage obligation under Sec. 14(c)(3) of the Alaska Native Claims Settlement Act. If such a partial tender is accepted, the commissioner will credit that land against the corporation's remaining acreage obligation. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)

AS 44.47.160

19 AAC 90.040. LESS-THAN-FEE INTERESTS. Less-than-fee interests in land will, in the commissioner's discretion, be accepted by the commissioner under this chapter. Where conveyance of a less-than-fee interest is made necessary because identical less-than-fee interest was conveyed to a village corporation by the United States, the acreage subject to such a less-than-fee interest will be credited against the corporation's acreage obligation under sec. 14(c)(3) of ANCSA under sec. 45 of this chapter. Other less-than-fee interests will, in the commissioner's discretion, be accepted by the commissioner and credited under sec. 45 of this chapter only if the commissioner determines in writing, after consultation with the recognized entity (or, if applicable, the residents of the village by a village meeting or referendum), that there is an appropriate reason to accept less than the entire fee interest in land which the village corporation has tendered and that the interests of any future city would not be prejudiced by that acceptance. The commissioner will not accept a conveyance which contains a reversionary clause or condition subsequent created by the village corporation. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)

AS 44.47.160

19 AAC 90.045. COMPLETION OF MUNICIPAL TRUST LAND CONVEYANCE REQUIREMENTS. The commissioner will issue a "Certificate of Satisfaction" to the village corporation when the village corporation has fully discharged its obligation to convey municipal trust land. This certificate will be in a form which the village corporation may cause to be recorded in the manner provided by AS 34.15. The provisions of sec. 20 of this chapter and sec. 14(c)(3) of ANCSA will be the basis upon which the commissioner will make this determination. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)

AS 44.17.030

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.050. NOTIFICATION OF COMMISSIONER OF PROPOSED VILLAGE CORPORATION LAND TRANSACTIONS. Before the completion of a village corporation's conveyance of 14(c)(3) land to the state in trust as evidenced by issuance of a "Certificate of Satisfaction" by the commissioner under sec. 45 of this chapter, the village corporation is requested and urged to notify the commissioner of its pending land transactions, with the exception of statutory reconveyances which arise out of ANCSA, sec. 14(c)(1) and 14(c)(2). This notification should occur no later than the notification which the village corporation must provide until December 18, 1981 to the appropriate regional corporation under ANCSA, sec. 14(c)(5), or as soon as practicable under the circumstances after December 18, 1981. The purpose for notifying the commissioner under this section is to reduce the possibility that the proposed land transactions may involve land which uniquely meets the standards of municipal trust land as set out in ANCSA, sec. 14(c)(3), and sec. 20 of this chapter. (Eff. / / , Reg. )

Authority: ANCSA Sec. 14(c)(3)

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.055. PROCEDURE TO CLEAR CORPORATION LAND TITLE FOR CONVEYANCE TO THIRD PARTIES. At any time before the completion of a corporation's conveyance of all 14(c)(3)

land to the state in trust, the commissioner will, in his discretion and upon the request of the corporation, execute a written disclaimer of interest under ANCSA, sec. 14(c)(3), and AS 44.47.150 for any specific parcel of land or interest in it which the corporation proposes to convey to a third party. In determining whether to execute a waiver of interest under this section, the commissioner will evaluate the specific parcel with reference to the standards set out in sec. 20 of this chapter, and will consult the recognized village entity (or, if applicable, the residents themselves under secs. 210--290 of this chapter). If the commissioner decides to issue a disclaimer of interest contrary to the views of the recognized village entity (or, if applicable, the residents themselves under secs. 210--290), he will issue a written determination which will include a specific statement of the reasons why those views have not been accepted, and no final disclaimer of interest will be issued until after that determination has been published and posted and becomes final in the manner prescribed by sec. 15(3) of this chapter. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)  
AS 44.47.150(a)  
AS 44.47.160

19 AAC 90.060. REVIEW BY REGIONAL CORPORATIONS.

Before December 18, 1981 the commissioner will not officially accept delivery from a village corporation of any document of conveyance or agreement to convey until the appropriate Native regional corporation has been afforded by the village corporation the opportunity to review and render advice to the village corporation with respect to that land transaction

or has filed with the commissioner a notice that it has waived its right to that opportunity. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)&(5)

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.065. UNINCORPORATED VILLAGES WITHIN EXISTING POLITICAL SUBDIVISIONS. In the case of a village corporation for a Native village lying wholly or partly within a borough or unified home rule municipality incorporated under state law, the commissioner will interpose no objection to a sec. 14(c)(3) reconveyance by the corporation to the borough or unified home-rule municipality rather than to the state in trust if he finds upon presenting the reconveyance proposal to the village entity officially recognized under secs. 110--150 (or, if applicable, to the residents of the village in the manner set out in secs. 210--290) of this chapter, that they approve of the proposal. The commissioner will construe such an approval by the recognized village entity or meeting of village residents and subsequent reconveyance to the borough or unified home-rule municipality by the village corporation as a final and complete discharge of any further potential trust obligation by the state on behalf of a future municipal corporation in the Native village with respect to the provisions of ANCSA, sec. 14(c)(3) and AS 44.47.150, and he will issue a "Certificate of Satisfaction" to the village corporation as provided in sec. 45 of this chapter. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)

AS 44.47.150(a)&(b)

AS 44.47.160

ARTICLE 2.  
OFFICIAL RECOGNITION OF VILLAGE ENTITIES  
UNDER AS 44.47.150(b).

Section	<u>Page</u>
110. Recognized Village Entities	13
120. Minimum Eligibility Requirements	14
130. Priorities Among Entities Eligible for Official Recognition	14
140. Recognition Procedure	15
150. Change of Recognized Village Entity	17

19 AAC 90.110. RECOGNIZED VILLAGE ENTITIES. With respect to each village covered by AS 44.47.150, the commissioner will, in his discretion, upon petition by any person or group, or upon his own motion, officially recognize an "appropriate village entity" within the meaning of AS 44.47.150(b). After its recognition, this entity will be consulted by the commissioner in accordance with the provisions of this chapter. In the case of an action or decision concerning village corporation or municipal trust land in respect to which no such recognized entity exists, the commissioner will consult with the residents of the village and ascertain their views under the procedures set out in secs. 210--290 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.17.030  
AS 44.47.150(b)  
AS 44.47.160

19 AAC 90.120. MINIMUM ELIGIBILITY REQUIREMENTS. To be eligible for consideration for recognition as an "appropriate village entity," an entity must, at minimum, meet all of the following standards:

(1) the entity must be an active organization (but not necessarily a formal organization having its own independent legal identity) which represents, in a traditional or democratic manner, the collective views of the bonafide residents of the village; and

(2) there must be no substantial and particularized objection by any bonafide resident to the entity's suitability to represent accurately and effectively the collective views of the bonafide residents of the village; however, such an objection will only constitute a bar to eligibility if it is substantial in the judgment of the commissioner and if it addresses itself to the entity's overall suitability rather than only to the entity's position on a specific substantive issue. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.130. PRIORITIES AMONG ENTITIES ELIGIBLE FOR OFFICIAL RECOGNITION. (a) If more than one entity is determined by the commissioner to be eligible under the standards for recognition in sec. 120 of this chapter, then, as a general rule, the commissioner will give preference among eligible entities according to the following descending order of priorities:

(1) a traditional village council, as defined in sec. 990 of this chapter;

(2) a village council organized under the Indian Reorganization Act (Act of June 13, 1934, 48 Stat. 984, as amended);

(3) a joint village entity constituted of representatives of more than one existing local entity or group for the specific purpose of functioning as a recognized village entity under the regulations of this chapter;

(4) any other entity meeting the minimum eligibility requirements of sec. 120 of this chapter.

