ILLUSTRATION 19

Page 1 of 1 pages

Requesting Office
Branch of KCS
Adjudication

Requesting Office Phone *(include area code)*
(907) 271-3341

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PURCHASE REQUISITION/ORAL ORDER

Requesting Office Requisition Number
AK-967-R01-017

Purchasing Office Requisition Number

Date
8/13/91

Requisitioned by *(Signature)*

Name and Title *(Please print)*
Lynda Ehrhart

Requisition approval by *(Signature)*

Name and Title *(Please print)*
Patricia A. Baker, Acting Chief, KCS Branch

Deliver to *(Street address)*
Bureau of Land Management (967)
Alaska State Office
222 W. 7th Ave., #13
Anchorage, Alaska 99513-7599
Attn: Lynda Ehrhart

Required delivery date

By approving this requisition, the office or delegate certifies that funds are available for this action in the accounts specified (See 1510.03D1).

ORGAN. CODE STATE	ORGAN. CODE OFFICE	FUND CODE	SUB-ACTIVITY	PROG. ELEM.	PROJECT	OBJECT CLASS MAJOR	OBJECT CLASS MINOR	AMOUNT
AK	967	01	4230	20		25	~~30~~ 51R	~~$1,000.00~~

Source of supply, if known
TransAlaska Title Insurance Co.
400 W. Tudor Road
Anchorage, Alaska 99503

Source Phone No.

Contract No. 561-1844

ITEM NO.	DESCRIPTION OF SERVICE OR ITEM INCLUDING STOCK NUMBER *(Double space between items)*	QUANTITY	UNIT	ESTIMATED UNIT PRICE	ESTIMATED TOTAL	ORDERED UNIT PRICE	ORDERED TOTAL
1	Preliminary Commitment for Title Insurance (Surface estate)	1	ea.	250.00	250.00		
	Recordation of Surface Estate QCD	1	ea.	25.00	25.00		
	Conformed copy of surface estate QCD	1	ea.	2.00	2.00		
4	Certified copy of surface estate QCD	1	eea.	7.00	7.00		
5	Title insurance for surface esaate	1	ea.	250.00	250.00		
	The amt. of the insurance is to be limitad to $25,000.00 The surveyed description of the Native allotment (AA06506) is U.S. Survey No. 9392, Alaska, and is located within protracted Secs. 2 and 3, T. 37 S., R. 31 W., Seward Meridian, Alaska. (Containigg 80 acres)						
						NOT TO EXCEED:	

Contract No.

Discount for prompt payment

GRAND TOTAL $550.00

Time of Delivery

Ship Via

Same as above

F.O.B. Point

Order No. L974-P1-4274

Date

Business Classification *(Check appropriate box(es))*

☐ SMALL ☐ SMALL DISADVANTAGED ☐ WOMAN-OWNED ☐ LABOR SURPLUS AREA ☐ 8(a) ☐ OTHER

Quoted By Lucippe Manchester

Purchased By
Della

Contracting Officer

(Instructions on reverse of Purchasing Copy)

Proposed Glossary

(SC-1)
(96(SC-2))

(SC-3) [Title Company's name and address]

Dear (SC-4):

Please prepare (SC-5) [i.e. a preliminary commitment of title or a preliminary title insurance policy] and return it to the following address:

Bureau of Land Management
Alaska State Office
Division of Conveyance Management
Attn: (SC-6)
222 W. 7th Avenue, #13
Anchorage, Alaska 99513-7599

The grantor will be (SC-7). The land is described as (SC-8).

Your invoice should refer to the P.O. number of the attached purchase order and be directed to the attention of Procurement (974B) at the Bureau of Land Management's Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507-2599.

If you have any technical questions contact (SC-9) at (SC-10) and administrative questions contact Procurement at 267-1306.

Sincerely,

(SC-11 Option 3/4/5/6/7

Option 3= Ann Johnson
Chief, Branch of Calista Adjudication

Option 4= Chief, Branch of Doyon/Northwest Adjudication

Option 5= Mary Jane Piggott
Chief, Branch of Southwest Adjudication

Option 6= Terry R. Hassett
Chief, Branch of KCS Adjudication

Option 7= Ramona Chinn
Chief, Branch of Cook Inlet and Ahtna Adjudication

Enclosure:
Purchase Order

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

F-14281 (2561)
Parcel C
(964)(FJR/CMP)

AUG 11 1989

Memorandum

To: Regional Solicitor, Office of the Regional Solicitor, Anchorage, Alaska

Through: Paralegal (961) 8.14.89

From: Chief, Branch of Doyon Adjudication (964)

Subject: Request for Preliminary Title Opinion for Parcel C of the Native Allotment of Samuel S. Demientieff, F-14281

Enclosed are the case file and the following documents received from the State of Alaska, pertaining to the reconveyance of the subject Native allotment, pursuant to the Aguilar stipulations.

1. Quitclaim Deed (draft)
2. Acceptance (draft)
3. Certificate of Title
4. Settlement and Release Agreement

Please review the enclosed documents and issue a preliminary title opinion.

Stanley K. Leonczyk

Enclosures

Copy furnished to:

Samuel S. Demientieff
c/o Edward A. Merdes
Attorney-at-law
P.O. Box 1309
Fairbanks, Alaska 99707

Samuel S. Demientieff
1270 Heldiver
Fairbanks, Alaska 99701

State of Alaska
Department of Natural Resources
Division of Land and Water Management
State Interest Determinations Unit
P.O. Box 107005
Anchorage, Alaska 99510-7005

State of Alaska
Department of Natural Resources
Division of Land and Water Management
Title and Contracts Section
3601 C Street, Suite 960
Anchorage, Alaska 99503

Bureau of Indian Affairs
U.S. Federal Building and Courthouse
101 Twelfth Avenue, Box 16
Fairbanks, Alaska 99701

Bureau of Indian Affairs
Alaska Title Services Center
1675 C Street
Anchorage, Alaska 99501-5198

Bureau of Indian Affairs
Native Allotment Coordinator
1675 C Street
Anchorage, Alaska 99501-5198

Tanana Chiefs Conference
Realty Office
201 First Avenue
Fairbanks, Alaska 99701

ILLUSTRATION 22

Form 2200-5
(July 1969)
(formerly 4-1327)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial Number

CERTIFICATE OF INSPECTION AND POSSESSION

I, an employee of the Bureau of Land Management stationed at , hereby certify that on *(date)* I made a personal examination and inspection of all those certain tracts of land situate in the County of , State of , offered to the United States of America and containing acres, proposed to be acquired by the United States in connection with [redacted] the title recovery from the State of Alaska pursuant to AS 38.05.035(b)(9) & 43 U.S.C. 1715(1982).

1. That I am fully informed as to boundaries, lines, and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with the making of any repairs or improvements on said land; and that I made careful inquiry of above-named proponent, and of occupants of said land, and ascertained that nothing has been done on or about said premises within the months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.

2. That I also made inquiry of above-named proponent, and of all occupants of said land, as to his (their) rights of possession and the rights of possession of any other person or persons known to him (them), and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of above-named proponent or the United States of America.

3. That I was informed by above-named proponent, and by all other occupants, that to the best of his (their) knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

4. That to the best of my knowledge and belief after actual and diligent inquiry and physical inspection of said premises there is no evidence whatever of any vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

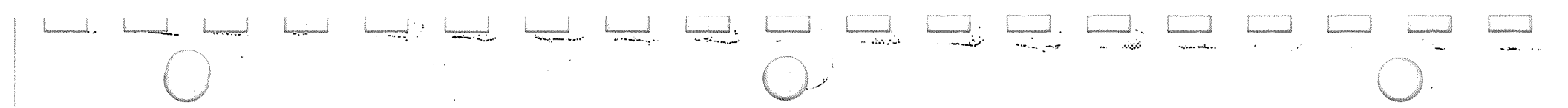
5. That to the best of my knowledge and belief based upon actual diligent and inquiry made there is no outstanding right whatsoever in any person to possession of said premises nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records.

6. Said premises are now wholly unoccupied and vacant except for occupancy of

[redacted]

this day of , 19

(Signature) (Title)



Level I Survey:
Contaminant Survey Checklist
of Proposed Real Estate Acquisitions

INSTRUCTIONS: Check for each category. Explain briefly where something other then " No," "None," or "Not Applicable" is checked. Discuss whether a Level II or III Survey will be recommended. Describe the distance if nearby is checked and whether there is a known potential pathway for contamination on site. Attach a legal description of the real estate property covered by this survey.

