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# the alaska native management report

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VOLUME 6 NUMBER 18

OCTOBER 1, 1977

## TRADE MISSION TO DENMARK

Governor Hammond and other Alaskan officials were slated to begin a trade mission to Denmark on Monday, October 10, to explore new markets for underutilized Alaska fish, such as herring and groundfish.

Denmark, like many European countries is having difficulty securing all the fish they need because of 200 mile limit restrictions in many countries, including the U.S. Denmark invited Alaskan officials and fisheries experts to see personally their fisheries facilities and equipment.

There are a number of fisheries stocks in Alaska waters which are not presently used by Alaska fishermen and these are mostly being taken by foreign fleets and pro-

cessed in foreign nations. Hammond hopes that Alaskans can get the jobs of catching, processing, and distributing Alaskan fish, and European countries would be prime potential markets.

The trade mission includes state legislators, the Commissioner of Commerce, the president of the Alaska Federation of Natives, and representatives of fish processing plants and fishermen's groups. The group is scheduled to return to Alaska on October 21st.

## ROYALTY OIL DEADLINE NEARS

When the trans-Alaska pipeline is transporting 1.2 million barrels a day, the state's one-eighth royalty share of crude oil will be 150,000 barrels a day. The state invited proposals from prospective purchasers who will build refineries or petrochemical facilities in Alaska, using this royalty oil.

Several companies have submitted proposals for purchase and refining of royalty oil, including proposals from Alaska Petrochemical Company, a joint venture of Alaska Interstate, Barbour Oil and Alaska Consolidated Shipping ( owned by six Alaskan native corporations; The Aleut Corp., Bristol Bay Native Corp., Calista Corp., Chugach Natives, Inc., Cook Inlet

Region, Inc., and Koniag, Inc., and a shipping line, Seatrain Lines, Inc.), and the new firm of Alaskan Petrofining Corp., sponsored by six firms (Kaiser Aluminum and Chemical Co., Southern California Edison, Dow Chemical Co., Pacific Resources, Inc., Pacific Gas and Electric Co., and Sealaska).

The deadline for receiving final proposals is Oct. 15.

Governor Hammond

*The following is a Press Release dated October 5, 1977, from the Chugach Natives, Inc.:*

## CHUGACH NATIVES, INC. CHOOSES NEW LEADER!

Chugach Natives, Inc., in a Special Board of Directors meeting held Monday, released Cecil Barnes, as President, for cause.

Charles Anderson, Acting President, during Cecil Barnes' suspension has returned to his duties with A.I.A. in Fairbanks, Alaska. Roy Roehl was elected as President of Chugach Natives, Inc. during the Board of Directors meeting on Monday.

"It was a combination of things that brought Cecil Barnes' release yesterday." There has been a widening gap between Barnes and the members of the Board with some directors questioning his business judgment and financial planning in corporate matters. The Board moved to reunite their membership and address themselves to strengthening their financial situations.

"Cecil Barnes has been with the corporation since its beginning and was instrumental in its formation." Mr. Barnes was an

important force in earlier successes and the Board expressed their appreciation for his efforts during those first years. However, the general feeling is that the Corporation now has need for a new kind of leadership and expertise. Feelings ran high after the action was completed, but most felt confident that they can reunite now and move forward in a business-like manner. It will be the first task of the new President, Roy Roehl, to pull the Board together so they can act in the best interests of all Chugach members, putting aside past feelings and individual differences in favor of what is best for the Corporation.

has said he hopes the state will be able to negotiate a contract for approval by the Royalty Oil and Gas Development Advisory Board and submission to the legislature early in the 1978 session.

In addition to the eight firms which want to build new facilities, three offers have been received from companies asking for a share of the royalty oil for existing facilities in Alaska.

**ECONOMIC DEVELOPMENT WORKSHOP SET**

The 5th Annual Economic Development Workshop for Alaska Communities, a basic industrial development course (BIDC), will be held November 13-18 at the Alyeska Resort Inn in Girdwood, Alaska.

The workshop is sponsored by the Alaska Division of Economic Enterprise; the School of Management at the University of Alaska, Fairbanks; Alaska Municipal League; and the School of Business, Economics and Public Administration of the University of Alaska, Anchorage.

The workshop will provide intensive instruction in the theory and fundamentals of comprehensive industrial development as they relate to Alaska. Four of the lecturers emphasize Rural Alaska Development. It is geared to those new to the industrial development field as full or part-time professionals, such as those working with local industrial development agencies, Native regional corporations, chambers of commerce, village planners, banks, industrial realtors, etc.

Upon satisfactory completion of the course, participants receive one (1) academic credit (Econ. 493) from the University of Alaska, Fairbanks.

Registration fee is \$240 and covers all costs of instruction and materials. Registration deadline is November 8, 1977 and the number of participants is limited to 40.

For information or to register contact: Mr. Jim Deagen, Alaska Division of Economic Enterprise, Pouch EE, Juneau, (907) 465-2021, or Dr. Richard Solie, School of Management, University of Alaska, Fairbanks (907) 479-7251.

**NEWS SUMMARIES OF SPECIAL INTEREST—**

**FUNDING OF BIA SCHOOLS TO BE STUDIED**

*Indian News Notes, BIA, Aug. 23.* The BIA's Office of Education is trying to determine why the cost of educating students varies among its schools. It has asked the National Institute of Education (HEW) to conduct an analysis of the funding patterns of BIA schools for the years 1970-76, focusing on the variations in spending at schools of different types and sizes during that period. NIE has also been asked to develop school funding plans for the BIA in order to eliminate inequities while still taking into account such variant factors as size and geographic isolation of the school, the need for selected auxiliary services and other cost factors.

**DOYON LISTING UPDATE**

The following is an updated listing of Doyon corporations and their presidents, as of Sept. 23, 1977:

- |   |  |
|---|--|
| Alatna Endeavors, Inc.<br>Mrs. Clara Sam, President<br>Alatna, Alaska 99720                               | Gwitchyaazhee Corporation<br>Mr. Jonathon Solomon, President<br>Fort Yukon, Alaska 99740                             |
| Aala kaa k'a, Inc.<br>Mr. Eddie Bergman, President<br>Allakaket, Alaska 99720                             | Notaaghleedin, Limited<br>Mr. Pat Sweetsir, President<br>Box 38<br>Galena, Alaska 99741                              |
| Central Native Corporation<br>Mr. Kenneth Chase, President<br>Anvik, Alaska 99558                         | Hee-Yea-Lingde Corporation<br>Mr. Harry Gochenauer, President<br>Gravling, Alaska 99590                              |
| Neets'ai Corporation<br>Mr. Allen Tritt, President<br>Arctic Village, Alaska 99722                        | Mendas Cha-ag Native Corporation<br>Mr. Fred Kirsteatter, President<br>P. O. Box 667<br>Delta Junction, Alaska 99737 |
| Beaver Kwit'chin Corporation<br>Ms. Elfrieda Kushida, President<br>P.O. Box 60034<br>Fairbanks, Ak. 99706 | Deloycheet, Inc.<br>Mr. Wilson Jerue, Sr., President<br>935 Nelchina<br>Anchorage, Alaska 99501                      |
| Tiheet'Aii, Inc.<br>Mr. Winston James, President<br>Birch Creek, Alaska 99790                             | Bin Googa, Incorporated<br>Mr. Lincoln Bifelt, President<br>Huslia, Alaska 99746                                     |
| Chalkyitsik Native Corporation<br>Rev. David Salmon, President<br>Chalkyitsik, Alaska 99788               | Takathlee-tondin, Incorporated<br>Mr. Leonard Silas, President<br>Kaltag, Alaska 99748                               |
| Danzhit Hanlaih Corporation<br>Mr. Allen John, President<br>Circle, Alaska 99733                          | MTNT, Ltd.<br>Mr. Larry Wiggins,<br>Executive Director<br>Box 104<br>McGrath, Alaska 99627                           |
| Dot Lake Native Corporation<br>Mr. Ted Charles, President<br>Dot Lake, Alaska 99737                       | Hadohdleekaga, Incorporated<br>Ms. Esther M. Morgan, President<br>Hughes, Alaska 99745                               |
| Hungwitchin Corporation<br>Mr. James Juneby, President<br>Eagle, Alaska 99738                             | Mineelghaadza', Limited<br>Mr. Gerald Pilot, President<br>Koyukuk, Alaska 99754                                      |
| Evansville, Inc.<br>Ms. Helen McConnell, President<br>Bettles Field, Alaska 99726                         |  |