(b) If none of the entities listed in (a) of this section has been recognized, then the commissioner will recognize a meeting or referendum of village residents as the proper method of ascertaining the views of the residents. In that event, the commissioner will follow the procedures set out in secs. 210--290 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.140. RECOGNITION PROCEDURE. (a) Any entity wishing to be recognized by the commissioner under this chapter may initiate proceedings to obtain formal recognition by filing with the commissioner a written petition for recognition.

(b) Upon receipt of a petition for recognition, or upon his own motion, the commissioner will make an informal preliminary determination of whether the entity might be able to meet the minimum eligibility requirements set out in sec. 120 of this chapter. If he so determines, then the commissioner will, on his own motion, publish and post a written notice, as provided in sec. 910 of this chapter, advising the public of the receipt of the petition or the matter of potential recognition of an entity, soliciting comments on the petition or potential recognition, and stating that any other entity which wishes to be considered for recognition must within 30 days after the date of posting and publishing that notice file a petition for recognition.

(c) No less than 40 days nor more than 60 days after posting and publishing the notice, if no other entity has filed a petition and no adverse written comments have been submitted on the initiating petition, the commissioner will, in his discretion, either deny the petition or issue a written "Statement of Intent to Recognize" the entity under consideration. The "Statement of Intent to Recognize" will be posted and published in the same manner as the original notice.

(d) If more than one entity has filed a petition for recognition in respect to a particular Native village, or if adverse written comments are received by the commissioner in response to the original notice or the "Statement of Intent to Recognize," then the commissioner will schedule an informal hearing in the village. The informal hearing will be held upon public notice in the village, as provided in sec. 910 of this chapter, and anyone present may state his views as to the propriety of recognizing the petitioning entity. The commissioner is not required to maintain a formal written record or tape-recording of the informal hearing. However, if, after an informal hearing, a written "Request for Formal Hearing" signed by at least 10 bonafide residents or 15 per cent of the bonafide residents (whichever is less) is filed, then the commissioner will initiate a formal decision-making procedure under sec. 950 of this chapter. The commissioner may elect to proceed directly with a formal decision-making procedure without first holding the informal hearing which is otherwise required under this section.

(e) Upon compliance with the procedures prescribed by this section, the commissioner will make a single final written determination upon all petitions for recognition pending in respect to the village. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(b)

AS 44.47.160

19 AAC 90.150. CHANGE OF RECOGNIZED VILLAGE ENTITY.

The commissioner will, in his discretion, review the official recognition of a village entity upon receipt of a petition signed by 15 per cent of the residents of the village, or upon request of the village entity itself, or upon his own initiative, at any time. Ordinarily, as a general working goal but not as a legal requirement, the commissioner will review the recognition of each recognized village entity at least every two years. The procedure, upon review of a formal recognition under this section, will be the same as that prescribed in secs. 140(b)--(e) of this chapter.  
(Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

ARTICLE 3.  
ASCERTAINING THE VIEWS OF VILLAGE RESIDENTS  
WHERE NO ORGANIZED VILLAGE ENTITY  
IS RECOGNIZED.

Section	<u>Page</u>
210. Applicability	18
220. Procedure for Convening Meeting of Village Residents	19
230. General Procedure for Conducting Meeting of Village Residents	19
240. Village Meeting Resolution	20
250. Request for Reconsideration	20
260. Initiation of Village Meeting by Residents	21
270. Village Referendum	21
280. Participation by Bona fide Village Residents Only	23
290. Vacant Villages	23

19 AAC 90.210. APPLICABILITY. In the case of any decision or determination to be made by the commissioner under this chapter in respect to a village as to which no village entity is formally recognized under secs. 110--150 of this chapter, the commissioner will first consult with

a meeting of village residents. A meeting of village residents will be convened and conducted under the procedures set out in secs. 210--290 of this chapter. After the first meeting of village residents held under secs. 210--290, the commissioner will, in his discretion, consult with and obtain the views of the residents by the village referendum method set out in sec. 270 of this chapter, in place of convening a meeting if use of the referendum method has been approved by a prior village meeting. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(b)

AS 44.47.160

19 AAC 90.220. PROCEDURE FOR CONVENING MEETING OF VILLAGE RESIDENTS. Whenever consultation with a meeting of village residents is required, the commissioner will initiate a village meeting by giving notice of the meeting in the manner required by sec. 910 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(b)

AS 44.47.160

19 AAC 90.230. GENERAL PROCEDURE FOR CONDUCTING MEETINGS OF VILLAGE RESIDENTS. A meeting of village residents convened by the commissioner under this chapter will be conducted under the general direction of the commissioner, who may designate a chairman pro tempore to preside over the meeting. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(b)

AS 44.47.160

19 AAC 90.240. VILLAGE MEETING RESOLUTION. Whenever prior approval of a village acting through a meeting of village residents is required, that prior approval must be in the form of a written village meeting resolution adopted under this section or a village referendum adopted under sec. 270 of this chapter. A resolution must bear the signatures of all of the village residents in attendance who wish to be recorded as supporting or opposing the resolution. A village meeting resolution which has the support of the simple majority of those who have signed it will be regarded by the commissioner as the official position of the village meeting as to the proposed action to which it refers. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.250. REQUEST FOR RECONSIDERATION. The position of the village residents as expressed in <sup>a</sup> resolution adopted by a village meeting under sec. 240 of this chapter will be treated by the commissioner as final unless a request for reconsideration is made by a village resident who signed the resolution as a member of the majority which supported or opposed the resolution, as may be the case. In order to be effective, a request for reconsideration made to the commissioner must be received (or postmarked, if transmitted by mail) within 10 days from the meeting when the resolution was adopted. Where a disaster or other emergency has occurred or exists, reconsideration may be waived in a resolution adopted by a meeting of village residents under this chapter, where expedited transfer of title involving municipal trust land is necessary to alleviate a threat to life, property, or the welfare of persons in the village. In the event of a request for reconsideration, the commissioner will reconvene the village meeting, upon notice, at least 20 but not more

than 45 days after the date of the request for reconsideration. No request for reconsideration of the vote of the residents may be made respecting a position adopted by the village residents in a meeting held as a result of a request for reconsideration. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.260. INITIATION OF VILLAGE MEETING BY RESIDENTS. No meeting of village residents has any legal effect under this chapter unless it is convened by the commissioner in the manner required by this chapter. Village residents who wish to initiate a village meeting for any purpose falling within the scope of this chapter may do so by making a written request for one to the commissioner signed by at least 10 per cent of the village residents. Upon receiving the request, the commissioner will initiate the procedure to convene a meeting. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.270. VILLAGE REFERENDUM. (a) For a village as to which no village entity is formally recognized under secs. 110--150 of this chapter, the commissioner will, in his discretion, consult with and ascertain the views of village residents by the use of a village referendum if:

(1) a meeting of the village residents has, within the two years immediately past, adopted a resolution authorizing the use of a village referendum as an alternative to a village meeting;

(2) no notice to rescind has been filed under (c) of this section; and

(3) the commissioner determines, in his discretion and on a case-by-case basis, that the views of the village residents regarding a certain proposed action or determination can be obtained effectively by referendum.