A. Background Information

Bureau Name Bureau of Land Management

Site Name Larry Matley AA-6506-A County N/A State Alaska

Date of Survey 21 Aug. 1991

B. Site Inspection Screen: On-site and nearby

	ONSITE	NEARBY	NONE
1. Dumps, especially with drums, containers (Read labels if possible; do not open or handle! If no labels, note identifying characteristics)			X
2. Other debris: household, farm, industrial waste			X
3. Fills: possible cover for dumps			X
4. Unusual chemical odors			X
5. Storage tanks: petroleum products, pesticides, etc.			X
6. Buildings: Chemical storage, equipment repair, solvents			X
7. Structures -- evidence of asbestos sprayed fire proofing, acoustical plaster			X
8. Vegetation different from surrounding for no apparent reason, e. g. bare ground			X
9. "Sterile" or modified water bodies			X
10. Oil seeps, stained ground, discolored stream banks			X
11. Oil slicks on water, unusual colors in water			X
12. Spray operation base: air strip, equipment parking area			X
13. Machinery repair areas			X
14. Pipelines; major electrical equipment			X
15. Oiled or formerly oiled roads			X
16. Electric transmission lines: pole mounted transformers, pad mounted transformers -- evidence of leakage			X

C. Record Searches (Coordinate with Realty, title search, others as appropriate.)

1. Past uses which might indicate potential problems of site (CIRCLE any that are applicable.)
   Manufacturing, service stations, dry cleaning, air strip, pipelines, rail lines, facilities with large electrical transformers or pumping equipment, petroleum production, landfills, scrap metal, auto, or battery recycling, military, labs, wood preserving, other describe _____ None X

2. Nearby land uses, especially upstream or upgradient, or that might have had waste to dump at site (see list under Past Uses)
   Identify: _____ None X

3. Known contaminant sites in vicinity: NPL, state sites, candidate sites (check with EPA; State EPA counterpart) Yes ____ No X

4. Interviews on past use: owners, neighbors, County agents and any appropriate Federal authorities: Problems? Yes ____ No X

5. Agricultural drainage history: surface, subsurface drains. Yes ____ No X

D. In acquiring land from another Federal agency, that agency has notified the Department of the past or current presence of a hazardous substance under section 120(h) of CERCLA (Superfund).

   Not Applicable X Yes ____ No ____

E. Has a non-Federal entity identified any hazardous materials problems on or near the site surveyed? Yes ____ No X

F. A Level II study is recommended. Yes ____ No X
   A Level III study is recommended. Yes ____ No X

Certification

I hereby certify that to the best of my knowledge no contaminants are present on this real estate, and there are no obvious signs of any effects of contamination.

Signed _____ Print Name Lester E. Eddins
Date 18 Sept., 1991 Title Realty Specialist

H. District Manager

I concur with the above recommendation.

Signed _____ Print Name Richard J. Vernimen
Date 9-25-91 Title Anchorage District Manager

I. Approving Official

I concur with the above recommendation.

Signed _____ Print Name Edward L. Spang
Date 10/10/91 Title Alaska State Director

ILLUSTRATION 24

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

F-034713 (2561)
Parcel A
(964) (JK/JR)

DECEMBER 28 1989

Memorandum

To: Regional Solicitor, Office of the Regional Solicitor, Anchorage, Alaska

Through: Paralegal (961)

From: Chief, Branch of Doyon Adjudication (964)

Subject: Request for Final Title Opinion for Parcel A of the Native Allotment of Orrin John

Attached for your final review are the subject case file and the original and three copies of the following documents:

1. Certified copy of the Final Quit Claim Deed
2. Certificate of Title
3. Certificate of Inspection and Possession
4. Hazardous Substance Survey Determination

Upon receipt of the final title opinion, we will issue a Certificate of Allotment to Orrin John.

Marcia K. Walker

8 Enclosures

Copy furnished to:

Heirs of Orrin John
c/o Bureau of Indian Affairs
Realty Office
U.S. Federal Building and Courthouse
Box 16, 101 Twelfth Avenue
Fairbanks, Alaska 99701

United States Department of the Interior
OFFICE OF THE SOLICITOR
ALASKA REGION
222 West 8th Avenue, #34
Anchorage, Alaska 99513-7584

IN REPLY REFER TO:
BLM.AK.1193

December 6, 1990

MEMORANDUM (FINAL TITLE OPINION)

TO: Chief, Branch of Doyon Adjudication (964)
Alaska State Office
Bureau of Land Management

THROUGH: Paralegal (961) SM Williams 12/10/90

FROM: Deputy Regional Solicitor
Alaska Region

SUBJECT: Title Recovery from Danzhit Hanlaii Corporation and Doyon, Ltd. for Native Allotment F-13697 of Lucy E. Crow

On November 26, 1990, you requested a final title opinion for the title recovery of Native Allotment F-13697 of Lucy E. Crow. Along with your request, you submitted and we reviewed:

1) BLM case file F-13697;

2) A fully satisfactory deed from Danzhit Hanlaii Corporation executed on August 29, 1989, accepted on September 27, 1990 and recorded October 12, 1990 in Book 681, pages 99-101 of the Fairbanks Recording District, Alaska;

3) A fully satisfactory deed from Doyon, Limited executed on April 20, 1990, accepted on September 28, 1990 and recorded on October 19, 1990 in Book 681, pages 656-658 of the Fairbanks Recording District, Alaska;

4) Final title evidence in the form of a title insurance policy from an approved title company;

5) Certificate of Inspection and Possession; and

6) Level I Contaminant Survey showing the land is not contaminated.

The land covered by these submissions was embraced in the Native allotment application of Lucy E. Crow and erroneously conveyed to the above-referenced Grantors. Acceptance of title from the Grantors is appropriate in order to enable the United States to fulfill its obligation to reconvey the land pursuant to the proper allotment application.

On the basis of the above-discussed submissions, we conclue that on the date of acceptance of the deeds, unencumbered title to the described land vested in the United States for administration by the Bureau of Land Management for purposes of reconveying the land pursuant to the allotment application of Lucy E. Crow. You may now proceed with the reconveyance.

Dennis J. Hopewell

Enclosures: As listed in first paragraph

cc: Chief, Title Unit
Land Acquisition Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 561 - Ben Franklin Station
Washington, D.C. 20044

AA-6995

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
222 WEST SEVENTH AVENUE, #13
ANCHORAGE, ALASKA 99513-7599

NATIVE ALLOTMENT

Alice Bouwens

IT IS HEREBY CERTIFIED That, the application AA-6995, filed pursuant to the Act of May 17, 1906, as amended, 43 U.S.C. 270-1 to 270-3 (1970), has been approved pursuant to that Act for the following described land, excluding all the coal, oil and gas, as granted to the State of Alaska by Tentative Approval dated August 6, 1963:

Lot 1, U.S. Survey No. 7947, Alaska, situated on both sides of a dirt road known locally as Oil Well Road, approximately 13 miles easterly of the village of Ninilchik, Alaska.

Containing 160.00 acres, as shown on the plat of survey officially filed on January 30, 1984.

Therefore, let it be known that pursuant to the said Act of May 17, 1906, as amended, the above-described land excluding all coal, oil and gas, shall be deemed the homestead of the allottee and her heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress or until the Secretary of the Interior or his delegate, pursuant to the provisions of the said Act of May 17, 1906, as amended, approves a deed of conveyance vesting in the purchaser a complete title to the land.

EXCEPTING AND RESERVING TO THE UNITED STATES, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 43 U.S.C. 945.

CERTIFICATE NO. 50-89-0550

This grant is subject to the following easement, as noted in Quitclaim Deed No. 916, issued by the State of Alaska and recorded in the Homer Recording District on May 23, 1989, Book 0191, pages 030 through 032:

A right-of-way 60 feet in width for use as a public highway and public utilities for Oil Well Road. This right-of-way is further described as ADL 29520.

/s/ Ramona Chinn

Ramona Chinn
Chief, Branch of Cook Inlet
and Ahtna Adjudication

Dated at ANCHORAGE, ALASKA

on AUG 25 1989

CERTIFICATE NO. 50-89-0550

determined until it is established by an evidentiary hearing that the conditions of the prison were in fact so substandard as to constitute an Eighth Amendment violation. If this is proven, defendants will then have the burden to show that they had a good faith belief in the legality of the jail conditions. *McCray v. Burrell*, 516 F.2d 357 (4th Cir. 1975) *cert. dismissed*, 423 U.S. 928, 96 S.Ct. 264, 46 L.Ed.2d 249 (1976). Therefore a motion to dismiss based on the defense of qualified immunity cannot be ruled upon at this time.

Accordingly, the case shall be set down for an evidentiary hearing before the United States Magistrate for this District, Richmond Division, within 60 days as of the date of this order, 28 U.S.C. § 636(b)(1). (3).

Let the Clerk send a copy of this order to the plaintiff, to counsel for the defendants, and to the United States Magistrate for this District, Richmond Division.