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*Correspondence regarding subscriptions and circulation should be addressed to The Alaska Native Management Report, 515 D Street, Anchorage, Alaska 99501. Subscription rates available on request.*

*Richard Janson is president of the Alaska Native Foundation. Emil Notti is chairman of the board of directors. The executive board includes: Notti, Janson, Victor Fischer, Vincent Schuerch, Roy Huhndorf, Byron Mallott, and Boris Kosbruk. Other members of the board are: Larry Mecculieff and Richard Stitt.*

# Handling the Municipal Land Trust Program A Trust Philosophy

## PART 2

by Bob Jenks

### TRUSTEE PARTICIPATION IN IDENTIFYING MUNICIPAL TRUST LANDS

The Trust Document (ANCSA) is silent as to what party or parties have responsibility to identify community expansion lands, other than to impose a clear duty upon village corporations to make such conveyances to Municipal Corporations or to the State in trust.

Lands to be conveyed to municipalities or placed in trust in nearly every instance require prior survey for purposes of identification and property description. Upon presentation of a proper Approved Plan of Survey, the Bureau of Land Management will conduct such a survey.

Before a survey is authorized, however, BLM requires assurances that the parties to receive title from the Village Corporation under Section 14(c) have reached agreement with the corporation and with each other as to how the lands are to be surveyed and reconveyed. If the Approved Plan of Survey is incomplete or if conflicts are not resolved, any extra survey costs needed to accomplish mandatory conveyances appear to be the responsibility of the Village Corporation. [43 CFR 2650.5-4]

In parallel conveyances of community expansion lands to existing first and second class cities, a broad consensus is developing that the Municipal Corporations and the Village Corporations have a joint, bilateral, and cooperative role in negotiating a settlement of lands which will be surveyed by the BLM and subsequently transferred from the Village Corporation to the Municipal Corporation. Disagreement which cannot be overcome likely would require settlement through litigation between these two parties. (Of course, in any settlement prior to December 18, 1981, the appropriate Regional Corporation also must be given opportunity by the Village Corporation to review and render advice on this matter, according to common interpretations of ANCSA Section 14(c)(5).) Neither the State in trust nor existing municipalities appear to have a one-sided "selection" right, and for this reason, I recommend that the word "select" be avoided in reference to these lands.

In villages where community expansion lands are to be conveyed to the State in trust, the manner in which specific community expansion lands should be identified is open to interpretation. Do the Village Corporations in this instance have a unilateral role not found in villages where a municipality exists? I think not. A conveyance made by a village corporation as Grantor also must have a corresponding Grantee to accept the title. Thus, the State in trust, as Grantee, seems to have a legitimate role in identifying and accepting lands to be conveyed in trust. BLM has indicated that they will not make those determinations, and that they look to the State in trust to be a party to the Approved Plan of Survey as an indication that agreement on the parcel(s) to be surveyed and conveyed has been reached.

In my opinion, the State as trustee, after reaching agreement with a Village Corporation, is the appropriate entity to indicate concurrence on the formal Plan of Survey on behalf of the Beneficiary (a future first or second class city in the Native village). In villages where no Municipal Corporation exists, there is no other authorized legal entity to sign the survey plan with respect to 14(c)(3) community expansion lands. Even though in most villages, community and corporation leadership is identical, Village Corporations cannot properly represent both Grantor and Grantee as this would involve a potential conflict of interest between economic and community interests. Also, some corporation shareholders live outside each village, and some residents in most villages are not shareholders of that Village Corporation (such as Natives born after December 18, 1971, Natives enrolled elsewhere, and non-Natives.)

MUNICIPAL, Cont. on page 4.

### A PLAN FOR IDENTIFYING MUNICIPAL TRUST LANDS

Summarizing points made earlier in this paper, and adding to them, a plan for agreeing upon what lands to survey and reconvey to the State in trust might follow the ideas listed here:

1. The Municipal Lands Trust program of the State should be conducted in a manner which recognizes a fiduciary responsibility to "any first or second class city established in the Native village in the future" (the beneficiary). This responsibility includes participating with the village corporation and residents of the village to identify the lands to be placed in trust.

2. The grant of 14(c)(3) community expansion lands by the village corporation as *Grantor* requires a corresponding acceptance by the State in trust as *Grantee* to complete the transaction.

3. BLM indicates that the Plan of Survey which instructs them how to survey various categories of 14(c) lands will provide that the State in trust, or an appropriate municipality, be a signatory party, indicating acceptance of the tract(s) delineated for survey and reconveyance by the village corporation.

4. Even before the Corporation receives title from BLM, if a community and its village corporation desire, portions or all of a village's trust lands may be identified for ultimate transfer to the State in trust through a negotiated Agreement. This procedure is not required by law, but is designed especially to meet urgent community needs, such as HUD Housing, PHS facilities, school construction, etc. Under this procedure, the Trustee (with the concurrence of an appropriate village entity) can agree to the future transfer of an appropriate property interest to the agency involved, and joins with other parties in petitioning BLM to issue temporary right thereto.

5. Even if there is no urgent community need for facilities requiring immediate identification of the lands to be surveyed and reconveyed to the State in trust, it may make good sense in many instances to arrive at a decision on the lands to be conveyed into trust at an early time before it is otherwise required. At any rate, an agreement between the village corporation and the Trustee should occur promptly after BLM issues I.C. to the land in connection with development and approval of the *Plan of Survey*.

6. When a corporation does receive I.C. from BLM, title to the Section 14(c)(3) lands then may be re-conveyed immediately to the State in trust if agreement has been reached; this also will be identified on the Plan of Survey, so it may be surveyed and properly described in terms of a legal survey in a corrective deed, following later issuance of a patent by BLM.

7. Because of the way Section 14(c) is written, village corporations probably would be within their rights if they wish to postpone actual conveyance of these lands to the State in trust until they receive a "patent" from BLM to the selected land, following survey by BLM. Meanwhile, however, they have an Interim Trustee responsibility for the lands involved. If lands necessary and appropriate for purposes listed in Section 14(c)(3) were devoted to other purposes by a village corporation rather than being conveyed to a municipality or to the State in trust, it might constitute a breach of trust of its interim trust duty. Development of the Plan of Survey within a reasonable time following receipt of Interim Conveyance constitutes the latest practicable time for making decisions concerning the identification of these lands, although it can be done earlier.