(b) A village meeting resolution authorizing subsequent village referenda must contain a listing of the names and mailing addresses of all bonafide village residents eligible to vote on a village referendum.

(c) If a notice to rescind a village meeting resolution authorizing village referenda has been signed by at least 10 per cent of the bonafide residents of the village and filed with the commissioner, then the commissioner will not initiate a village referendum, but will instead treat the resolution authorizing use of referenda as rescinded and will initiate a meeting of the village residents to consider, among other things, the approval of a new village meeting resolution authorizing village referenda.

(1) A village referendum must be taken by mail. The commissioner will mail a written statement of the specific proposed action or determination to each person listed in the authorizing village meeting resolution as a bonafide village resident of the village, giving each an opportunity to vote upon the proposition and return his ballot to the commissioner within 30 days. A majority vote of the ballots timely cast and returned to the commissioner will determine the outcome of the proposition; however, if the majority vote cast is less than 25 per cent of the village residents listed on the authorizing village meeting resolution, the proposition fails. Individual votes will be kept confidential. The tabulated results of the balloting will be mailed to each listed resident. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

19 AAC 90.280. PARTICIPATION BY BONAFIDE VILLAGE RESIDENTS ONLY. Only persons who are bonafide residents of the village, as that term is defined in sec. 990 of this chapter, on the date of a meeting or referendum may vote on a proposition or sign a resolution. A person whose claim as a bonafide village resident is challenged by another bonafide village resident may cast a challenged vote at a village meeting, or sign a resolution or referendum under protest. A challenged vote will be given weight by the commissioner, if at all, only if its inclusion in the tabulation of votes would determine the outcome of votes on the proposition. If it is necessary to determine the validity of a challenged vote, the commissioner will:

(1) attempt to resolve the dispute by informal discussion and mediation at the time and place where the dispute first arises;

(2) failing successful discussion and mediation, hold an informal hearing to resolve the dispute; or

(3) instead of or after the steps in (1) or (2) of this section, initiate formal decision-making procedures under sec. 950(3) of this chapter. (Eff. / / , Reg. )

Authority: AS .7.150(b)

AS .47.160

19 AAC 90.290. VACANT VILLAGES. If a village with respect to which a village corporation has an obligation under ANCSA, sec. 14(c)(3), is vacant of bonafide residents at a time when the commissioner is obligated under this chapter to respond to a corporation's tender or to make any other decision in respect to municipal trust land under this chapter, the commissioner will recognize under secs. 110--150 of this chapter any appropriate village entity, if any,

which may exist for that village. If no such entity qualifies for recognition, the commissioner will recognize as the village entity pro tempore, a group consisting of all persons duly enrolled under sec. 5 of ANCSA to that village who are at least 18 years of age or, if less than 18 years of age, the heads of household. The commissioner will consult with and obtain the views of this group in a village meeting convened and conducted in accordance with secs. 220--280 of this chapter at a place in Alaska, if any, where the majority of that group resides or can conveniently assemble at their own expense, or by mailed referendum if a meeting in Alaska of a majority of the group is impossible or impracticable in the judgment of the commissioner. (Eff. / / , Reg. )

Authority: AS 44.47.150(b)

AS 44.47.160

ARTICLE 4.  
MANAGEMENT OF MUNICIPAL  
TRUST LAND.

Section	<u>Page</u>
310. Inventories of Landholdings	25
320. Advisory Land Planning	25
330. Planning, Platting, and Zoning	26
340. Trespass	27

19 AAC 90.310. INVENTORIES OF LANDHOLDINGS. For each village as to which municipal trust land is accepted by the state, the commissioner will maintain a separate inventory of landholdings. This inventory of landholdings will include, at a minimum:

(1) the land status history of each parcel of municipal trust land;

(2) an account of the number of acres of land which have been conveyed by the village corporation to the state in trust under ANCSA, sec. 14(c)(3), and this chapter, including determinations of acreage credits made under sec. 35 of this chapter and separate accounts of acreage as to which the corporation conveyed less than its entire fee interest in the land under sec. 40 and of acreage as to which only equitable title has been conveyed pursuant to agreements to convey land;

(3) documentation of the creation and administration of each third party interest in the land; and

(4) an account of revenues received in respect of the land. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(d)

AS 44.47.160

19 AAC 90.320. ADVISORY LAND PLANNING. The commissioner will, within resources of the municipal land trustee program, use his best efforts to identify and evaluate the resource and locational values of municipal trust land and will, in consultation with the recognized village entity or village residents, as appropriate, formulate and adopt advisory community land-use plans to serve as guideposts for future

management and disposal actions involving municipal trust land. Such advisory land-use plans will recognize and conform to any requirements of a planning, platting, and zoning authority as provided in sec. 330 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.17.030  
AS 44.47.150(a)&(b)  
AS 44.47.160

19 AAC 90.330. PLANNING, PLATTING, AND ZONING. (a)

Where municipal trust land is located within the boundary of any municipality having planning, platting, and zoning powers, it is subject to the regulations and ordinances of that municipality pertaining to planning, platting, and zoning.

(b) Where municipal trust land is located outside the boundary of any municipality having planning, platting, and zoning powers, it is subject to all statutes and regulations, if any, of the State of Alaska concerning planning, platting, and zoning which would apply to privately owned land similarly located. (Eff. / / , Reg. )

Authority: AS 29.33.070  
AS 29.43.040  
AS 38.05.037  
AS 40.15.075  
AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

19 AAC 90.340. TRESPASS. If the commissioner is advised as to the existence of trespass, waste, or other tortious or criminal actions or conditions taking place on or relating to any municipal trust land, he will take action (including, in appropriate cases, reference of the matter to the attorney general for the initiation of legal proceedings) to curtail the action or condition and obtain compensation for it where appropriate. (Eff. / / , Reg. )

Authority: AS 44.17.030  
AS 44.47.150(a)&(f)  
AS 44.47.160

ARTICLE 5.  
DISPOSAL BY STATE  
OF  
MUNICIPAL TRUST LAND.