Ethel AGUILAR, Elmer Hotch, Ester Hotch, Donald Hotch, Smith J. Katzeek, Sr., Larry Jacquot and Henry Jacquot, Individually and on behalf of all others similarly situated, Plaintiffs,

v.

UNITED STATES of America, Defendant.

No. A76-271 Civil.

United States District Court, D. Alaska.

July 31, 1979.

Alaska natives brought action challenging Department of Interior's rejection of their allotment applications without a hearing on ground that the subject land had been conveyed to the State of Alaska. Cross motions for summary judgment were filed, as was motion to vacate class certification. The District Court, von der Heydt, Chief Judge, held that: (1) use and occupancy prior to state selection gave the native claimants "preference right" under Alaska Native Allotment Act; (2) fact that plaintiffs did not file an application for allotment until after the land was selected by the state did not eliminate the "preference right" protection given their prior use and occupancy; (3) Government's decision not to recover the land before it held a hearing to determine the facts was arbitrary and capricious; and (4) if defendant had mistakenly or wrongfully conveyed land to the State of Alaska to which plaintiffs had a superior claim, it was the responsibility of the defendant to recover that land.

Motion to vacate denied; defendant's motion for summary judgment denied; plaintiffs' motion for partial summary judgment granted and case was remanded with instructions.

1. United States ⇐165

Where Alaska natives used and occupied land prior to selection thereof by the state, such use and occupancy gave the natives "preference right" under the Alaska Native Allotment Act, and, thus, the United States had no authority to convey such lands to the state. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3; Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

2. Public Lands ⇐63

Until passage of the Alaska Native Claims Settlement Act, land occupied by natives was not available for state selection. Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

3. Indians ⇐13(4)

Alaska Native Allotment Act grants to qualified applicants a preference right to the allotment of land occupied by such applicant. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3.

4. Indians ⇐13(4)

Fact that Alaska natives did not file for an allotment until after the land had been selected by the state did not eliminate the protection given their prior use and occupancy as a preferential right under the Alaska Native Allotment Act. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3; Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

5. Indians ⇐13(4)

Preference right granted Alaskan natives under the Alaska Native Allotment Act is very similar to the right of preemption frequently granted white settlers who occupied public lands on the American frontier before the lands were surveyed and therefore were not available for sale. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3.

6. Indians ⇐13(1)

Potential conflict between provision of Alaska Native Claims Settlement Act governing extinguishment of aboriginal title and provision saving any application for an allotment pending before Department of Interior on December 18, 1971 created an ambiguity in ANCSA that was to be resolved in favor of native claimants. Alaska Native Claims Settlement Act, §§ 4, 4(a), 18(a), 43 U.S.C.A. §§ 1603, 1603(a), 1617(a).

7. Indians ⇐6

In its relationship with native Americans the Government owes a special duty analogous to those of a trustee; such exacting fiduciary standards apply to the federal Government in its conduct toward Alaskan natives. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3; Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

8. Indians ⇐13(4)

The "preference right" given Alaskan natives under Alaska Native Allotment Act gives qualified applicants first choice in the land included in a pending allotment application; if through an adjudication an applicant can establish the facts which he alleges would establish his right to allotment he has an equitable interest in such allotment. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3; Alaska Native Claims Settlement Act, § 2 et seq., 43 U.S.C.A. § 1601 et seq.

9. Indians ⇐10

Protection of Indian property rights is an area where the trust responsibility of the federal Government has its greatest force.

10. Constitutional Law ⇐250.4
United States ⇐105

Department of Interior's decision not to recover lands which were selected by the State of Alaska but which allegedly were subject to "preference rights" of Alaska natives based on prior use and occupancy, without holding a hearing to determine the facts, was arbitrary and capricious; rejection of allotment applications without a fact-finding hearing was a violation of natives' rights to due process. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3; U.S.C.A.Const. Amends. 5, 14.

11. Public Lands ⇐63

If the United States mistakenly or wrongfully conveyed land to the State of Alaska to which Alaska natives had a "preference right" under Alaska Native Allotment Act based on use and occupancy prior to state selection, it was responsibility of the federal Government to recover that land. Alaska Native Allotment Act, 43 U.S.C. (1970 Ed.) §§ 270–1 to 270–3.

Luther A. Granquist, Gregory M. O'Leary, Alaska Legal Services Corp., Anchorage, Alaska, for plaintiffs.

Stephen Cooper, Asst. U. S. Atty., Fairbanks, Alaska, Alexander O. Bryner, U. S. Atty., Anchorage, Alaska, for defendants.

Barbara J. Miracle, Asst. Atty. Gen., Anchorage, Alaska, for State of Alaska amicus curiae.

MEMORANDUM AND ORDER

VON DER HEYDT, Chief Judge.

THIS CAUSE comes before the court on plaintiffs' motion for partial summary

judgment and for a remand to the Department of Interior, defendant's motion for summary judgment and for an order vacating the class certification.

The plaintiffs in this case are Alaskan Natives who have made timely applications to the U.S. Department of Interior for an allotment under the Alaska Native Allotment Act (May 17, 1906, 34 Stat. 197, as amended Aug. 2, 1956, Ch. 891, 70 Stat. 954; former 43 U.S.C. §§ 270–1–270–3, repealed but with a savings clause for applications pending on December 18, 1971, by P.L. 92–203, 85 Stat. 70). In *Ethel Aguilar*, 15 IBLA 30 (1974), the Interior Board of Land Appeals affirmed the rejection of their allotment applications without a hearing because the land they claim for the allotment has already been conveyed to the State of Alaska. The plaintiffs claim that the use and occupancy upon which their allotments applications are based commenced prior to the conveyance of the land to the State of Alaska.

The court has previously certified a class under Fed.R.Civ.P. 23(a) and (b)(2) as follows:

> All Alaska Native allotment applicants each of whom commenced use of the land for which he or she applied prior to the filing with the Department of Interior of an application for conveyance of the same land to the State of Alaska and whose allotment application was or will be rejected, in whole or part, because the land described therein was conveyed to the State of Alaska prior to adjudication of the allotment application.

The defendant has moved to vacate this class but the court finds no merit in the grounds cited by defendant. Oral argument has been requested but in view of the extensive briefs and in order to expedite the business of the court oral argument is denied. Local Rule 5(C)(1). In order to decide these motions the court must determine what kind of interest an Alaskan Native Allotment applicant has in his claim that he uses and occupies, and what the responsibility of the federal government is to protect that interest.

I. The Interest of the Allotment Claimants in the Land Conveyed to the State

The Alaska Native Allotment Act of 1906 was the first statute passed which allowed the Natives of Alaska to perfect their title to the land occupied and used by them. *United States v. Atlantic Richfield Co.*, 435 F.Supp. 1009, 1015 (D. Alaska 1977). The Committee on Public Lands described to the House of Representatives how the land used and occupied by Alaskan Natives could be selected by others and cause them to be dispossessed because no legal means existed to secure their rights:

> The necessity for this legislation arises from the fact that Indians in Alaska are not confined to reservations as they are in the several States and Territories of the United States, but they live in villages and small settlements along the streams where they have their little homes upon land to which they have no title, nor can they obtain title under existing laws. It does not signify that because an Alaska Indian has lived for many years in the same hut and reared a family there that he is to continue in peaceable possession of what he has always regarded his home. Some one who regards that particular spot as a desirable location for a home can file upon it for a homestead, and the Indian or Eskimo, as the case may be, is forced to move and give way to his white brother.

H.R.Rep.No.3295, 59th Cong., 1st Sess. (1906). In order to remedy this problem the Congress passed the Alaska Native Allotment Act which

> authorized the Secretary "in his discretion and under such rules as he may prescribe" (§ 270–1) to allot up to 160 acres of vacant, unappropriated, and unreserved land in Alaska to any qualified Alaska Native. To qualify, the Native applicant must make "proof satisfactory to the Secretary . . . of substantially continuous use and occupancy of the land for a period of five years." (§ 270–3) The Secretary's regulations construe the Act to allow for customary and seasonal patterns of use and occupan-

> cy, but require that there must be actual possession and use, potentially exclusive of others, and not merely intermittent use. 43 C.F.R. § 2561.0–5(a). Thus, an applicant can meet the required qualifications by showing seasonal use of the claimed land, potentially exclusive of others, for five consecutive years for such customary purposes as hunting, fishing, or berry picking.

Pence v. Kleppe, 529 F.2d 135, 137 (9th Cir. 1976). The Allotment Act states "Any person qualified for an allotment as aforesaid shall have the *preference right to secure by allotment the nonmineral land occupied by him* not exceeding one hundred and sixty acres. (emphasis added). 34 Stat. 197, (former 43 U.S.C. § 270–1).