8. The State Municipal Lands Trust program should act with respect to the trust lands, much as would an imaginary city council and mayor. Great weight should be given by the Trustee to the views of the resident citizens of the Native village during the process of identifying, with the Village Corporation, which lands should be conveyed in trust. The Trustee has a duty to be responsive both to the present needs of the village and to foreseeable needs of any future city which may be established there.

9. In order to insure this responsiveness, the views of the same "appropriate entity such as the traditional council, a village meeting or a village referendum" specified in AS 44.47.150(b), should be obtained and its recommendations recorded by resolution and placed in the files of the Department prior to accepting the grant of lands from the Village Corporation.

10. The "appropriate village entity" should be encouraged to obtain outside technical information and analysis to assist it in making recommendations to the Trustee. (The Division of Community Planning, for example, has staff and programs to provide technical assistance upon request of the village entity.)

11. The Trustee, acting as a fiduciary, also should obtain outside technical information and advice with the "appropriate village entity."

12. While a Village Corporation could take an extreme position of offering lands for community expansion which are wholly unsatisfactory to the residents of the village or a first or second class city established in the Native village in the future, on a "take it or leave it" basis, it is quite unlikely to occur. If it did, or if a corporation refused altogether to convey lands pursuant to Section 14(c)(3), it appears to be a duty of the Trustee to litigate the issue, if it otherwise cannot be resolved by negotiation or arbitration. However, good faith negotiation between the parties will resolve every case without litigation, in my view. Section 14(c)(3) land is *community* land; the State in trust has a duty to represent and advocate long-term, public interests of the community. Valid community interests will tend to solidify behind reasonable and appropriate settlements of 14(c)(3) lands if all parties representing villages recognize that these lands are *their* community lands, not the State's. Each community can best determine for itself which lands are most appropriate for community use.

13. No attempt should be made by the State in trust to pre-

pare a uniform or sample list of land-use categories which should be included in the tract or tracts conveyed in trust. Needs of various communities vary greatly. Any such list would hamper common-sense decisions which otherwise will evolve through honest, good-faith negotiation. Technical advice obtained by the village entity and/or the Trustee can be expected to raise for consideration land-use issues which might otherwise be overlooked. As a matter of principle it seems appropriate that the lands conveyed be those essential for present and future public, community uses which normally are associated with cities, rather than those which primarily are of income producing nature.

14. Nothing in the law appears to dictate the shape or configuration of all the lands to be conveyed in trust. As appropriate, the conveyance could consist of a single tract, or more than one tract. In some instances the corporation might retain one or more tracts within a larger block conveyed in trust, provided the overall common-sense effect does not violate the definition of lands to be conveyed

in trust as stated in ANCSA Section 14(c)(3). Such tracts, if retained and productively improved by the corporation, or made available by the corporation for other private development, might benefit the community and contribute to the well-being of present and future residents more than would inclusion thereof to the State in trust for a future city. This concept best can be identified locally. Merely because a certain parcel of land may be *suitable* as a site for expansion of a community, does not necessarily mean that its conveyance to the State in trust is *necessary* for community expansion.

15. The duties of the Trustee should include making timely reports to the village residents with respect to their trust lands, in addition to the annual fiscal reports required by AS 44.47.150(d).

16. The Trustee staff should become familiar with the land and residents of villages where trust responsibilities exist, by traveling to the villages as much as practicable, and consulting often with village people and their leaders.

#### ON BEING RESPONSIVE TO COMMUNITY NEEDS CONCERNING EXPANSION LANDS

It is intended that the Municipal Land Trust program be highly responsive to the needs of the communities involved in the trust. A village should not find it necessary to incorporate as a city only for the purpose of obtaining control of these community expansion lands. If incorporation occurs, it should be for other valid reasons.

If this kind of responsiveness is achieved, it will result from good-faith efforts and cooperation of the rural people involved, (whose par-

ticipation is essential), and the Trustee staff. This responsiveness can be concentrated through efforts in two broad areas: (a) program activities of the Trustee, and (b) participation and involvement by community residents and leaders.

Here are some examples of planned Trustee activities: personal village visits by the Municipal Lands Trustee at least once a year (and more frequently when the level of decision-making activity requires), technical assistance

visits by others as requested by the community and the Trustee, periodic information letters, and annual and special written reports. One such special report could be made to the rural trust villages summarizing the comments received during the initial trustee village visits this fall, and their possible effect on proposed regulations. Always, the Trustee will try to keep an open ear to oral and written requests and comments from village residents.

Different villages may need different solutions to their community expansion land problems: what will work in one village should not be forced on another if it does not fit equally well. The statutory requirement that pre-approval resolutions by an appropriate village entity be obtained before the Trustee takes certain land actions, will be honored in good faith.

Village entities will be encouraged to develop long-term plans for trust lands as an aid both to the community and the Trustee in knowing what land activities are expected and appropriate. Technical assistance to help in this effort may be arranged through the Trustee at the request of the appropriate village entity.

Subdivisional surveys of trust land parcels likely will be required in some villages to make trust land available for authorized purposes: a State budget request by the Municipal Lands Trust program already has been made to establish

and fund a Revolving Survey Fund next year. If approved, very low-cost additions probably can be added to basic BLM contractual subdivisional surveys. This would allow lots to be available for lease or sale as appropriate when the village entity has identified them as being required to meet community needs. These survey costs could be included in the price of the lots and recovered as the lots are made available, thus replenishing the fund for later use in that village or elsewhere.

We must honestly encourage, and honorably include, good-faith input by the bush public which is consistent with the legal responsibilities of the trust program. Such a two-way partnership is essential to insure a successful program. Honesty and openness on our part will go a long way in encouraging involvement and acceptance by those served by the trust. Wide distribution of this paper is consistent with this intent.

#### COMMENTS ON BASIC ISSUES

Certain basic issues concerning the trust program have arisen which should be mentioned.

The first issue deals with Native villages which are located in organized Boroughs but are not themselves incorporated as first or second class cities. Would the Borough be a "Municipal Corporation" entitled to receive and administer the 14(c)(3) lands on behalf of such a village? I believe paragraph (g) of AS 44.47.150 is a determination by the legislature, which has sovereign, plenary powers over municipalities, that only first and second class cities are municipal corporations for the purpose of administering 14(c)(3) lands.

The second issue deals with the identity of the recipient of Section

14(c)(3) lands for a Native village not incorporated as a first or second class city, where the lands in question physically are located near that village, but also are located within the jurisdiction of an adjacent or nearby first or second class city. In some cases, the nearby city may include another village which has ANCSA selection rights of its own. The question raised is: should the incorporated city receive title to 14(c)(3) land necessary for the expansion of the donating community just because the land falls within its political jurisdiction, (perhaps in addition to receiving lands from its own village corporation), or would the 14(c)(3) land of the first village be conveyed to the State in trust for a future first or second class city which later might

Prior to drafting proposed regulations which will actually establish the Municipal Lands Trust program operational limits, I expect to visit about 25 villages (about one-fourth of those involved in the trust land program) to discuss this philosophy and to obtain views as to what the regulations should include. These trips will be scheduled for September and October, 1977. Discussions also will be held with staffs of regional profit and non-profit corporations, and their input requested; also with AFN and ANF leaders. Later the proposed regulations will be broadly circulated for comments before being revised and adopted. A target date for distribution of these proposals is this November or December. After changes are made to reflect appropriate comments and suggestions, hopefully they can be adopted in early 1978. Then the trust program can go ahead on solid footing.

be established in the presently unincorporated Native village?