Section	<u>Page</u>
410. General	28
420. Prior Public Notice	29
430. Prior Written Approval of Entity	29
435. Rescission or Modification of Prior Disposal Approval by Entity or Village Residents	30
440. Commissioner's Approval Required for Disposal	30

	<u>Page</u>
450. Disposals for Fair Market Value	31
460. Waiver of Fair Market Value Requirement	32
470. Preference Right Based on Equity	34
480. Accounting of Surcharged Appraisal Fee and Allocable Shares of Survey and Certain Other Expenses of Land Disposal	35
490. No Prescriptive Rights	35

19 AAC 90.410. GENERAL. The commissioner will, in his discretion, dispose of municipal trust land or interests in it in any manner provided for by AS 44.47.150(b), under the procedures set out in secs. 410--490 of this chapter. No action purporting to create any interest or legal right to, or in respect of, municipal trust land has any legal effect whatsoever unless it is taken in strict compliance with AS 44.47.150 and this chapter. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150

AS 44.47.160

19 AAC 90.420. PRIOR PUBLIC NOTICE. No disposal authorized by AS 44.47.150(b) may be made without prior public notice in the manner prescribed by sec. 910 of this chapter. This requirement may be waived by the commissioner with the prior approval by resolution of the recognized village entity (or meeting of village residents, where applicable) when a disaster or other emergency has occurred or exists and where expedited transfer of title to a specific parcel of municipal trust land is necessary to alleviate a threat to life, property, or the welfare of the persons in the village. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.430. PRIOR WRITTEN APPROVAL OF ENTITY. Before any disposal, the commissioner will obtain written approval by resolution of the recognized village entity or a meeting or referendum of village residents, as appropriate. No disposal will be made based upon such a resolution which was approved by the recognized village entity or a meeting or referendum of village residents more than 13 months before the proposed action. Any written approval granted under this section which ultimately results in a disposal will be filed by the commissioner with the appropriate inventory of landholdings maintained under sec. 310 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.47.150(a),(b), &(d)

AS 44.47.160

19 AAC 90.435. RESCISSION OR MODIFICATION OF PRIOR APPROVAL BY ENTITY OR VILLAGE RESIDENTS. A recognized village entity (or meeting of village residents, where appropriate) may rescind or modify a prior resolution of approval to dispose of municipal trust land or interests in it. The commissioner will postpone, modify, or cancel a pending disposal action as he may judge appropriate under the circumstances if a recognized village entity timely files a resolution of rescission or modification with the commissioner (or if the residents of a village not having a village entity recognized under secs. 110--150 of this chapter timely file a request, under sec. 260 of this chapter, for the convening of a village meeting for the purpose of rescinding or modifying a prior resolution or referendum of approval). A resolution of a recognized village entity or a request for a village meeting will be considered timely filed for the purposes of this section if received by the commissioner before a vesting of property rights in a prospective grantee of municipal trust land which had been previously approved for disposal by a recognized village entity, meeting, or referendum of village residents. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)&(b)

AS 44.47.160

19 AAC 90.440. COMMISSIONER'S APPROVAL REQUIRED FOR DISPOSAL. The commissioner will not dispose of specific municipal trust land or interests in it if he finds that the disposal would be inconsistent with the good faith execution of his trust responsibility to any first or second class

city which might be incorporated in the Native village. A resolution of a recognized village entity (or of a meeting of village residents where appropriate) requesting and approving the disposal of specific municipal trust land will not unilaterally impose a duty upon the commissioner to make such a disposal. If the commissioner does not approve of a specific disposal as requested and approved by resolution of the recognized village entity (or village meeting, if appropriate), he will, within 120 days from receipt of such a resolution, state to the recognized village entity or village residents, in a written decision, his reasons for deciding not to proceed with that specific disposal. The commissioner will cause a copy of that written decision to be posted publicly in the manner provided by sec. 910(b)(2) of this chapter for 30 days. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)

AS 44.17.030

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.450. DISPOSALS FOR FAIR MARKET VALUE.

Except in the case of a disposal as to which a waiver has been issued by the commissioner under sec. 460 of this chapter, all disposals of municipal trust land or interests in it must be for at least fair market value as defined in sec. 990 of this chapter. Where this requirement applies, the fair market value of a parcel will be determined by the commissioner in writing in advance of a final consultation with the recognized village entity or meeting of village residents concerning that specific parcel. In determining the fair market value of a parcel, the commissioner may obtain an independent appraisal, in which event the appraisal

fee must be added as a surcharge to the fair market value and the disposal may not be made for less than the aggregated amount. (Eff. / / , Reg. )

Authority: AS 44.47.150(a),(b),&(d)  
AS 44.47.160

19 AAC <sup>90</sup>/~~10~~.460. WAIVER OF FAIR MARKET VALUE REQUIREMENT.

The commissioner will, in his discretion, with the specific approval of the recognized village entity (or meeting of village residents, if appropriate), make a written waiver in whole or in part of the fair market value requirements of sec. 450 of this chapter as to the disposal of specific parcels of municipal trust land under the following circumstances and subject to the following terms and conditions:

(1) Disposal for public or charitable purposes. No waiver under this paragraph is effective unless it sets out with specificity the public or charitable purpose character of the proposed use of the parcel for which disposal is proposed. When a parcel is disposed of pursuant to a waiver under this paragraph, the deed, lease, or other document of conveyance issued by the commissioner is valid only if it contains a condition subsequent which insures that if the land is used for any purpose other than the purpose set out in the condition, title and all other interests automatically revert to the state in trust or to any successor municipality established in the Native village in the future.

(2) Disposal for village relocation or reestablishment purposes. No waiver under this paragraph is effective except as to land conveyed to a person who is a resident or occupant of the Native village at the time of a general relocation or reestablishment of the village as determined and approved by the recognized village entity (or the residents

of the village, where appropriate). The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expense set out in sec. 480 of this chapter.

(3) Disposal based upon equitable interest. No waiver under this paragraph is effective except as to a parcel of land conveyed to a person who has a valid claim of equitable interest in improvements located upon that parcel which is recognized under sec. 470 of this chapter. The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expense set out in sec. 480 of this chapter.

(4) Disposal to village residents for residential expansion purposes. No waiver under this paragraph is effective except as to a parcel of land conveyed to a bonafide village resident of the respective village, as defined by sec. 990 of this chapter, who seeks the parcel for development and use as his personal place of residence. The grantee shall, however, reimburse the state in trust for any expenses it may incur related to the disposal, pertaining to appraisal, publication, survey, or other expenses set out in sec. 480 of this chapter. When a parcel of municipal trust land is disposed of pursuant to a waiver under this subsection, the deed, lease, or other document of conveyance issued by the commissioner must contain a condition subsequent which insures that if the land is used for any use other than residential use for a period of 10 years after the disposal, title reverts to the state in trust or to any successor municipality established in the Native village in the future. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)&(b)  
AS 44.47.160

19 AAC 90.470. PREFERENCE RIGHT BASED ON EQUITY.

Upon first obtaining the general approval by resolution of the recognized village entity (or meeting of village residents, if appropriate) that a specific parcel of improved municipal trust land should be made available for disposal under this section, the commissioner may offer and grant, to any person who has a valid claim based upon equity in the improvements located on that parcel, a preference right to acquire that parcel. In order to be eligible for a preference right under this section, the claimant's equity must be based upon improvements existing on the parcel before tender of that parcel by the village corporation under secs. 10--65 of this chapter. Before conveying land or interest in land under this section, the commissioner will first give public notice of the proposed transaction as provided in sec. 910 of this chapter. The notice will require that any person having an adverse equity interest in the improvements located on that parcel must file notice of that claim with the commissioner within 30 days from publication of the notice in order that the adverse claimant's interests may be considered before disposal of the parcel. If a conflict arises between two or more claimants under this section, the commissioner will give each party an opportunity to present evidence to support his claim of equitable interest in the improvements before making a written decision concerning an award of a preference right. The commissioner will also give the recognized village entity (or meeting or referendum of village residents, if appropriate) an opportunity to review the evidence presented by the parties in the conflict and to make a recommendation to the commissioner concerning the relative equities of the parties. A written decision of the commissioner as to the appropriate party having a sufficient interest superior to all others, if any, which justifies granting a preference

right under this section will be final unless any aggrieved party within 60 days from receipt of the written decision files an action in a court of competent jurisdiction to obtain a judicial determination as to which party has the superior equitable interest in improvements located upon the parcel. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)&(b)