The Ninth Circuit Court of Appeals interpreted the legislative history of the Act to mean "that the Native applicants here have a sufficient property interest to warrant due process protection . . . This is a clear indication that Congress intended to create or to recognize rights in Alaska Natives to the land that they occupy for the statutory period, and not, as the Secretary contends, merely a hope that the government will give them the land." *Pence v. Kleppe*, 529 F.2d at 141–42.

[1] The plaintiffs contend that their use and occupancy prior to the state selections reserved the land from selection by the state, and therefore that the United States had no authority to convey the lands claimed by the Native allotment applicants to the State. This court finds that the "preference right" granted by the Native Allotment Act, the relevant case law, and the decisions of the Department of Interior support the claims of the plaintiffs.

[2, 3] Until the passage of the Alaska Native Claims Settlement Act, land occupied by Natives was not available for state selection. *State of Alaska v. Udall*, 420 F.2d 938 (9th Cir. 1969), *cert. denied* 397 U.S. 1076, 90 S.Ct. 1522, 25 L.Ed.2d 811 (1970). But these plaintiffs need not rely on a naked aboriginal title. The Native Allotment Act grants to qualified applicants a preference right to the allotment of land occupied by such applicants. *Herbert H. Hilscher*, 67 I.D. 410 (1960). "Conveyance of land in derogation of a Congressional directive to respect and protect Native occupancy would be void and legally ineffective to extinguish aboriginal title." *United States v. Atlantic Richfield Co.*, 435 F.Supp. 1009 at 1020 n. 45.

In *Cramer v. United States*, 261 U.S. 219, 43 S.Ct. 342, 67 L.Ed. 622 (1923), the United States on behalf of three Indians in California brought suit to cancel a portion of a patent issued by the United States to the Central Pacific Railway Company because that land was occupied and used by the Indians and therefore could not validly be conveyed to the railroad. The Court held that the Indians' pre-existing right of possession excepted the lands occupied by the Indians from the grant to the railroad. The discussion of the government policy involved and the Interior Department cases upholding it is very instructive in the instant case and will be quoted at length:

> Unquestionably it has been the policy of the Federal Government from the beginning to respect the Indian right of occupancy, which could only be interfered with or determined by the United States. *Beecher v. Wetherby*, 95 U.S. 517, 525 [24 L.Ed. 440]; *Minnesota v. Hitchcock*, 185 U.S. 373, 385 [, 22 S.Ct. 650, 46 L.Ed. 954]. It is true that this policy has had in view the original nomadic tribal occupancy, but it is likewise true that in its essential spirit it applies to individual Indian occupancy as well; and the reasons for maintaining it in the latter case would seem to be no less cogent, since such occupancy being of a fixed character lends support to another well understood policy, namely, that of inducing the Indian to forsake his wandering habits and adopt those of civilized life. That such individual occupancy is entitled to protection finds strong support in various rulings of the Interior Department, to which in land matters this Court has always given much weight. *Midway Co. v. Eaton*, 183 U.S. 602, 609 [22 S.Ct. 261, 46 L.Ed. 347]; *Hastings & Dakota R. R. Co. v. Whitney*,

132 U.S. 357, 366 [, 10 S.Ct. 112, 33 L.Ed. 363]. That department has exercised its authority by issuing instructions from time to time to its local officers to protect the holdings of non-reservation Indians against the efforts of white men to dispossess them. See 3 L.D. 371; 6 L.D. 341; 32 L.D. 382. In *Poisal v. Fitzgerald*, 15 L.D. 19, the right of occupancy of an individual Indian was upheld as against an attempted homestead entry by a white man. In *State of Wisconsin*, 19 L.D. 518, there had been granted to the State certain swamp lands within an Indian reservation, but the right of Indian occupancy was upheld, although the grant in terms was not subject thereto. In *Ma-Gee-See v. Johnson*, 30 L.D. 125, Johnson had made an entry under § 2289, Rev.Stats., which applied to "unappropriated public lands." It appeared that at the time of the entry and for some time thereafter the land had been in the possession and use of the plaintiff, an Indian. It was held that under the circumstances the land was not unappropriated within the meaning of the statute, and therefore not open to entry. In *Schumacher v. State of Washington*, 33 L.D. 454, 456, certain lands claimed by the State under a school grant, were occupied and had been been improved by an Indian living apart from his tribe, but application for allotment had not been made until after the State had sold the land. It was held that the grant to the State did not attach under the provision excepting lands "otherwise disposed of by or under authority of an act of Congress." Secretary Hitchcock, in deciding the case, said:

"It is true that the Indian did not give notice of his intention to apply for an allotment of this land until after the State had made disposal thereof, but the purchaser at such sale was bound to take notice of the actual possession of the lands by the Indian if, as alleged, he was openly and notoriously in possession thereof at and prior to the alleged sale, and that the act did not limit the time within which application for allotment should be made."

Congress itself, in apparent recognition of possible individual Indian possession, has in several of the state enabling acts required the incoming State to disclaim all right and title to lands "owned *or held by any Indian or* Indian tribes." See 25 Stat. 676, c. 180, § 4, par. 2; 28 Stat. 107, c. 138, § 3, par. 2.

The action of these individual Indians in abandoning their nomadic habits and attaching themselves to a definite locality, reclaiming, cultivating and improving the soil and establishing fixed homes thereon was in harmony with the well understood desire of the Government which we have mentioned: To hold that by so doing they acquired no possessory rights to which the Government would accord protection, would be contrary to the whole spirit of the traditional American policy toward these dependent wards of the nation.

Cramer v. United States, 261 U.S. at 227–29, 43 S.Ct. at 344. While some of the language in this decision is unfortunately paternalistic, the legal principles announced in *Cramer* would appear to have even more force when applied to a right of occupancy protected by the Native Allotment Act of 1906. No statute or treaty protected the right of occupancy litigated in *Cramer* while the right of occupancy of these plaintiffs is explicitly given a preference under the Native Allotment Act. *See also Minnesota v. Hitchcock*, 185 U.S. 373, 388–92, 22 S.Ct. 650, 46 L.Ed. 954 (1902) (a grant to Minnesota from the United States was held not to include Indian land protected by treaty but not formally set aside as an Indian reservation). *Leavenworth, Lawrence and Galveston Railroad v. United States*, 92 U.S. 733, 23 L.Ed. 634 (1876) (a grant to Kansas from the United States for the purpose of building a railroad was held not to include Indian land protected by treaty stipulations). While the two cases just cited involved Indian lands protected by treaty, there is no apparent reason why less protection should be given to lands of Native Alaskans that are protected by a statute such as the Allotment Act.

[4, 5] The fact that these Natives did not file an application for an allotment until after the land was selected by the State does not eliminate the protection given their right of use and occupancy. The departmental decisions and rules regarding allotment rights are in some respects similar to those governing settlement and homestead. *Herbert H. Hilscher*, 67 I.D. at 414. The preference right granted Alaskan Natives under the allotment act is very similar to the right of preemption frequently granted white settlers who occupied public lands on the American frontier before the lands were surveyed and therefore were not available for sale. The right of preemption gave the settlers first chance to purchase the land. *Shepley v. Cowan*, 91 U.S. 330, 23 L.Ed. 424 (1875) involved a dispute between state selection rights and a settler's pre-emption rights. The plaintiff based his claim on a patent received from the State of Missouri and the defendant based his claim on a patent issued by the United States to a settler claiming pre-emption rights. The Court noted that as against each other (in the instant case the right of Alaska as against the allotment applicants), "the first in time in the commencement of proceedings for the acquisition of the title, when the same are regularly followed up, is deemed to be first in right." *Shepley v. Cowan*, 91 U.S. at 338. But the Court earlier in its opinion had held that the first initiatory act for a pre-emption settlement takes effect at settlement. "Thus the patent upon a State selection takes effect as of the time *when the selection is made* and reported to the land-office; and the patent upon a pre-emption settlement takes effect *from the time of the settlement* as disclosed in the declaratory statement or proofs of the settler to the register of the local land-office." *Shepley v. Cowan*, 91 U.S. at 337 (emphasis added). The Court held that the patent based upon the pre-emption right was superior. In much the same way the preference right of the Alaskan Natives in this case was acquired upon their first use and occupancy of the land. *See also Stockley v. United States*, 260 U.S. 532, 544, 43 S.Ct. 186, 189, 67 L.Ed. 390 (1923) (A homestead claim that was not yet patented was held a valid existing right excepted from a Presidential withdrawal order because, "[t]he effect of a preliminary homestead entry is to confer upon the entryman an exclusive right of possession, which continues so long as the entryman complies in good faith with the requirements of the homestead law.")