I feel this issue is best approached by recognizing that selections under ANCSA were authorized by an eligibility certification for each Native village. It makes best sense under ANCSA, I think, that community expansion lands located within a selection of 69,120 (or more) acres made by a village certified to select, be designated for the benefit of that same village, not for another one. Thus, in the example given, since the incorporated city is not located in the first village, the lands probably should be conveyed in trust for a future first or second class city established in that Native village in the future. If the nearby city should annex the village in

*MUNICIPAL, Cont.*

question, I assume it would then be the city *in* that village and the lands would be re-conveyed to it by the State in trust. The fact that present policy prohibits incorporation of a separate city in such close proximity to an existing one could be disregarded here. As sovereign, the legislature could amend that policy, could require merger of both areas into one city, or could even dissolve the first. Meanwhile, the State in trust would manage these lands for the ultimate benefit of a city *in* the donating village.

The third issue deals with determining what is the "appropriate village entity" (see AS 44.47.150(b) for definition) to speak for the citizens of the village and to pre-approve land transfer actions by the Trustee. Closely tied in with this is the question of *who* are residents of some complex communities, especially along highways. Stated another way, where are the boundaries of those villages? Also, interwoven with these questions is the identity of present residents of any first or second class beneficiary city which later may be established in that Native village. Do all persons living in close proximity to the traditional Native village also constitute a constituency of that future city? Do they properly have sufficient present interest in these affairs to entitle them to participate in a village meeting or village referendum, such as referred to in AS 44.47.150(b)?

I expect the village informational meetings held later this Fall will reveal common-sense answers to this issue. The answers may not be uniform in all village situations. Consensus probably exists, or can be reached, on a local level without a need for the Trustee or some other party to make a determination. Possibly in some cases, a local committee acceptable to all factions where impasse is apparent could be formed to offer a solution.

This issue will need to be addressed in future regulations; input from the communities offering suggestions on how to satisfactorily resolve it will be helpful and welcome.

The fourth and final issue discussed here concerns structuring the trust program to obtain maximum separation from ordinary line agency programs of the State. Such separation appears necessary so that the Municipal Lands Trust program may operate under a bona-fide trust policy to the greatest degree possible. It may be more difficult to explain the necessity of this policy to employees of other State agencies than to the trustee program staff.

Acceptance of 14(c)(3) trust lands into the corpus of the trust does not automatically make the land available for purposes desired by other State agencies. AS 44.47.150(b) requires that a pre-approval resolution by the appropriate village entity first must be obtained. A separate transfer document then can be granted by the Trustee to make the trust land available to that other agency. In some instances, a reversionary clause might be appropriate to return the property interest to the corpus of the trust or to the future city if the land later were no longer needed for the original purpose.

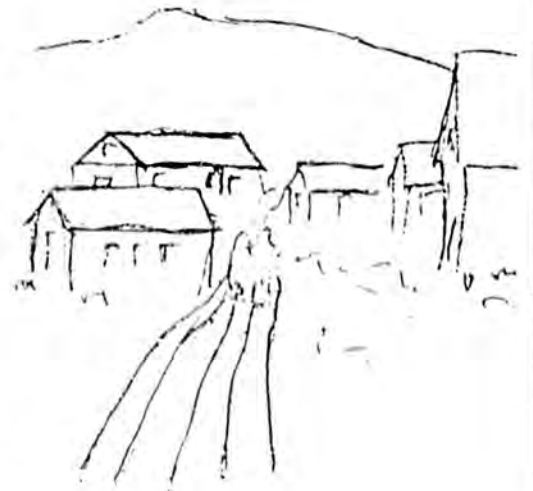
Arrangements should be made to obtain independent legal advice and representation in the event of actual or potential conflicts of interest occurring between the trust program and other agencies of the State. This might take the form of special counsel appointed by the State attorney general or an independent, outside counsel. Such an arrangement has precedent (See *Lassen v Arizona Ex Rel Highway Department*, 385 US 458, (1967), involving trust lands in Arizona.)

*IN CONCLUSION*

This paper intends to establish communication with those involved with and affected by the Municipal Lands Trust program, by identifying issues and setting forth a preliminary philosophy.

It is not the final word. It can be modified, or developed along additional lines.

We ask for comments from all who may be affected by the trust program-- both in the State government and outside. If the trust program is to work properly, these comments are necessary. Please send them as soon as possible so they can be useful in drafting the Trustee regulations which will begin about October 15, 1977.



*Send comments to:*

*Robert L. Jenks  
Municipal Lands Trustee  
Department of Community and  
Regional Affairs  
511 W. Fourth Avenue  
Anchorage, Alaska 99501*

*or*

*Lee McAnerney, Commissioner  
Department of Community and  
Regional Affairs  
Pouch B  
Juneau, Alaska 99811*

**ALASKA NATIVE MANAGEMENT REPORT**  
 515 "D" Street  
 Anchorage, Alaska 99501



Representative Clark Gruening  
 940 Tyonek Drive  
 Anchorage, Alaska 99501

**ADDRESS CORRECTION REQUESTED**

**MC KINLEY OR DENALI ?**

The original Indian name for North America's highest mountain was Denali, which meant "The Great One." Despite the centuries of referral to "Denali" by Native Alaskans, the peak was "named" by William Dickey, a prospector, in 1896 "after William McKinley of Ohio, who had been nominated for the presidency, and that fact was the first news we received on our way out of that wonderful wilderness." This rather cursory decision stuck in our geography books and has been a topic of debate ever since.

Public hearings on officially changing the name of Mt. McKinley back to the original Indian name of Denali will be held in Washington, D.C. on October 25, and in Anchorage, Alaska on November 10, 1977. The Anchorage hearing will be held at the Municipal Assembly chambers at 3500 East Tudor Road, from 9:30 to 11:30 a.m. and from 1:30 to 5 p.m.

**INTERIM COMMITTEE ON SUBSISTENCE**

*Proposed Travel Schedule subject to change:*

|           |               |
|-----------|---------------|
| Kodiak    | October 17    |
| Anchorage | Nov. 10,11,12 |
| Gelena    | November 21   |
| Juneau    | December 9    |
| Barrow    | December 12   |

**SOME DATES TO REMEMBER**

- October 19-20: Seward. Alaska Rural Development Council. Open to ARDC participants and interested persons. Seward Skill Center meeting room. 8:30 to 4:45 both days. Subjects to be discussed include: D-2 and D-1 Lands, Coastal Zone Management, and Aquaculture.
- October 22: Bristol Bay Native Corporation annual shareholders meeting, 2 p.m., High School Gymnasium, Dillingham.
- October 26: Sealaska Corporation Annual Shareholders Meeting, 10 a.m. Taku Twins Theater, 8th St., Juneau.
- November 4, 5: Chugach Natives, Inc. annual shareholders meeting, Ramada Inn, Anchorage. 1 p.m.
- November 5: Gold Belt Corporation (Juneau) Annual Shareholders Meeting. ANB Hall, Juneau.
- November 10: Public hearings on name change, Mt. McKinley to Denali, Municipal Assembly chambers, 3500 East Tudor Road, Anchorage. 9:30-11:30 a.m.
- November 10, 11, 12: AFN Convention. Tundra Times banquet, evening of November 12.
- November 13: Calista Corporation annual shareholders meeting, KVNA Building, Bethel. 10 a.m.
- November 17-18: 5th Annual Economic Development Workshop for Alaska Communities; Alyeska Resort Inn, Girdwood.