AS 44.47.160

19 AAC 90.480. ACCOUNTING OF SURCHARGED APPRAISAL FEES AND ALLOCABLE SHARES OF SURVEY AND CERTAIN OTHER EXPENSES OF LAND DISPOSAL. If expenses are incurred by the state in connection with a disposal of municipal trust land, the commissioner will account for any expenses related to appraisal, publication of notice of disposal action, and survey or other expenses which affect either a physical improvement to the land or an addition to the land or an addition of economic value to the land and thereby enhances the level of income which the state derives on behalf of the future municipality from the disposal. Any such expense will be prorated acre-for-acre and allocated on that basis to each affected parcel. When attributable revenues are reported to a future municipality incorporated in the Native village under sec. 530 of this chapter, the net proceeds reported from each disposal will include deductions for all such expenses which are to be accounted for under this section. (Eff. / / , Reg. )

Authority: AS 44.47.150(d)&(e)

AS 44.47.160

19 AAC 90.490. NO PRESCRIPTIVE RIGHTS. No right will be recognized in any third party to compel the commissioner to grant any interest in municipal trust land, nor to compel

the commissioner to initiate a decision-making procedure upon any proposal for it. No title or interest in municipal trust land may be acquired by adverse possession or prescription, except as to any title or interest which may be granted under sec. 470 of this chapter involving improvements existing before tender of municipal trust land. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)&(i)  
AS 44.47.160

ARTICLE 6.  
DISPOSITION OF LAND  
AND  
FUNDS UPON INCORPORATION  
OF A  
MUNICIPALITY  
IN A  
NATIVE VILLAGE.

Section	<u>Page</u>
510. Applicability	37
520. Conveyance of Title to Municipal Trust Land	37
530. Reporting of Attributable Municipal Trust Land Proceeds	37
540. Transfer of Administration of Third Party Interests in Municipal Trust Land	38
550. Transitional Management Agreements	38
560. Development Cities	39

19 AAC 90.510. APPLICABILITY. The provisions of secs. 510--560 of this chapter apply in any instance where a first or second class city is incorporated in, or encompasses in whole or part, a Native village in respect of which municipal trust land has been accepted by the state in trust. (Eff. / / , Reg. )

Authority: ANCSA, sec. 14(c)(3)

AS 44.17.030

AS 44.47.150(c)&(g)

AS 44.47.160

19 AAC 90.520. CONVEYANCE OF TITLE TO MUNICIPAL TRUST LAND. Within one complete state fiscal year after incorporation of the city, the commissioner will convey by one or more quitclaim deeds, without cost to the city, all municipal trust land held by the state in trust for the city. The conveyance is effective upon delivery and acceptance by the city of the deed or deeds. (Eff. / / , Reg. )

Authority: AS 44.47.150(c)&(g)

AS 44.47.160

19 AAC 90.530. REPORTING OF ATTRIBUTABLE MUNICIPAL TRUST LAND PROCEEDS. Upon the conveyance of municipal trust land to a city under sec. 520 of this chapter, the commissioner will account to the city in writing for all proceeds received by the state which are attributable to that municipal trust land. The accounting of proceeds will reflect, for each parcel of municipal trust land:

(1) the gross receipts,

(2) allocable costs pro-rated under sec. 480 of this chapter,

(3) the profits represented by the excess of gross receipts over pro-rated allocable costs, and

(4) interest or other income earned on or imputed to the profits. (Eff. / / , Reg. )

Authority: AS 44.47.150(e)

AS 44.47.160

19 AAC 90.540. TRANSFER OF ADMINISTRATION OF THIRD PARTY INTERESTS IN MUNICIPAL TRUST LAND. Upon the conveyance of municipal trust land to a city under sec. 520 of this chapter, all prerogatives and responsibilities for administration of third-party interests in respect of that land will be regarded as transferred automatically and by operation of law to the city. The commissioner will notify all affected third parties in writing to that effect, and will relinquish to the city all records maintained with respect to the third party interests. (Eff. / / , Reg. )

Authority: AS 44.47.150(c)

AS 44.47.160

19 AAC 90.550. TRANSITIONAL MANAGEMENT AGREEMENTS.

The commissioner will, in his discretion, enter into a transitional management agreement with a city established in the Native village in the future in anticipation of the conveyance of municipal trust land to that city under sec. 520 of this chapter, under which agreement the city will have the opportunity to participate in any decisions relating to the administration of third party interests. (Eff. / / , Reg. )

Authority: AS 44.47.150(a)&(g)

AS 44.47.160

19 AAC 90.560. DEVELOPMENT CITIES. Any conveyance of municipal trust land under sec. 520 of this chapter to a city established under AS 29.18.220, et seq., will contain an automatic reversion requiring that title revert to the state in trust for any future first or second class city, if the development city is dissolved under AS 29.18.290(d). (Eff. / / , Reg. )

Authority: AS 29.18.290(d)

AS 44.47.150(a)&(g)

AS 44.47.160

#### ARTICLE 7.

#### GENERAL AND MISCELLANEOUS PROVISIONS

Section	<u>Page</u>
910. Public Notice Procedure	40
920. Procedure for Rescheduling Noticed Meeting or Hearing	41
930. Delegation of Authority by Commissioner	42
940. Appeal to Commissioner	42
950. Decision-making Procedure in Contested Cases	43
960. Conflicts of Interest	44

	<u>Page</u>
970. General Trustee's Authority	44
980. Non-discrimination	45
985. Severability	45
990. Definitions	45

19 AAC 90.910. PUBLIC NOTICE PROCEDURE. (a) Whenever public notice is required under a regulation in this chapter, unless the regulation specifically requires a different kind of notice, the public notice must contain, at a minimum:

(1) an informative summary of the proposed or requested action,

(2) a statement of the time, place, and nature of any meeting, hearing, or other proceeding to be held in respect to the proposed or requested action, and

(3) a reference to the legal authority under which the action is proposed or requested to be taken.