Two departmental decisions also support the position of the plaintiffs in this case. In *Yakutat and Southern Railway v. Setuck Harry, Heir of Setuck Jim*, 48 I.D. 362 (1921) it was held that actual occupancy and use of a tract of land by an Alaskan Native prior to its inclusion in the Tongass National Forest confers upon the occupant a preference right to a Native Allotment, although the application for the allotment was filed subsequent to the proclamation creating the National Forest. In a more recent decision of the Interior Board of Land Appeals it was held that the use and occupancy of an allotment applicant would preclude State selection under the Statehood Act even though the application for the allotment was filed after the tentative approval of the State selection. *Lucy S. Ahvakana*, 3 IBLA 342 (1971). The foregoing cases convince this court that the plaintiffs are correct in their contention that land in an allotment claim used and occupied for subsistence purposes by an Alaskan Native was not available for conveyance to the State of Alaska.

[6] The State of Alaska as *amicus* has argued that the contention of the plaintiffs is foreclosed by this court's decision in *United States v. Atlantic Richfield Co.*, 435 F.Supp. 1009 (D. Alaska 1977) which held that § 4(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1603(a), extinguished all claims based upon aboriginal title at conveyance or tentative approval of conveyance to the State of Alaska. None of the principles announced in this decision disturb that decision because the claims of the plaintiffs are not based upon aboriginal title but are based on the first preference given these Natives by the Allotment Act passed in 1906. Rather than extinguishing

the claims of plaintiffs, ANCSA repealed the Allotment Act but provided "any application for an allotment that is pending before the Department of the Interior on December 18, 1971, may, at the option of the Native applicant, be approved . . .", § 18(a), U.S.C. § 1617(a). Acceptance of the State's argument would mean that what the Congress saved in § 18(a) it had already extinguished by § 4. It would create the anomalous situation where Natives who happened to use and occupy land conveyed to the State had their allotment rights taken away, while Natives living on federal land had their allotment preserved. The State or the defendants have referred to no part of the legislative history of ANCSA that would support such an act of discrimination on the part of the Congress. At most the potential conflict between § 4 and § 18(a) creates an ambiguity in ANCSA that must be resolved in favor of the Natives. *Alaska Pacific Fisheries v. United States*, 248 U.S. 78, 89, 39 S.Ct. 40, 63 L.Ed. 138 (1918), *Bryan v. Itasca Co.*, 426 U.S. 373, 392–93, 96 S.Ct. 2102, 38 L.Ed.2d 710 (1976); *Alaska Public Easement Defense Fund v. Andrus*, 435 F.Supp. 664, 671 (D. Alaska 1977).

The claims of these plaintiffs are in no way comparable to the amorphous trespass claims asserted in the *ARCO* case. No applicant for a Native allotment can receive more than 160 acres and no Native who does not already have an application pending before the Department of Interior as of December 18, 1971, could benefit from this decision.

II. The Federal Government's Responsibility to Recover Lands Wrongfully Conveyed to the State

The defendant has refused to adjudicate the plaintiffs' applications so that it can determine the validity of their allotment claims. The Department of Interior only made an informal investigation and determined that the conveyances to the State were valid. The existence or sufficiency of the plaintiffs' use and occupancy cannot be determined on a motion for summary judgment. But the rights of the plaintiffs likewise cannot be determined without a formal adjudication under *Pence v. Kleppe*, 529 F.2d 135, 137 (9th Cir. 1976).

[7] In its relationship with Native Americans the government owes a special duty analogous to those of a trustee. *Heckman v. United States*, 224 U.S. 413, 32 S.Ct. 424, 56 L.Ed. 820 (1912); *Seminole Nation v. United States*, 316 U.S. 286, 62 S.Ct. 1049, 86 L.Ed. 1480 (1942); *Morton v. Ruiz*, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d 270 (1974). These "exacting fiduciary standards" apply to the federal government in its conduct toward Alaskan Natives. *Alaska Pacific Fisheries v. United States*, 249 U.S. 53, 39 S.Ct. 208, 63 L.Ed. 474 (1918); *Aleut Community of St. Paul Island v. United States*, 480 F.2d 831, 202 Ct.Cl. 182 (1973); *Adams v. Vance*, 187 U.S.App.D.C. 41, 44 n. 3, 570 F.2d 950, 953 n. 3 (1978); *People of Togiak v. United States*, 470 F.Supp. 423 (D.D.C.1979); *Eric v. Secretary of HUD*, 464 F.Supp. 44 (D. Alaska 1978).

[8,9] In the previous section of this opinion the court has identified the statutorily protected interests which the plaintiffs have in the land which they use and occupy. The "preference right" gives qualified applicants first choice in the land included in a pending application. If through an adjudication the plaintiffs can establish the facts which they allege which would establish their right to an allotment, they would have an equitable interest in their allotment. The protection of Indian property rights is an area where the trust responsibility has its greatest force. *Seminole Nation v. United States*, 316 U.S. 286, 62 S.Ct. 1049, 86 L.Ed. 1480 (1942), *Pyramid Lake Paiute Tribe of Indians v. Morton*, 354 F.Supp. 252 (D.D.C.1953). While the government in this litigation has not denied its trust responsibility, it evidently takes the position that it no longer has to act because it has already given away the land claimed by the plaintiffs. But this is clearly circular reasoning.

The Department of Interior refuses to hold adjudicatory hearings which the plaintiffs contend would establish that the United States wrongfully or mistakenly conveyed the disputed allotments to the State

of Alaska. The Department has contended that it has no responsibility to recover the lands because there was no mistake in the conveyance. But it then refuses to hold hearings required by *Pence v. Kleppe* that would determine whether a mistake was made on the ground that it no longer has jurisdiction since the land has already been conveyed to the state.

This court agrees with Administrative Law Judge Burski who dissented in a recent decision of the Interior Board of Land Appeals dealing with the same issue. He said:

> Moreover, under the decisions of the Ninth Circuit Court of Appeals in *Pence v. Kleppe*, 532 F.2d 135 (1976), and this Board in *Donald Peters*, 26 IBLA 235 (1976), no Native allotment application can be rejected on the basis of a disputed issue of fact without notice and an opportunity for hearing. It is true that where a decision to reject a Native allotment is premised on a purely legal determinant no hearing is required. But I must admit difficulty in following the logic of a procedure which rejects an allotment application on the basis of an issued patent where the correctness of the issuance of the patent is disputed, without ever affording the Native allotment applicant an opportunity to show his entitlement.
>
> If this Department has erroneously issued the patent to the State in derogation of the appellant's rights, it seems only elementary justice that the Department should bear the economic burdens attendant to a suit to cancel the patent. A hearing is essential before the Department can make an informed judgment as to the merits of the appellant's application. Accordingly, I would reverse the decision below rejecting the Native allotment application, order the State Office to hold further action on the application in abeyance and direct the State of Alaska to bring a contest against the allotment applicant. Should the State of Alaska decline, I would recommend that the Solicitor's Office undertake discussions with the Justice Department with a view towards the initiation of suit to cancel [the patents], to the extent of the conflict between the patents and the allotment application.

Berthyn Jane Baker, 41 IBLA 239 (1979) (Judge Burski dissenting).

[10, 11] The defendant's decision not to recover the land without first holding a hearing to determine the facts is arbitrary and capricious. The defendant's rejection of the plaintiffs' allotment applications without a fact-finding hearing is a violation of the plaintiffs' rights to due process under *Pence*. If the defendant has mistakenly or wrongfully conveyed land to the State of Alaska to which plaintiffs have a superior claim, it is the responsibility of the defendant to recover that land. *United States v. Cramer*, 261 U.S. 219, 43 S.Ct. 342, 67 L.Ed. 622 (1923); *Heckman v. United States*, 224 U.S. 413, 32 S.Ct. 424, 56 L.Ed. 820 (1912); *Joint Tribal Council of Passamaquoddy Tribe v. Morton*, 528 F.2d 370 (1st Cir. 1975).

Accordingly IT IS ORDERED:

1. THAT defendant's motion to vacate class certification is denied.

2. THAT defendant's motion for summary judgment is denied.

3. THAT plaintiffs' motion for partial summary judgment and remand to the Department of Interior is granted.

4. THAT the plaintiffs' cases are remanded to the Department of Interior with instructions to adjudicate their substantive claims of entitlement pursuant to all applicable procedures.

5. THAT the Clerk may prepare an appropriate final judgment form.

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907-271-5071

FILED

FEB 07 1980

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

ETHEL AGUILAR, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

STIPULATED PROCEDURES FOR IMPLEMENTATION OF ORDER

Docket No. A76-271 Civil

The parties by and through their attorneys stipulate, subject to the Order of the Court, to the following procedures to implement the Order of the Court dated July 31, 1979, that the Department of the Interior adjudicate the substantive claims of the plaintiffs to land patented to the State.

1. The Bureau of Land Management (BLM) will review each allotment application file to determine whether there are any legal defects in the application. Legally defective applications which are incapable of being corrected will be rejected, and rejection by the authorized BLM official shall be final for the Department.