**CZM COMMUNITY MEETING DATES**

|                              |            |            |
|------------------------------|------------|------------|
| Workshops are scheduled for: | Petersburg | October 26 |
| Ketchikan                    | Kodiak     | October 27 |
| Juneau                       | October 15 |            |
| Valdez                       | October 24 |            |
| Homer                        | October 18 |            |
| Kenai                        | October 20 |            |
|                              | October 22 |            |

There will also be a two-hour workshop at the AFN Convention in November.

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## INTERIOR APPEALS EASEMENT DECISION

Secretary of Interior Cecil Andrus has asked the Justice Department to file protective notices of appeal from a federal District Court decision involving reservation of easements on Alaskan lands conveyed to Natives under the Alaska Native Claims Settlement Act.

The Alaska District Court, in a decision made by Judge James A. von der Heydt, ruled that certain aspects of the easement policy adopted by former Secretary Morton were in violation of ANCSA. (See *ANMR*, July 15, 1977.)

The slow pace of conveyances of land to Native corporations under the Claims Act can be attributed in great part to the litigation over easements and the Interior Department's policy of holding up conveyances as long as there is litigation pending.

Secretary Andrus said he had not yet decided what aspects of the District Court decision, if any, the Department would seek to have overruled by the appellate court.

"A full scale review of our easement policy is under way," he explained. "Because of the time limit for filing a notice of appeal, the Department has asked the Justice Department to file a protective notice to preserve all our options until the review is completed."

"I expect our review will be completed promptly, and I will make every effort, regardless of

whether I decide to appeal all or part of the District Court decision, to expedite the conveyance of land to the Natives," he said.

In a related story, Guy Martin, assistant secretary of Interior for land and water resources, recently drafted a lengthy document titled *ANCSA Issues*, which has been distributed for discussion and input from Natives. This document is now being studied and reviewed by AFN, Land Managers Association, and individual Native corporations, who will be meeting with Martin and other parties of interest in the near future.

Some dates for those meetings have been set: on October 5, Byron Mallott, representing AFN, will meet with the State, Land Use Planning Commission, and Guy Martin in Washington, D.C. to discuss *ANCSA Issues*. Then, on November 1, the AFN Board will meet with the Alaska Policy Group, chaired by Under-Secretary James Joseph, also in Washington, D.C. The Alaska Policy Group is made up of all the assistant secretaries of Interior.

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## ARCTIC SLOPE, NUNAMIUT RECEIVE LAND

The Arctic Slope Regional Corporation and the Village corporation for Anaktuvuk Pass, Nunamiut Corporation, have received interim conveyance to more parcels of land from the Bureau of Land Management, and a draft interim conveyance is currently being prepared for the village of Nooiksut, the only village in the region that has not yet received land under the Alaska Native Claims Settlement Act.

Arctic Slope received title to the surface and subsurface of 221,587 acres. Nunamiut Corporation received title to the surface of 89,646 acres, nearly all their entitlement.

Almost three million acres of land have been

turned over to the Arctic Slope region, including some 500,000 acres last June. Arctic Slope region encompasses the northern portion of the State.

The villages of Atkasook, Barrow, Kaktovik, Point Hope, Point Lay, and Wainwright have received interim conveyance to a total of over 703,000 acres of surface estate.

## LMA DISCUSSES ISSUES

The Land Managers Association met on Friday, September 9th, to discuss current land-related issues. Addressing the meeting were Ted Smith, Director of Land and Water Management for the State; Howard Donkin, of the General Accounting Office; and Bob Jenks, Municipal Lands Trustee.

Ted Smith reported on state land matters, including the Homestead Act, the agricultural development project near Delta Junction, and the adopting of regulations for log salvage in Southeastern Alaska. He added that an office will be opened in Ketchikan.

Some concern had been expressed by members of the LMA over new easement regulations recently published by the State. Smith explained the regulations in question referred to state lands being transferred to private ownership only.

(continued on page two)

LMA...(cont. from pg. one)

Howard Donkin reported on the activities of the General Accounting Office which has been looking into the delays of interim conveyances of Native Lands.

Guy Martin, Assistant Secretary of Interior for Land and Water Resources, has prepared a paper on "ANCSA Issues" and has requested comments from the Natives on its contents. Since the LMA members present felt the document addresses some very important issues and warrants discussion, LMA called a special meeting for Thursday, September 22 to study the paper. The AFN also had a board meeting to review the paper's contents.

In other matters, Bob Jenks, Municipal Lands Trustee, explained the new "Preliminary Statement of Trust Philosophy and Assessment of Principles and Primary Policy Issues," which he has prepared as a guideline in dealing with lands conveyed to the State in trust under Section 14(c)(3) of ANCSA.

A copy of this document will go to every village corporation president, and village council

president, where no municipal corporation exists (roughly half of the villages), and to legislators, and many others who may have an interest in the matter. (See *Center Spread*, this issue, ANMR.)

Jenks explained the major points covered in the document. He stated he is trying to accomplish the reconveyances so that villages will not be forced to incorporate. Unalakleet has come up with a Plan of Survey with aid from the Department of Community and Regional Affairs, apparently the first in the State.

The following committee appointments were made: Roger Allington as head of a Forest Practices Act Committee; and Gene Sundberg as chairman of the Coastal Zone Management Committee.

The next regular LMA meeting will be on Thursday, October 13th, in the AFN Conference Room at 9 a.m. The association stressed that all land management people from the Native corporations are encouraged to attend its meetings and share their concerns.

## NEWS SUMMARIES OF SPECIAL INTEREST

*EDITOR'S NOTE: The following news summaries reflect, as closely as possible, the content and approach of the publications quoted. The headlines are those used by the publication.*

**ANDRUS SETS LEASE SALE FOR OCTOBER 27** *Anchorage Daily Times, Sept 15, 1977.* Interior Secretary Cecil Andrus set the date of October 27 for the second federal auction of offshore oil and gas leases in Alaska's Cook Inlet.

The Cook Inlet sale will try out a different bidding arrangement on a third of the tracts offered. Companies will offer fixed bonus payments for leases plus competitive bids on royalty rates to be paid the federal government after oil or gas is brought into production.

Andrus said leases awarded in the sale will include a number of special stipulations to protect the environment.

This development is of particular interest to Port Graham, English Bay, and possibly villages in the Cook Inlet Region.

**TRIBAL STATUS WOULD CHANGE.** *Anchorage Times, Sept. 4.* Hearings will be held in late September before the Senate Select Committee on Indian Affairs on bills that could affect the tribal status of Native associations in Alaska, according to the office of Sen. Mike Gravel, D-Alaska. One bill would change the definition of Indian tribe in Federal law to consolidate various tribes, facilitating Native contracts with the Federal government. A second bill would establish the Central Council as the supreme governing body of Southeast Alaska's Tlingit and Haida Indian tribes. Gravel encouraged comments from Alaskan Natives who would be affected by the bills, stating that "without input from all those involved, this legislation cannot be fairly assessed and considered by Congress." The hearing is scheduled in Washington on September 29.