(b) Publication and posting of public notice under this chapter must consist of at least:

(1) publication of a notice in the Tundra Times and one other newspaper of general circulation distributed within the village, if any, at least once, no more than eight and not less than two weeks before the date of the proposed action or proceeding; and

(2) posting of a written notice in at least one conspicuous public location in the Native village for a substantially uninterrupted duration of at least one week within the time period during which publication is permitted

by (1) of this subsection, or for at least one week immediately before any proposed meeting, hearing, or other proceeding, unless the village is a "vacant" village as described in sec. 290 of this chapter; where notice concerning a vacant village is involved, the posting requirement of this paragraph is not applicable, except that posting of the written notice must occur in at least one conspicuous public location in the locality in Alaska, if any, where the majority of the group described in sec. 290 resides. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150

AS 44.47.160

19 AAC 90.920. PROCEDURE FOR RESCHEDULING NOTICED MEETING OR HEARING. If a meeting or hearing for which notice has been given cannot be convened because the commissioner or his designee is absent for reasons such as illness or transportation problems, the meeting time will be postponed on an hour-to-hour basis that same day until 8:00 p.m., and thereafter to the same hour on the following day as the meeting or hearing was originally scheduled. If the commissioner is unable to convene the meeting due to his unavoidable absence on that next day, the meeting may be postponed from day to day as is necessary under this section and as stated in the public notice of the meeting or hearing. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150

AS 44.47.160

19 AAC 90.930. DELEGATION OF AUTHORITY BY COMMISSIONER.

The commissioner will, in his discretion, delegate in writing to the municipal land trust officer his authority to make any decision or take any action authorized or contemplated by this chapter. Such a delegation of authority will have legal effect only if it is made in writing, is executed by the commissioner, and is filed with the lieutenant governor's office. Any such delegation is prospectively revocable in writing. If revoked, the written order of revocation will be filed with the lieutenant governor's office. Any decision or action taken by the municipal land trust officer acting under a delegation of authority from the commissioner is subject to review by the commissioner in the manner prescribed in sec. 940 of this chapter. (Eff. / / , Reg. )

Authority: AS 44.17.010

AS 44.15.030

AS 44.47.150

AS 44.47.160

19 AAC 90.940. APPEAL TO COMMISSIONER. A decision or action taken by the municipal land trust officer may be appealed to the commissioner by any person whose interests are adversely affected by the decision or action. To warrant consideration, any such appeal must be postmarked, if mailed by the appellant, or otherwise received by the municipal land trust officer, within 30 days after the date of delivery of the decision or the date of publication, whichever is later. The municipal land trust officer shall transmit the appeal to the commissioner within 15 days of its receipt. Within 120 days from the filing of the appeal with the municipal land trust officer, the commissioner will act to modify, reverse, or affirm the prior decision or action of the municipal land trust officer, and will issue a written

decision setting out the reasons for the modification, reversal, or affirmation. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(a)

AS 44.47.160

19 AAC 00.950. DECISION-MAKING PROCEDURE IN CONTESTED CASES. If a dispute arises regarding a discretionary determination or proposed action to be taken by the commissioner, the following procedure is applicable unless another specific procedure is prescribed in respect to the dispute by another provision of this chapter:

(1) the commissioner will, in his discretion, first attempt to mediate the dispute informally;

(2) instead of, or after attempting, mediation, the commissioner will, in his discretion, call for written submissions by all interested parties; after receiving the written submissions, the commissioner will:

(A) make a written determination of the matter, or

(B) convene an informal public meeting, upon notice, wherein the views and arguments of all interested parties may be stated orally and on the record, or

(C) treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62 et seq., and request that a hearing officer be appointed by the governor's office;

(3) instead of, or after the steps in either (1) or (2) of this section, the commissioner will, in his discretion, treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62, and request that a hearing officer be appointed by the governor's office. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150(a)

AS 44.47.160

19 AAC 90.960. CONFLICTS OF INTEREST. Neither the commissioner, the deputy commissioner, the municipal land trust officer, nor any employee of the Department of Community and Regional Affairs, nor any relative of the first degree of such a person, nor any legal entity which is owned or controlled by such a person or relative, may acquire, directly or indirectly, any interest in municipal trust land or any interest in land held by a village corporation which has or had an obligation to convey land to the state in trust under

this chapter, with the exception of land required to be reconveyed under ANCSA, sec. 14(c)(1) or (2), or as a part of any general distribution of land to shareholders of a village corporation. This prohibition remains in effect

(1) as to municipal trust land, until one year following termination of the person's employment with the department, and

(2) as to other land held by the village corporation, until one year following completion of the corporation's conveyance of all required municipal trust land to the state in trust. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150

AS 44.47.160

19 AAC 90.970. GENERAL TRUSTEE'S AUTHORITY. The commissioner reserves the authority to take any action in the exercise of his duties as a trustee which is not forbidden by law. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.150

AS 44.47.160

19 AAC 90.980. NON-DISCRIMINATION. It is the policy of the commissioner respecting the acceptance, administration, management, and disposal of unimproved municipal trust land not to discriminate against any person because of sex, race, religion, color, national origin, marital status or changes in marital status, pregnancy, or parenthood. (Eff. / / , Reg. )

Authority: Alaska Constitution,  
Art. I, Sec. 3

AS 18.80.210

AS 18.80.240(2)

AS 44.47.150

AS 44.47.160

19 AAC 90.985. SEVERABILITY. If any provision of this chapter or any application of it is held invalid or unenforceable, the remainder of this chapter and any other application of it is not affected by that holding. (Eff. / / , Reg. )

Authority: AS 44.17.030

AS 44.47.160

19 AAC 90.990. DEFINITIONS. In this chapter, unless the context requires otherwise, the following words and phrases have the following meanings:

(1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971, P.L. 92-203, 85 Stat. 688, as amended (43 USC 1601 et seq.);

(2) "bonafide village resident" means a natural person who is at least 18 years of age or who is the head of a household if less than 18 years of age, as to whom residency in the village can be established on the date for which a determination of residency is required by application of the rules set out in AS 15.05.020;

(3) "commissioner" means the commissioner of the Department of Community and Regional Affairs of the State of Alaska acting as the trustee of municipal trust land, whose incumbent is responsible under AS 44.47.150 to accept, administer, and dispose of such land;

(4) "fair market value" means the appraised price attributable to a parcel of municipal trust land, including the value of any survey which identifies and describes the land, which a willing and knowledgeable buyer would pay and which a willing and knowledgeable seller would accept, with respect to that parcel;

(5) "improved land" means the land conveyed under ANCSA to village corporations which is so changed from its natural state through valuable additions made to the land or through regular use by the residents of the village, that failure to treat that land as municipal trust land would substantially and adversely affect the community as a whole, of which it forms a part;

(6) "less-than-fee interest," where used in reference to land held by a village corporation, means an interest in land which is less than the entire estate in the land which was received by the village corporation from the United States under ANCSA; and, when used in reference to municipal trust land, means an interest in land which is less than the entire estate in the land which was received from the village corporation by the state in trust for any future city in the Native village;

(7) "municipal land trust officer" means that position within the Department of Community and Regional Affairs whose incumbent is principally responsible, under delegation and general direction of the commissioner, to carry out municipal trust land program activities under AS 44.47.150 and the regulations of this chapter;

(8) "municipal trust land" means land the legal or

equitable title to which is held by the State of Alaska in trust for a future first or second class city under ANCSA, sec. 14(c)(3) and AS 44.47.150;

(9) "person" means any qualified person, firm, corporation, cooperative association, partnership, or other legal entity legally capable of entering into an agreement or contract;

(10) "state fiscal year" means the fiscal year described in AS 37.05.310;