2. Where an applicant whose application is not rejected pursuant to paragraph 1 of this stipulation is

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deceased, the Office of Hearings and Appeals will determine the applicant's heirs before BLM proceeds.

3. Where the merits of the application turn on whether the applicant's use and occupancy predate the commencement of the rights of the State, the BLM will examine the file. The examination, and all further proceedings until a federal court action to cancel the State's patent is initiated, shall be for investigatory purposes only and shall not constitute an administrative agency adjudication of the rights of third parties. If the application and contents of the file indicate that the applicant's use and occupancy began after the rights of the State arose, the BLM will inform the applicant by letter of the date of commencement of the State's rights and that the application will be rejected unless the applicant files an affidavit within ninety days alleging, with particularity, specific use prior to the date on which the rights of the State arose.

4. If the application and contents in the file indicate that use and occupancy began before the State's rights arose, or if an affidavit to that effect is received pursuant to section 3 of this stipulation, the BLM will send a letter to the applicant informing the applicant that based upon the file, it appears that the application may be found valid. The letter will invite any additional evidence such

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as witness statements and photographs, which the applicant may wish to present to bolster the claim. At the same time, the BLM will send a letter to the State stating that it appears that the application may be found valid and inviting any evidence or comments the State may have to dispute the claim of the applicant. Both the State and the applicant will have ninety days to respond.

5. If, either because no comments or evidence are received questioning or disputing the claim of the applicant or, if on the basis of the case file and comments and evidence received, the BLM concludes that the application is valid, the BLM will find the application valid and refer the matter to the Solicitor's Office for settlement or referral to the Department of Justice.

6. If the BLM concludes that the applicant has failed to provide sufficient proof of entitlement, the BLM will conduct a hearing. The applicant will be notified of the hearing date and the reasons for the proposed rejection. The hearing will be informal with a designated BLM decision-maker as the presiding officer. The presiding officer may ask questions, and the applicant and the State shall have the opportunity to present evidence and cross-examine witnesses. The hearing will be taped, but not necessarily transcribed by BLM. Based on evidence presented at the

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hearing or contained in the case file, the BLM presiding officer will make a decision to reject or refer the claim t the Solicitor's Office, which decision shall be final for the Department, provided that the hearing examiner may not rely on any matter not admitted in evidence at the hearing to reject an application.

7. The BLM shall have discretion to order a field report before a hearing, in order to gather evidence or to more accurately determine the location. All parties referenced in paragraph 13 of this Stipulation shall be notified of the field exam, given the opportunity to be present, and provided a copy of the report.

8. The Solicitor's Office will attempt to settle the allotment claims referred to it by BLM, by requesting a quitclaim of the land from the State.

9. If settlement is not possible the matter will be referred to the Department of Justice with a recommendation that suit to cancel patent be instituted. Nothing in this stipulation or in the procedure which it establishes in any way affects the discretion of the Attorney General of the United States with respect to any such recommendation. The parties referenced in paragraph 13 of this Stipulation shall be notified of the referral.

10. If at any time the State wishes to quitclaim all of its interest in the land and tenders a valid and

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appropriate deed, the United States shall accept the quit-claim and issue an allotment to the applicant, and the acreage shall be credited to the State entitlement under which the lands were originally conveyed. Provided, this paragraph shall not apply to any application which would be determined invalid for legal defects as described in paragraph 1.

11. If at any time the State is willing to convey a portion of the allotment, or the entire allotment subject to reservations, in settlement of the applicant's claim and tenders a valid and appropriate deed, the Solicitor's Office will forward the offer to the applicant and coordinate the settlement. Counseling for the applicant will be available from the BIA. Provided, this paragraph shall not apply to any application which would be determined invalid for legal defects as described in paragraph 1.

12. If after counseling, the applicant wishes to accept the settlement, a settlement agreement will be drawn up and submitted to the Court for approval. Acreage received by the applicant shall be credited to the State entitlement under which the lands were originally conveyed.

13. Copies of all notices sent to the applicant will be sent to Alaska Legal Services, applicant's private counsel, if any, the Bureau of Indian Affairs, and the State.

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14. If at any point the BLM becomes aware of the identity of a third party claiming an interest in the land, whether independently or through purported conveyance by the State, it shall afford the third party the same notice and procedural rights as those afforded the State under this stipulation.

Respectfully submitted,

DATED: 2/2/83

MICHAEL R. SPAAN
United States Attorney

DATED: 2/2/83

CRAIG TILLERY
Alaska Legal Services Corporation

FILED

FEB 09 1983

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IT IS SO ORDERED:

DATED: Feb. 9, 1983

JUDGE
United States District Judge

cc: Craig Tillery
Michael Spaan

A GUIDE TO AGUILAR PROCEEDINGS

For Current Landowners and Interest Holders

Introduction

This information is being provided to help you understand the enclosed letter.

The property described in the letter was originally owned by the Federal government and has been claimed by an Alaskan Native under the Native Allotment Act of May 17, 1906.[1] You are receiving the enclosed letter because the Bureau of Land Management's (BLM) research indicates that you are a current owner of the property or that you currently hold an interest in the property. The letter shows that copies have been furnished to the individuals and entities listed. If you know of others with an interest in this property, please provide their names and addresses to the BLM so that they may be notified of these proceedings.

Your interest in the property is not being taken away or formally challenged by the enclosed letter and this explanatory information. Rather, this material explains why other claims to the land are being considered at this time and the procedures that apply to the current review. Even if there is a valid Native allotment claim to the land, the following information will explain procedures to protect all parties and some possible defenses that may apply to you.

Under the Native Allotment Act, Alaskan Natives received a preference right to Federal lands used and occupied by them. This preference right became perfected upon the completion of five years use and occupancy and upon the filing of an application for allotment. This legal preference right has been recently clarified through administrative and court decisions. Two of these court decisions found that in certain situations Native allotment applicants had been denied due process under the law. Allotment applications should not have been rejected by the BLM without first giving the applicant an opportunity to present oral testimony supporting his claim of use and occupancy.[2] And filing his application, an intervening claim by someone else could not be used by the BLM as the only reason for rejection of the allotment application.[3] In the latter case, the District Court for Alaska ruled that the BLM must determine whether Federal lands were mistakenly or wrongfully conveyed to someone other than the Native allotment

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[1] As amended by the Act of August 2, 1956, 34 Stat. 197, as amended, 70 Stat. 954; 43 U.S.C. 270-1 through 270-3 (1970). Repealed but with a savings clause for applications pending on December 18, 1971, by the Alaska Native Claims Settlement Act, 85 Stat. 688, 710; 43 U.S.C. 1601, 1617. See also Sec. 905 of the Alaska National Interest Lands Conservation Act of December 2, 1980. 94 Stat. 2371, 2435: 43 U.S.C. 1634.

[2] Pence et al. v. Kleppe, 529 F.2d 135 (1976).

[3] Ethel Aguilar v. United States of America, 474 F. Supp. 840 (D. Alas. 1979)

applicant.[4] If it appears that the land was wrongfully conveyed, it is the BLM's responsibility to recover the land for the applicant or his heirs.

Aguilar Procedures

The Aguilar Stipulated Procedures for Implementation of Order dated February 9, 1983, tell the BLM how to proceed in such cases.

One of the first steps is the issuance of the enclosed letter. The information received by the BLM as a result of this letter will be used to supplement the information already contained in the Native allotment applicant's case file. **Please note that the case file is available for public inspection at the BLM public rooms located in the Federal Building at 701 C Street, Anchorage and at the BLM office at 1150 University Avenue, Fairbanks. If you would like to examine the case file, call (907) 271-5960 (Anchorage) or (907) 474-2240 (Fairbanks) for hours and procedures.**

When the 90-comment period provided for by the letter has ended, the BLM will review all of the available evidence and make a preliminary finding for rejection or approval of the allotment application. If the BLM concludes that the applicant has failed to provide sufficient proof of entitlement, it is required to hold an informal hearing. Following the hearing, the hearing officer will issue a decision approving or rejecting the allotment application. If a hearing is required, you will be notified so that you may be present to testify and to cross-examine the applicant and any witnesses. The decision of the BLM hearing officer on the allotment claim's validity is final for the Department of the Interior and is not subject to administrative appeal. If any party is dissatisfied, he can file an action in court. However, as a current owner, title cannot be taken from you unless court action is filed; you can assert defenses and other arguments at that time.

If the BLM determines that the allotment application is valid, the case will be referred to the BLM's attorneys who will then take all appropriate actions to recover title to the land. If recovered, title will then be conveyed to the Native allotment applicant. Title may be recovered through a negotiated settlement or by District Court order.