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*Richard Janson is president of the Alaska Native Foundation. Emil Notti is chairman of the board of directors. The executive board includes: Notti, Janson, Victor Fischer, Vincent Schuercu, Roy Huhndorf, Byron Mallott, and Boris Kosbruk. Other members of the board are: Larry Mercurieff and Richard Stitt.*

*Editor's Note: Bob Jenks, the State of Alaska Municipal Lands Trustee, has prepared the following Preliminary Statement of Trust Philosophy and Assessment of Principles and Primary Policy Issues, to serve as a guideline. Because of the widespread importance of the 14(c) provisions of ANCSA, Alaska Native Management Report will reprint Jenks' statement in full, half of it in this issue, and the balance in the October 1 edition.*

### Background

The Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, provided, among other things, that approximately 200 Native villages in Alaska would form corporations to receive title to land. Twenty-two million acres were selected by these village corporations in 1974. Generally, the pattern of lands selected commenced with the village situs and progressed outward in several directions for a maximum distance of about 15 miles. The total acreage selected by each village (excepting

in Southeast) ranged from 69,120 to over 161,280 acres, with most entitlements being either 69,120 or 92,160 acres (108 and 144 acres respectively). In Southeast, villages selected 23,040 acres (36 square miles). [See ANMR, Feb. 15, 1977 for a listing of village entitlements.]

In about one-half of the villages and prior to ANCSA, the federal government had made residential and business land titles available to occupants under the townsite laws. For the remaining half, Congress required village corporations under ANCSA Section 14(c)(1), upon receiving title to the village situs, to convey comparable occupied town lots to village occupants without consideration.

To facilitate title conveyance of these lots to the occupants, the cost of their subdivisional survey will be borne by the United States. [43CFR 2650.5-4(b).] When these land transfers are completed, the situation will be roughly equivalent in all villages; that is, residents will have title to the land occupied by their homes and businesses, regardless of whether they received them

*MUNICIPAL, Cont. on page 4.*

## Handling the

# Municipal Land Trust Program

## A Trust Philosophy

### “ Purpose

This paper deals with the program of community expansion lands to be conveyed by about 100 village corporations to the State in trust where no first or second class city exists in the Native village. This paper is designed to fill four purposes.

One purpose is to provide the Commissioner and staff of the Department, and the Attorney General, my initial perception of the nature and scope of the trust program. It summarizes considerable discussion and research, and differentiates this trusteeship from ordinary line programs of the State of Alaska.

A second purpose is to inform outside parties having an interest in the Municipal Lands Trust Program of these preliminary views, through wide-spread distribution of this paper. Parties having interest in the program who will receive copies include: approximately 100 Native Village Corporations, approximately 100 traditional Village Councils,

the 24 profit and non-profit regional corporations, AFN and ANF leadership, and the Alaska Native Land Managers Association. It will be offered to *Tundra Times* and *Alaska Native Management Report* for publication of excerpts.

Thirdly, involvement and participation by all interested parties is necessary to insure that the trust program be practical and acceptable. This outside input is invited as a structured part of the Municipal Lands Trust program, and is not intended merely to be an incidental follow-up. This paper provides a format for these parties to base such involvement and input.

The fourth and final purpose is that it might serve as a temporary guide for program development and the basis for developing formal regulation proposals, subject to input received from others. This preliminary paper will not substitute for formal review procedures of regulation proposals as prescribed by law, nor is it a formal departmental expression of policy in lieu of regulations.

earlier through operation of the federal townsite laws or from village corporations as a result of ANCSA. All other eligible occupancies specified by ANCSA Section 14(c)(1) and (2), including subsistence campsites, are subject to reconveyance by village corporations, regardless of any prior federal townsite.

Whether or not a federal townsite existed, Congress provided also that every village corporation must convey title to yet another category of land, i.e., "the remaining 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 for other foreseeable community needs." These lands must be transferred to the appropriate Municipal Corporation where one exists, or otherwise to the "State in trust for any Municipal Corporation established in the Native village in the future." In either case, the amount of lands to be transferred to the Municipal Corporation, or in trust, shall be no less than 1,280 acres (2 square miles). [ANCSA Sec.14(c)(3).]

Presently, about 100, or half, of the villages authorized to make land selections are incorporated as first or second class cities. These cities will receive title to the community expansion lands in their own right. No qualifying municipality exists in the remaining half, requiring conveyance of these land titles to the State in trust for any municipality which may be established in these Native villages in the future. (The exact number of villages involved in each category presently is uncertain due to litigation involving the federal government's determinations of the eligibility of certain villages to select land under ANCSA.)

It is this State trust responsibility which is being addressed by this *Preliminary Statement of Philosophy and Assessment of Principles and Primary Policy Issues*.

### Is the State Sovereign or Trustee?

Extra-ordinary relationships and policies exist with respect to community expansion lands conveyed to the State in trust. This arises from the language of ANCSA Section 14(c)(3) establishing a trust, the acceptance of the trust by the state legislature in AS 44.47.150, and the expectations of rural peoples of Alaska affected by the land trust.

While the sovereign powers of the state over political subdivisions could color the trustee role, the state is expected in this program to assume a constructive "trust" role by the Congress, the legislature, and affected rural peoples. The Commissioner and the undersigned fully agree that adoption of legal trust principles should be an underlying policy of the Municipal Lands Trust program. As trustee, the State should not acquire title to, nor administer, the community expansion (municipal) lands in the 100 or so villages for its own sovereign use and benefit. Rather, the lands should be conveyed and administered "in trust" for any Municipal Corporation established in the Native village in the future.

With respect to lands conveyed in trust under ANCSA Section 14(c)(3), the legislature has defined the term "Municipal Corporation" as including "only first and second class cities incorporated under the laws of the state." [AS 44.47.150(g).] Defining applicable municipal corporations might seem to be an amendment of the basic trust document which would be an action a trustee normally is not permitted to take. Usually, only the settlor, or creator of a trust, may amend a trust document. However, a reasonable interpretation might be that the legislature can act properly as a sovereign with plenary powers over (future) political subdivisions, rather than as trustee, when it defines the powers of municipal corporations under its jurisdiction.

### Principles of Trusteeship:

#### A Discussion

A trust involves certain well-defined obligations. The Trust Document normally spells out the duties and relationships of each party in the trust relationship, including a clear identification of each party and the property to be held and/or managed in trust. Over the years, court cases have refined the extent of certain duties, obligations, and rights of different parties to a trust.

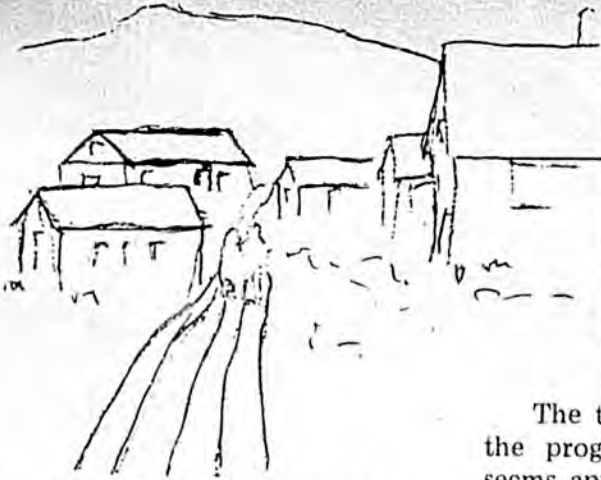
#### Trust Document:

##### Creation of the Trust: Settlor

Section 14(c)(3) of ANCSA constitutes the basic *Trust Document*. The United States, as holder of title to the lands prior to their conveyance to the Village Corporations, acted as *Settlor*, or creator of the trust. When selected land is conveyed to the village corporations, the United States will insert in each patent a requirement that mandatory reconveyances specified in Section 14(c) be made by each Village Corporation, including the community expansion (municipal) lands being discussed.