(11) "Tundra Times" means that state-wide newspaper which is owned and edited by Eskimo, Indian, Aleut Publishing Corporation, 639 I Street, Anchorage, Alaska 99501;

(12) "village" or "Native village" means any unincorporated community, vicinity, or locality which was certified by the Secretary of the Interior under ANCSA as having selection rights under secs. 12(a) or 16(b) of ANCSA, as amended, and includes all those persons living in the same community, vicinity, or locality, irrespective of race or enrollment under sec. 5 of ANCSA, who have common community ties or interests;

(13) "village council" means an active local social organization, which need not be a formal organization having its own independent legal identity, functioning in the Native village under tradition which is fundamentally representative of all residents of the Native village;

(14) "village entity" means an organization or group officially recognized by the commissioner under secs. 110--150 of this chapter as being "an appropriate village entity" within the meaning of AS 44.47.150. (Eff. / / ,  
Reg. )

Authority: AS 44.17.030  
AS 44.47.150(a)  
AS 44.47.160

**MEMORANDUM**

TO: Pat Poland  
Local Government Specialist

DATE: September 3, 1978

FILE NO:

TELEPHONE NO:

FROM: Rebecca Burch  
Research Analyst

SUBJECT: The Feasibility of Health Powers in proposed Regional Governments.

The proposed Regional governments in the unorganized borough are capable of being a vehicle for regional decision-making and accountability for health service delivery.

The government structures provide the transition to regional control of services, one step closer to the local control requested by rural residents using health services. Recently there has been talk of local control of services, however, frequently the reality is that local services evolve while the control of delivery patterns and financing is maintained at a state level. An illustration of this direction is HB 596 on local health districting introduced in the ninth legislature which would have provided regional locations for services with monitoring and decision-making by the state.

The intention of including health powers in an unorganized borough was to regionalize the decision making in addition to actual delivery of services. In the regional proposal the regional government would, within a framework of services determined as "comprehensive health care", be empowered to plan, administer and contract for health care service delivery in a manner appropriate for the needs of that region.

Initially it was thought that PL 93-641 would address this issue. This legislation established a State health coordinating council, three health service area boards and sub-area councils as well as a State agency to oversee the process. These bodies were designed to promote coordinated development of the range of health services meeting health needs within a given area of the state. Health Systems Agency Board Members (for the Health Service Area) would present recommendations to the State Health Coordinating Council and the State Health Planning and Development Agency. (The State Health Planning and Development Agency is also mandated under P.L. 93-641). The SHCC would work with the health systems agencies to determine the functional definition of "comprehensive health care" and the actual certification of new health services and facilities.

The legislation further indicates that even the three Health Systems Agencies boards do not make all final decisions on plans for their areas. The SHCC has the authority to review and revise the HSA plans as necessary to coordinate state wide activities and needs.

On a level comparable to the proposed governmental regions PL 93-641 established sub-area boards. We considered that regional government assemblies could serve the function of these boards. However, in actual practice it seems that the sub-area boards will have a limited and advisory capacity. The Federal legislation stresses this advisory function and strongly discourages sub-area boards from taking on additional

Pat Poland

power. So it is that decision-making, implementation, and accountability over federal monies and programs are not possible under the regional government structure, as currently proposed.

The Alaska Public Health program, funded in part by state monies, shows more opportunity for regional control. The Public Health program has been considered in terms of regional administration and service delivery. The components of this program (a department of Alaska Health and Social Services not to be confused with Federal Public Health Services) include environmental sanitation, public health nursing, and health aides who, although administered by the Native Health Service are functionally supervised and partially trained by the Public Health Nurses. The State department could establish standards for service and record-keeping (necessary to maintain continued levels of federal funding). Given these guidelines each region could administer its own Public Health Program.

However, in light of the Health Service Area Boards who will determine the patterns of service in programs with federal funding it could be difficult to plan for this state service without coordinated planning. So, at best the Region could make planning decisions for only part of its health services. As an added confusion it is still unclear what the relationship will be between the State Health Department and the HSA boards. And the HSA boards are still in a state of formation so they can not make statement on how this would work.

It seems then that the control of health service decisions is in a state of flux and it is premature to make pronouncements that this power is totally unavailable to regional government, but the thrust of recently enacted Federal legislation is divide the state into 3 large areas under one umbrella for health care planning.

RB:rmc

## MUNICIPAL LANDS TRUSTEE PROGRAM

### INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA) mandated that the approximately 200 Alaska Native Villages will obtain nearly 22 million acres of the 40 million acres received from the settlement with the federal government. Village selections range from 69,120 to 161,280 acres, with exception of those in Southeast which are 23,040 acres. According to Section 14(3)(c) of ANSCA, each village, through it's corporation, must convey at least 1,280 acres (two square miles) of "The remaining surface estate of the improved land on which the native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs to the municipal corporation or in trust (to the state)<sup>1</sup>".

### TRUSTEE ROLE OF THE STATE

Currently, about (100) of the ANSCA recognized villages are also municipal incorporated entities or are located within one (the overwhelming majority of them being second class cities). For the remaining 100 unincorporated communities, the state has accepted (AS 44.47.150) the responsibility as

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1. Section 14(c)(3) of the Alaska Native Claims Settlement Act.

trustee for those lands. This role does not allow the state to "acquire title, nor administer the municipal lands for it's own sovereign use or benefit".<sup>2</sup> "Rather the lands will be conveyed and administered "in trust" for any municipal corporation established in the native village in the future".<sup>3</sup>

The Department of Community and Regional Affairs has the responsibility to administer the program under the following four basic guidelines:

- 1) All transfers of trust lands (irrespective of the mode of transfer) must first have the approval of a recognized "appropriate Village entity".<sup>4</sup>
- 2) The trustee program will be conducted in a manner in which Villages will not feel pressured to incorporate to obtain control of their lands.

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2. Handling The Municipal Land Trust Program. A Trust Philosophy, Alaska Native Management Report, 9/15/77 page 4.
  3. Ibid.
  4. "Appropriate Village Entity" as defined by the proposed regulations (19 AAC 90.120) for the Municipal Trust Lands is "an active organization (but not necessarily a formal organization having it's own independent legal identity) which represents, in a traditional or democratic manner, the collective views of bona-fide residents of the Village..."

- 3) Any financial benefits derived from the trustee lands will be given to the future municipality.
- 4) Title to and interest in trust lands can only be obtained through the trustee program (and not by adverse possession or prescription).

#### VILLAGE PARTICIPATION

The state views the Village residents as co-trustees in making land selection determinations for possible future municipalities. They wish this decision-making process to be a joint effort. The state, nevertheless, recognizes it's obligation as the legal trustee to the beneficiary (the future municipality) and therefore is not required to accept the suggested lands by the appropriate Village entity. The state in trust, according the program administrator, "seems to have a legitimate role in identifying and accepting land to be conveyed in trust"<sup>5</sup>. This is obviously a potential point of conflict between the Village and state.