General Information

Before a Native Allotment application can be found valid, the applicant must show substantial and continuous use of the land taking into account seasonality of use consistent with Native lifestyle and culture. He also must show that the resources associated with the claimed uses are (or were) present and that he used the parcel as an independent citizen at least potentially exclusive of others. The applicant's use of the land must also be such that anyone entering the land could have observed or found out about it. Substantial cessation of use by the applicant prior to the filing of his application and prior to the segregation of the land by another claimant's

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[4] This ruling was extended to all land conveyed by the federal government in State of Alaska v. 13,90 Acres of Land, 625 F. Supp. 1315 (D. Alas. 1985)

application is a possible reason for rejection of the allotment application.[5]

The standards which the BLM applies in determining whether an applicant's use and occupancy entitles him to an allotment are found in Title 43 of the Code of Federal Regulations, subpart 2561 and in a body of administrative decisions from the Interior Board of Land Appeals (IBLA). Copies of the IBLA decisions are available for use by the public in the Alaska Resources Library located on the first floor of the Federal Building in Anchorage and through the BLM public room in Fairbanks.

In Aguilar proceedings, the burden of proof is on the Native allotment applicant to show by a preponderance of the evidence that his use and occupancy of the land meets the requirements of the statute and regulations.

You may be able to claim you are a **bona fide purchaser** as a defense in these proceedings. The existence of a bona fide purchaser is recognized as a legal defense to a federal suit to recover title. Bona fide purchasers are individuals or entities who have acquired the land from the original patentee or a subsequent owner for valuable consideration (i.e. money or performance).

The transaction must have been made in good faith, and the buyer must have been unaware of the allotment applicant's conflicting claim, or unaware of anything which would have led him to check further (for instance, physical evidence of prior use of the land, the presence of others on the land, or information from others that there was a conflicting claim would be reasons to check further). A hearing will be held to allow the Native allotment applicant and the property owner to present evidence concerning the claimed defense. Based on the evidence and testimony provided by both parties, the BLM hearing officer will determine whether a bona fide purchases exists thus barring recovery of the land.

If you believe that you qualify as a bona fide purchaser, you should submit evidence to support your claim. Such evidence could include a copy of your title insurance policy, copies of documents pertaining to the transaction whereby you acquired your interest in the property or affidavits from you and others familiar with the history of the land.

The process described in this guide could affect your property rights. If you have additional question, please call (907) 271-5768 and ask for the Bureau employee who signed your letter. You may also wish to consult an attorney.

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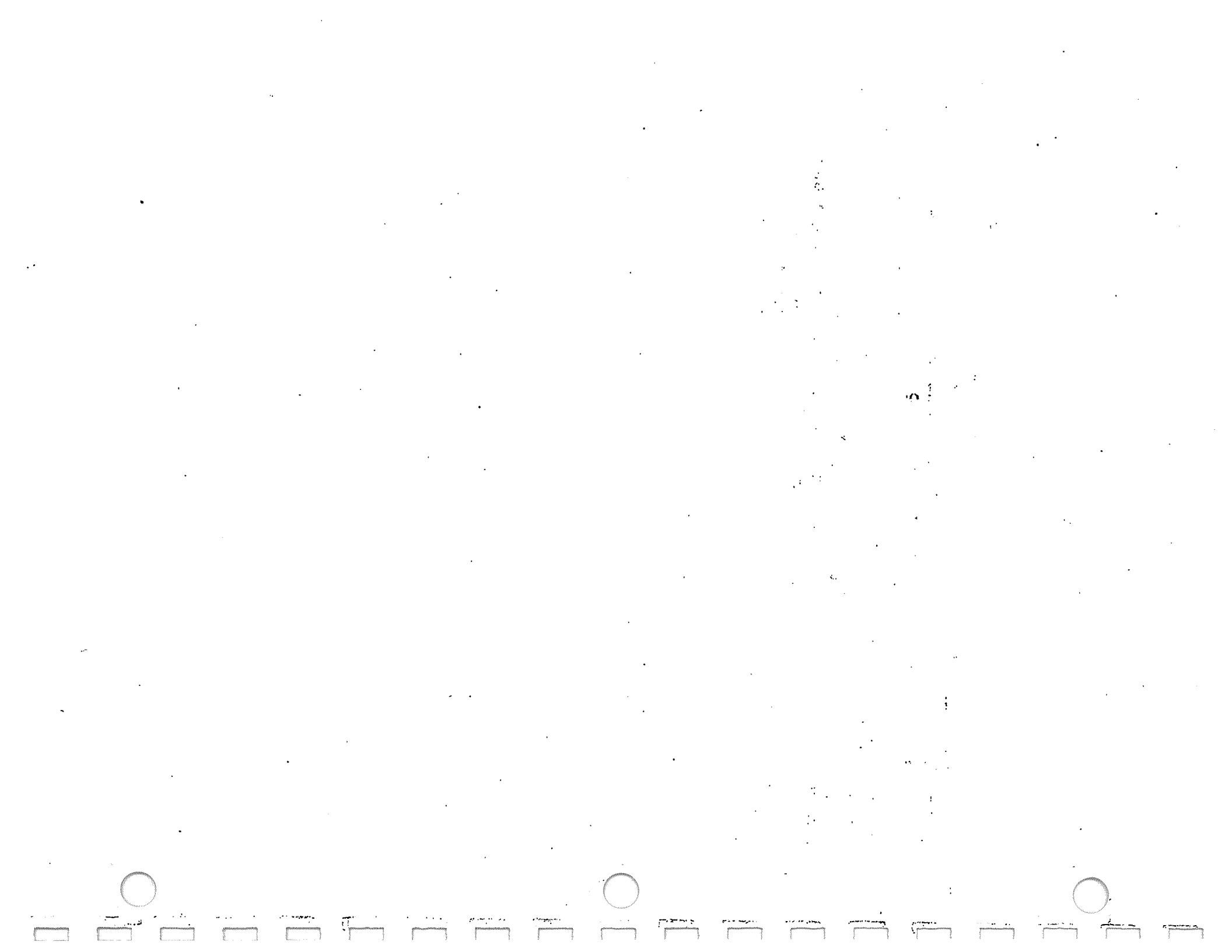
[5] U.S. v. Flynn & Orock, 53 IBLA 208 (1981)



GROUND RULES

Who May Testify

The Native allotment applicant and parties with a present or former interest in the claim may testify. Witnesses may testify on behalf of the applicant and present property interest holders. Any party may be represented by an attorney. Applicants and other private parties may also be represented by parents, spouse, grandparents, siblings, children, or heirs.

Who May Question the Parties Testifying

Only the hearing officer and the applicant and property interest holders or their representatives may question individuals testifying.

Nature of Testimony

All testimony will be related to factual information which supports or refutes the claim of the Native allotment applicant and the proposed reasons for rejection identified in the Notice of Hearing.

Sign In

Individuals testifying and their representatives, if any, must sign in prior to the hearing.

Order of Testimony

(All testimony will be taken under oath)

1. Applicant or heirs and applicant's witnesses (in any order)
2. Current owner and witnesses
3. Third parties (including owners of less than fee interest, such as pipelines, transmission lines, mineral leases), if any and witnesses

Hours of Hearing

The scheduled hearing time is from 9 a.m. to 4 p.m. There will be a one-hour break for lunch at a convenient stopping point between 11:30 and 12 noon. If it appears that testimony can be concluded with no more than two hours overtime, the hearing will be extended to 6 p.m. The hearing will be carried over to the following day, if it appears there are over two hours of testimony remaining at the close of regular hours. Official breaks, if needed, will be established by the hearing officer.

Settlement

The hearing will be adjourned if the parties agree to a settlement before conclusion of the proceedings.

1-1-89

Aguilar advice

advised Betsy Bonnell on how to handle affidavits submitted in an Aguilar proceeding

There is no hard & fast rule, some discretion is necessary, but generally an affidavit can be admitted subject to the hearing examiner giving it less weight than oral testimony.

Weight to be given should be determined on basis of:
- why wasn't witness at the hearing (if witness is really unavailable that is a good reason for an affidavit).
- if there was a need to cross examine on the facts presented less weight must be given due to the lack of opportunity to cross examine
- lack of opportunity to observe demeanor.

- whether statements in affidavit are bare conclusions (entitled to little weight) or are specific facts (entitled to at least some weight)

- The Aguilar procedures were not intended to totally supplant the long-standing practice of accepting written evidence; both Rence & Aguilar were intended to provide an additional oppty. for oral testimony

- This is not to say that a hearing examiner cannot strike an affidavit or refuse to accept one where there is sufficient reason (such as the witness is readily available for a hearing) for doing so; alternatively, an affidavit could just be given no weight rather than stricken.