##### "Interim" Trustee Role of Village Corporations

All lands selected by village corporations, with the exception of those selected under Section 19 (lands in former reserves selected by villages which did not receive any portion of the Alaska Native Fund monies), are subject to these Section 14(c) reconveyance requirements. As written, ANCSA seems not to permit any other exceptions. Thus, each Village Corporation, in effect, has been charged with the responsibility of being an *Interim Trustee* over this land until this transfer of property is completed. A village corporation receives title to community expansion lands *in trust* for further reconveyance to a municipality or to the State in trust.



### *Acceptance of Trust Responsibility by the State*

State acceptance of the trust responsibilities was accomplished in 1975 with the enactment of AS 44.47.150. Responsibility for the trust program was placed by the legislature upon the Commissioner of the Department of Community and Regional Affairs.

### *Identity of Trustee of Lands Held in Trust*

The basic trust document, ANCSA Section 14(c)(3), provides for conveyance of title "... to the State in trust for any Municipal Corporation established in the Native Village in the future..." Adding the sense of AS 44.47.150, the Trustee can be defined with respect to each village affected as: *"The State of Alaska in trust for any first or second class city incorporated under the laws of the State which may be established in the Native village of (name of village) in the future."*

I recommend that title to community expansion (municipal trust) lands conveyed to the State in trust under Section 14(c)(3) be granted, accepted, and administered in accordance with the above definition of the trustee.

The State in trust, through the Municipal Lands Trust program, is an *institutional* trusteeship, differing from the *personal* trusteeship found in federal (BLM) townsite trust administration. The Commis-

sioner of the Department of Community and Regional Affairs has been designated to administer the trust; and the "Municipal Lands Trustee" is a surrogate trustee or agent of the Commissioner, and is subject to the Commissioner's direction and supervision.

The term "municipal lands" in the program name and job title seems appropriate even though the identical term is not found in ANCSA Section 14(c)(3). ANCSA requires that "community expansion" lands be conveyed in trust to the State for later reconveyance to a future municipality in the Native village, hence they are actually "municipal" lands. Where a first or second class city (municipality) already exists so that no trusteeship is required, the comparable lands become "municipal" lands immediately upon conveyance by a village corporation.

### *Principle of Undivided Loyalty: Relationship of Trustee to Beneficiaries and Others*

In administering the Municipal Lands Trust Program, the Commissioner and Municipal Lands Trustee assume roles somewhat different from those found in administering usual State agency programs. In law, a trustee is one who takes and holds title to trust property solely for the benefit of another. A standard law text (*Corpus Juris Secundum*), states that a trustee owes to the beneficiaries of a trust the duty of undivided loyalty, and he must not be guided or influenced by personal interests of a third party. So it is the duty of a trustee not to accept any position or enter into any relation, or do any act inconsistent with the interests of the beneficiary; that is, he must refrain from doing those things which would tend to interfere with the exercise of a whol-

ly disinterested and independent judgment, and he cannot assume a position inconsistent with, or in opposition to, his trust. He cannot serve two masters with antagonistic interests. [90 CJS Trusts 247.]

The rule of undivided loyalty is one of uncompromising rigidity; and no amount of good faith on the part of the trustee can overcome a breach of trust which would result from the existence of divided loyalty. [ibid.]

Accordingly, actions, regulations and policies of the Commissioner, Municipal Lands Trustee, and any other staff involved in administration of these trust lands should reflect at all times the best interests of the beneficiaries, avoid potential conflicts of interest with other parties, and do all things reasonably necessary to avoid any breach of trust in connection with these duties. Such policy seems fully consistent with the terms of acceptance of the trust by the legislature as expressed by AS 44.47.150.

### *Beneficiaries of Lands Held in Trust*

Just as the basic Trust Document (ANCSA Section 14(c)(3)) defines the Trustee, it also defines the Beneficiaries, as follows: *"Any Municipal Corporation established in the Native village in the future..."* Adding the sense of AS 44.47.150, each Beneficiary presently is defined by law as: *"Any first or second class city established in the Native village in the future."*

Since it is a future first or second class city that is beneficiary of the trust, it seems instructive to consult the legal text on general property rights of municipalities. Specific laws passed by the Alaska legislature (representing the sovereign powers of the State over municipalities) can modify these general rules; Alaskan municipalities presently have been given rather broad powers regarding municipally owned lands.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1977 SCOMM 9: HOUSE SPEC. COMM. ON PERMANENT FUND 1977-78

*MUNICIPAL, Cont.*

All property owned by a municipality is public property in the broadest sense. Municipal corporations hold all property in a fiduciary capacity, for the use and benefit of its citizens, in the sense that all powers of such a corporation are held in trust for public use. [63 CJS Municipal Corporations 950.]

Municipal property is not the private property of the residents of the municipality on the theory that the municipality is a trustee holding the legal title for the benefit of the inhabitants, and the persons who are taxpayers or members of the public do not have any private interest in the funds and property of a municipal corporation. [ibid.] It follows, then, that community expansion lands held in trust for a future first or second class city are for the ultimate general welfare of all future inhabitants of the village.

*"Appropriate Village Entity", and Resident Village Citizens, are Quasi-Co-Trustees with the State*

From the foregoing discussion, it is apparent that the Trustee and resident citizens of the Native Village as represented by the "appropriate village entity" as defined by AS 44.47.150(b), have a joint obligation to manage the trust lands for the village "public" much as would a city government under the same circumstances. The power to pre-approve certain Trustee actions carries with it an obligation to see that the lands are managed consistent with the long-term best interests of that Native community; the trust lands are not merely "private" lands of the present village residents. In this sense, then, the resident citizens collectively can be considered as *Co-trustees* with the State. Working together, they and the Trustee should be certain that appropriate lands and assets can be turned over to the future city at the proper time.

*What Lands Make up the Trust (Corpus)?*

Corpus of the trust refers to that property which is to be placed in trust and managed by the Trustee for the benefit of the beneficiaries.

*Nature of Title Held*

The trust document, ANCSA Section 14(c)(3), specifies title to be conveyed in trust shall be the "surface estate." ANCSA provides, generally, that the Regional Corporations will own the corresponding subsurface estate. Whether certain resources such as gravel are part of the surface or the sub-surface estate is presently in litigation. Whether any powers of village corporations conferred by ANCSA Section 14(f) to grant consent to explore, develop, or remove minerals from the subsurface estate in village lands are transferred along with the land titles reconveyed to Municipal Corporations and to the State in trust, also is a legal matter which has not been determined.



*Type of Property to be Conveyed in Trust*

The Trust Document specifies that the land to be conveyed in trust shall be "the unimproved land on which the Native village is located" (which remains after conveyances have been made under Sections 14(c)(1) and (2)), "and as much additional land as is necessary for community expansion,

and appropriate rights-of-way for public use, and other foreseeable needs," subject to a minimum acreage requirement. ANCSA Section 14(c)(3).

*Acreage to be Conveyed*

The amount to be conveyed in trust "shall be no less than 1,280 acres." ANCSA Section 14(c)(3). This is equal to two square miles.

Based on settlements already reached between several cities and their respective village corporations, and expressions by a substantial number of village residents and councils where the State will have trust responsibilities, it appears that the 1,280 acre conveyance is not apt to be greatly exceeded in unusual circumstances where foreseeable needs may require the conveyance of a greater acreage.