#### VILLAGE CORPORATION ROLE

The village corporation will be the interim trustee until the designated lands are transferred to either the municipality or state. If in the event a need arises for public use such as schools, power easements, HUD housing or a sewer lagoon, before the federal government has issued patent or interim

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5. Ibid. Page 3.

conveyance to the village corporation, the problem of possible construction delay or cancellation may be avoided by the village corporation and the state (in trust) voluntarily executing a contractual agreement. This agreement (or conveyance by promissary note) would simply provide that the land to be used for municipal use would be part of the future 14(c)(3) conveyance and that it would be accepted by the state in trust. The agreement must, in addition to village corporation consent, be favored by a resolution of the appropriate Village entity. In addition, the regional corporation must be given the opportunity to review the action and render advise.

#### CURRENT STATUS OF THE PROGRAM

Presently there are 90 Villages included in the program with a possibility of an additional 19 in the near future. Only 17 of these Villages have received title to even small portions of their lands (none of them have received all their selections). There has not been, as of June 1979, any land transferred into or out of trust status. Hence; implementation of the four basis policies of the trust program has not occurred and therefore the need and effectiveness of the state's involvement can not be determined. The program activities, as to date, have primarily consisted of the state playing the role of mediator between different village corporations and municipalities concerning land selections and conducting discussions with and giving assistance to villages concerning future public facility sites.

FUTURE STATUS OF THE PROGRAM

The State of Alaska anticipates transfers of land or commitments to transfer in the immediate future. This is based on the following events:

1. The Program Regulations will be soon adapted.
2. BLM will convey a substantial amount of lands to village corporations.
3. Village awareness and understanding of the program will be greatly enhanced.
4. Construction of public facilities (i.e. schools) will increase in the Villages and thereby increase the amount of land involved in the trustee program.

SECTION 14(c)(3) of the ALASKA NATIVE CLAIMS SETTLEMENT ACT:

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents;

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

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ALASKA STATUTES 44.47.150:

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

(b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. Such approval shall be by resolution filed with the department.

(c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality which includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.

(d) Separate accounts shall be maintained in the name of each village for the land, including the revenues from the land, acquired from each village corporation under this section, and within 90 days of the close of each state fiscal year a statement of the account for each municipality shall be prepared by the commissioner and be made available to the village and to the public upon request.

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

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

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

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED  
AS A UNIT IN THE ORIGINAL DOCUMENT.

## MUNICIPAL LANDS TRUSTEE PROGRAM

### INTRODUCTION

The Alaska Native Claims Settlement Act (ANCSA) mandated that the approximately 200 Alaska Native Villages will obtain nearly 22 million acres of the 40 million acres received from the settlement with the federal government. Village selections range from 69,120 to 161,280 acres, with exception of those in Southeast which are 23,040 acres. According to Section 14(3)(c) of ANSCA, each village, through it's corporation, must convey at least 1,280 acres (two square miles) of "The remaining surface estate of the improved land on which the native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs to the municipal corporation or in trust (to the state)".<sup>1</sup>

### TRUSTEE ROLE OF THE STATE

Currently, about (100) of the ANSCA recognized villages are also municipal incorporated entities or are located within one (the overwhelming majority of them being second class cities). For the remaining 100 unincorporated communities, the state has accepted (AS 44.47.150) the responsibility as

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1. Section 14(c)(3) of the Alaska Native Claims Settlement Act.

trustee for those lands. This role does not allow the state to "acquire title, nor administer the municipal lands for its own sovereign use or benefit".<sup>2</sup> "Rather the lands will be conveyed and administered "in trust" for any municipal corporation established in the native village in the future".<sup>3</sup>

The Department of Community and Regional Affairs has the responsibility to administer the program under the following four basic guidelines:

- 1) All transfers of trust lands (irrespective of the mode of transfer) must first have the approval of a recognized "appropriate Village entity".<sup>4</sup>
- 2) The trustee program will be conducted in a manner in which Villages will not feel pressured to incorporate to obtain control of their lands.

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2. Handling The Municipal Land Trust Program. A Trust Philosophy, Alaska Native Management Report, 9/15/77 page 4.

3. Ibid.

4. "Appropriate Village Entity" as defined by the proposed regulations (19 AAC 90.120) for the Municipal Trust Lands is "an active organization (but not necessarily a formal organization having its own independent legal identity) which represents, in a traditional or democratic manner, the collective views of bona-fide residents of the Village..."

- 3) Any financial benefits derived from the trustee lands will be given to the future municipality.
- 4) Title to and interest in trust lands can only be obtained through the trustee program (and not by adverse possession or prescription).

#### VILLAGE PARTICIPATION

The state views the Village residents as co-trustees in making land selection determinations for possible future municipalities. They wish this decision-making process to be a joint effort. The state, nevertheless, recognizes its obligation as the legal trustee to the beneficiary (the future municipality) and therefore is not required to accept the suggested lands by the appropriate Village entity. The state in trust, according the program administrator, "seems to have a legitimate role in identifying and accepting land to be conveyed in trust"<sup>5</sup>. This is obviously a potential point of conflict between the Village and state.

#### VILLAGE CORPORATION ROLE

The village corporation will be the interim trustee until the designated lands are transferred to either the municipality or state. If in the event a need arises for public use such as schools, power easements, HUD housing or a sewer lagoon, before the federal government has issued patent or interim

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5. Ibid. Page 3.

conveyance to the village corporation, the problem of possible construction delay or cancellation may be avoided by the village corporation and the state (in trust) voluntarily executing a contractual agreement. This agreement (or conveyance by promissary note) would simply provide that the land to be used for municipal use would be part of the future 14(c)(3) conveyance and that it would be accepted by the state in trust. The agreement must, in addition to village corporation consent, be favored by a resolution of the appropriate Village entity. In addition, the regional corporation must be given the opportunity to review the action and render advise.

#### CURRENT STATUS OF THE PROGRAM

Presently there are 90 Villages included in the program with a possibility of an additional 19 in the near future. Only 17 of these Villages have received title to even small portions of their lands (none of them have received all their selections). There has not been, as of June 1979, any land transferred into or out of trust status. Hence; implementation of the four basis policies of the trust program has not occurred and therefore the need and effectiveness of the state's involvement can not be determined. The program activities, as to date, have primarily consisted of the state playing the role of mediator between different village corporations and municipalities concerning land selections and conducting discussions with and giving assistance to villages concerning future public facility sites.

FUTURE STATUS OF THE PROGRAM

The State of Alaska anticipates transfers of land or commitments to transfer in the immediate future. This is based on the following events:

1. The Program Regulations will be soon adapted.
2. BLM will convey a substantial amount of lands to village corporations.
3. Village awareness and understanding of the program will be greatly enhanced.
4. Construction of public facilities (i.e. schools) will increase in the Villages and thereby increase the amount of land involved in the trustee program.

SECTION 14(c)(3) of the ALASKA NATIVE CLAIMS SETTLEMENT ACT:

(c) Each patent issued pursuant to subsections (a) and (b) shall be subject to the requirements of this subsection. Upon receipt of a patent or patents;

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

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ALASKA STATUTES 44.47.150:

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

(b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. Such approval shall be by resolution filed with the department.

(c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality which includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.

(d) Separate accounts shall be maintained in the name of each village for the land, including the revenues from the land, acquired from each village corporation under this section, and within 90 days of the close of each state fiscal year a statement of the account for each municipality shall be prepared by the commissioner and be made available to the village and to the public upon request.

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

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

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