*When Do Trust Responsibilities and Activities Begin?*

The State's responsibilities as the trustee created by ANCSA began when it accepted those responsibilities in 1975 with the passage of AS 44.47.150. The nature of these responsibilities can best be expressed in terms of appropriate trustee activities related to identifying lands to be placed into trust, and the management of those lands.

Philosophically, this can be approached from two points of view; (1) when is the earliest time that trust activities can occur, and (2) when is the latest time permitted under law.

Trust activities already have begun. Responses have been made to urgent needs and requests from several villages needing title to land for public uses such as schools, power easements, HUD housing, and a sewer lagoon. The approach used where the federal government has not yet issued patent or Interim Conveyance (I.C.) to

selected lands is what I call "conveyance by promissory note." A Contractual Agreement is executed voluntarily by the parties (Village Corporation and State in trust), backed up by appropriate resolutions of the Village Corporation Board of Directors, and the traditional council where this is an appropriate village entity. The Regional Corporation also certifies it was given opportunity to review and render advice per ANCSA Section 14(c)(5).

These Agreements provide that the land involved will be part of a future 14(c)(3) conveyance to the State in trust, and that it will be accepted by the State in trust. The Council resolutions concur with the desirability of devoting that parcel to the specified purpose. The Trustee gives written assurance to the entity developing the land that an appropriate permit, lease, deed, etc. will be issued to it upon receipt of title by reconveyance from the corporation. As an umbrella over the whole transaction, each party joins in requesting that BLM grant an authorizing temporary permit or lease for the specified use until title is conveyed to the corporation. At that time, the promises to convey made by each party to the Agreements will be carried out.

This cumbersome process is necessitated by the unfortunate delays in granting title by BLM, but it sets the foundation for permanent and equitable long term solutions. Each party becomes involved, and each different interest is recognized and protected.

Carrying this concept further, comprehensive Agreements between the village corporation and the State in trust defining the entire parcel(s) to be conveyed and accepted may be made prior to the time BLM transfers the land title

to the corporation by IC or patent, if the corporation and the community desire such action. Several village corporations have begun such discussions. Others located within municipalities already have entered into written Agreements with their appropriate First or Second Class City for all the land to be conveyed, with the blessings of the Regional Corporation.

In several regions, there is a strong expression by village corporation boards to get this major decision settled so they can finish their Interim Trusteeship over these lands and get on with other important tasks. Where this is the voluntary wish of the corporation, the State in trust can, and should enter into such early comprehensive Agreements. (However, administrative regulations first should be completed and adopted before they are signed by the State in trust. This is scheduled for early 1978.)

The latest deadline for actual reconveyance of community expansion lands to a municipality or the State in trust is, by statute, the receipt of *patent* to the land by the village corporation [ANCSA 14(c)]. Before BLM grants patent, however, the corporation must in virtually every instance present BLM with a *Plan of Survey* for BLM to use as a guide for surveying the parcels to be reconveyed under Section 14(c), including the community expansion lands.

Involvement in the Plan of Survey by the State in trust along with the village corporation, is essential, and represents the latest time when activities of the State in trust would begin. The survey plan will constitute a form of acceptance by the Trustee of the 14(c)(3) lands.

Time-wise, there is no statutory deadline when the Plan of Survey must be prepared. However, Village Corporations generally desire to develop the Plan of Survey promptly because, in most instances, individuals authorized to receive tracts under 14(c)(1) cannot get title to their homes, etc. from the corporations without this same Plan of Survey being completed and approved by all parties. Responsibilities of the State in trust in the event of extensive delay or refusal of a corporation to develop a plan of survey or to convey lands under Section 14(c)(3) are discussed later in this paper.



In summary, the State's trust responsibilities already exist. The State in trust may enter into its program activities now on a village-by-village basis if desired by a particular village corporation. Ordinarily, trust activities will begin by discussing and reaching an agreement with village corporations as to the identity of lands to be conveyed in trust, the Trustee representing the interests of any future city to be established in the Native village. This process will be described later. If desired by all parties, an interest in these lands then can be transferred to the State in trust by Contractual Agreement. Actual title can be conveyed to the State in trust when the corporation has received Interim Conveyance from BLM. The ultimate deadline for conveyance to the State in trust is receipt of patent by the Corporation. However, trust activities of the Trustee would, in most cases, begin earlier than issuance of patent by BLM, with involvement in the Plan of Survey upon which surveys will be executed so that patent can be granted.

*(The Municipal Trust Lands philosophy statement will be concluded in the next issue of ANMR.)*

ALASKA NATIVE MANAGEMENT REPORT  
515 "D" Street  
Anchorage, Alaska 99501



Representative Clark Gruening  
940 Tyonek Drive  
Anchorage, Alaska 99501

ADDRESS CORRECTION REQUESTED

IN BRIEF:

\* The documentary film "From the First People," produced by the University of Alaska, has won the top prize at the American Film Festival. It is the third time in a row that the University has won the prize; all three films dealt with Natives of Alaska and their lifestyle. The other two winners were "At the Time of Whaling." and "On the Spring Ice."

\* "The Last Anchor," a documentary film on subsistence bowhead whaling in the Arctic, has been produced in Barrow by the North Slope Borough. The film is part of the Borough's continuing campaign to preserve Inuit subsistence whaling, and is available to theaters, the media, schools and other groups through the North Slope Borough's Anchorage office.

\* Caribou hunting in the McComb Plateau southeast of Delta Junction has been halted by an emergency order issued by the Alaska Department of Fish and Game. Fairbanks Game Management coordinator, Bud Harris, said the closure was necessitated by the possibility of overharvest predicted by area biologists located in Delta and Tok. The closed area included all of game management unit 20D, and that part of 20C south of the Alaska Highway.

\* The International Pacific Halibut Commission has indicated that its members would seek a legal definition of convention waters and the commission's powers. These comments came at a meeting in mid-September when commission members also expressed the belief that they are operating in a "gray area" since the institution of 200-mile fishing limits by the United States and Canada.

\* Veronica Murdock, past vice-president of the National Congress of American Indians, was elected to the post of President of NCAI in Dallas at the last meeting Sept. 19-24.

SOME DATES TO REMEMBER

October 13: Regular Land Manager's Association meeting, AFN Conference Room, 9 a.m. Village and Regional land managers welcome.

October 22: Bristol Bay Native Corporation annual shareholders meeting, 2 p.m., High School Gymnasium, Dillingham.

November 4, 5: Chugach Natives, Inc. annual shareholders meeting, Ramada Inn, Anchorage. 1 p.m.

November 10, 11, 12: AFN Convention. Tundra Times banquet, evening of November 12.

November 13: Calista Corporation annual shareholders meeting, KVNA Building, Bethel. 10 a.m.

CZM COMMUNITY MEETING DATES

Workshops are scheduled for: Petersburg October 26  
Kodiak October 27

Valdez October 18  
Homer October 20  
Kenai October 22  
Juneau October 24

There will also be a two-hour workshop at the AFN Convention in November.

INTERIM COMMITTEE ON SUBSISTENCE

*Proposed Travel Schedule for meetings/Hearings--subject to change:*

Kipnuk September 3,4,5  
Kotzebue September 15  
Nome September 16  
Fairbanks/Neneana/Copper Center October 3,4,5  
Kodiak October 17  
Anchorage Nov. 10,11,12  
Gelena November 21  
Juneau December 9  
Barrow December 12