United States Department of the Interior
OFFICE OF THE SOLICITOR
ALASKA REGION
222 West 8th Avenue, #34
Anchorage, Alaska 99513-7584

IN REPLY REFER TO:
BLM.AK.1365

June 24, 1991

MEMORANDUM

TO: Chief, Branch KCS Adjudication (967)
Alaska State Office
Bureau of Land Management

THROUGH: Paralegal (961) S McWilliams 6/26/91

FROM: Deputy Regional Solicitor
Alaska Region

SUBJECT: Settlement and Release Agreement
From Old Harbor Native Corporation

You requested our review and advice concerning the attached settlement agreement. The agreement is a proposal by Old Harbor Native Corporation (OHNC) to voluntarily reconvey some tracts of land claimed as Native allotments. You specifically asked us to address issues relating to: 1) the lack of survey descriptions for some tracts; 2) restrictive covenants proposed by OHNC; 3) acreage chargeability for OHNC; 4) waiver of liability; and 5) public access easements.

I. Lack of Survey Descriptions

As you note in your opinion request, the BLM normally uses a survey description when it agrees to accept a voluntary reconveyance of land. However, for purposes of the OHNC settlement agreement, you may use an adequate metes and bounds description. If the agreement is for OHNC to wait until there is a survey before it executes the deed for a voluntary reconveyance, then express language providing for that arrangement is needed. The language should include provisions for utilizing the survey description even if it varies somewhat from the metes and bounds description used in the settlement agreement.

II. Restrictive Covenants

Paragraph 6 of the proposed settlement agreement contains certain desired "easements, exceptions, and reservations." The proposal is that the reconveyed land will: 1) remain open to subsistence uses by sharenolders of OHNC; 2) be subject to the right of OHNC to access over the tract to adjacent lands; and 3) be subject to OHNC's right of first refusal in the event the allotment owner wishes to sell the tract. Paragraph 6D provides that these provisions will inure to the benefit of OHNC and shall run with the land.

In regard to such restrictive conditions, we have previously opined that "there is no provision in federal law authorizing issuance of a Native Allotment certificate subject to restrictive covenants."[1] Accordingly, the proposed provisions concerning subsistence use and access for OHNC cannot be included in the title document and cannot run with the land. Individual allotment applicants could conceivably agree to abide by these terms and be individually liable for any breach of the agreement but there would be no way to enforce the conditions as a matter of real property law.

Even if it were possible to make a Native allotment subject to such restrictions, we would have to advise against the ones proposed by OHNC. The subsistence provision, while understandably based on a desire to consider the interests of all shareholders, puts too great of a burden on the allotment. The proposed floating access rights of OHNC are also too generalized. The proposed access rights subject the entire tract of land to use by OHNC and substantially lower the value of the land. Such comprehensive restrictions may also make it hard to borrow money to make improvements on the land and make it harder to find a buyer if the allottee decides to sell all or part of the land.

This is not to say that an allottee must exclude OHNC shareholders from his land or deny access to OHNC. An allottee can always allow others to hunt and fish on his allotment. It must be recognized though, that the allottee has the right to deny such use. A right-of-way for OHNC access could also be processed and granted by BIA if necessary. In addition, as discussed more fully below, OHNC could reserve specific easements for access.

1/ Memorandum dated October 11, 1990 from Deputy Regional Solicitor to Area Director BIA on Draft Settlement Agreement for Native Allotment AA-50154.

The right of first refusal is, however, an acceptable provision in the settlement agreement. While such a provision cannot be put in the Native allotment title document issued by the federal government and should not be set out in the deed from OHNC, it can be separately recorded in the local recording district. The right of first refusal would have to be exercised through a sale for fair market value supervised and approved by the BIA. As long as OHNC was willing to meet the terms for a BIA approved sale, OHNC could successfully exercise the right of first refusal. Since the goal of a BIA approved sale is to assure that the allottee obtains fair market value, the proposed provision giving OHNC first right of refusal is consistent with existing federal law and procedures.

III. Acreage Chargeability

If the restrictions concerning subsistence and OHNC access were accepted, OHNC would not be able to obtain an acreage credit as provided in paragraph 8 of the proposed settlement agreement. Those two interests are sufficiently broad and give OHNC such significant rights that an acreage credit would not be appropriate. Withholding credit is consistent with BLM's across-the-board practice of not giving acreage credits where interests in the land are retained (e.g., no credit where a mineral interest is retained).

IV. Waiver of Liability

You also asked if acceptance of the subsistence provision would prevent the BIA from waiving claims as provided for in paragraph 9 of the proposed settlement agreement. Paragraph 9 of the agreement, however, only applies to claims arising prior to the date of reconveyance by OHNC. In addition, while land holders such as the State of Alaska and Native corporations have insisted on waiver of liability provisions, we have advised BLM on a number of occasions that the waiver of liability is not effective. Bureau personnel are not prohibited from signing an agreement with a waiver of liability provision but such a provision is binding on the United States only if the signing official has the authority to waive the particular claims for the United States. We know of no law or delegation that gives a BLM or BIA official authority to waive these claims on behalf of the United States. The utility of such a provision is that it does appear to effectively waive claims by the real party in interest, the allotment applicant.

V. Public Access Easements

There are several possible solutions to the public access problems. If practical, OHNC could donate an access route around the allotments. Alternatively, a specific route could be negotiated and reserved by OHNC in its deed to the United States and the allotment could be issued subject to such a reserved easement. If the easement would access federal lands, BLM could also negotiate for an acceptable route. If specific routes are negotiated, they should be set out and agreed to in one settlement agreement.

We will remain available to assist you further in this matter.

Dennis J. Hopewell

Dennis J Hopewell

Attachment: Proposed Settlement and Release Agreement

cc(w/attachmt): Marcy Peterson, Agency Realty Officer, BIA, Anchorage Agency

SETTLEMENT AND RELEASE

This Settlement and Release is entered into by and between the United States Department of the Interior, Bureau of Land Management ("BLM"), the Bureau of Indian Affairs ("BIA"), Old Harbor Native Corporation ("OHNC"), and _____ ("applicant"). In consideration of the mutual benefits stated below, the parties agree as follows:

1. The applicant filed a timely application for a Native allotment pursuant to the Alaska Native Allotment Act of May 17, 1906, 43 U.S.C. 270-1 to 270-3 (1970). The land for which the applicant intended to apply is more particularly described as:

[land description]

2. Legal title to the surface estate was conveyed by the United States to OHNC pursuant to Secs. 14(a) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1613(a), 1617(j), under selection application No. _____, interimly conveyed on _____, 19___, by Interim Conveyance No. _____ .

3. The applicant has alleged that he/she commenced use and occupancy of the land prior to the time that OHNC filed its application for conveyance of the same land with the Department of Interior. If this allegation is proven true, the applicant is a member of the plaintiff class in Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979), and will be entitled to relief pursuant to this court's July 31, 1979 Opinion and the Stipulated Procedures

for Implementation of Order ("Stipulated Procedures") dated February 9, 1983.

4. BLM has determined that the applicant's allotment application is not invalid for reason of any legal defects as described in paragraph 1 of the Stipulated Procedures.

5. The parties desire to reach a full and final compromise, settlement, and release of all matters arising out of the facts described above.

6. OHNC agrees to quitclaim the land to the United States for reconveyance to the applicant under the Alaska Native Allotment Act, subject to the following easements, exceptions, and reservations:

A. The land shall remain open and available to subsistence hunting and fishing by shareholders of OHNC.

B. OHNC shall have a right of reasonable access over the land to its adjacent lands.

C. In the event the applicant or his/her heirs or assigns decides to sell the land, or any portion of it, he/she shall first offer the property to OHNC for the price and on the terms of the intended sale. The offer is to be sent to OHNC's then registered agent as listed by the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations. OHNC shall have 60 days from receipt of the offer to accept or reject it.

D. These provisions shall inure to the benefit of OHNC and shall run with the land.

7. The applicant agrees that the description of the land in paragraph 1 is accurate and forever waives whatever right he/she may have to amend the legal description, including an amendment pursuant to Section 905(c) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 43 U.S.C. 1634(c).

8. BLM will credit OHNC's acreage entitlement under Section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1611, with the amount of acres quitclaimed to it by OHNC pursuant to this Settlement and Release because OHNC is reconveying the full surface estate.

9. BLM, BIA, and the applicant hereby waive, and release OHNC from any and all claims they may have against OHNC arising from OHNC's ownership, use, development, operations on or under, or maintenance of the land prior to the date that the quitclaim is issued.

10. BLM, BIA, the applicant, and OHNC agree that this Settlement and Release, as implemented, satisfies any and all obligations or liability that BLM or OHNC may have to the applicant under the Opinion in Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979) and the Stipulated Procedures, and BLM, BIA and the applicant hereby waive any right to bring an action against OHNC for the recovery of title to any further interest in land based on a Native allotment claim of the applicant.

11. The applicant acknowledges he/she has received counseling

from the BIA with regard to the precise terms of this Settlement and Release. The applicant desires to enter into this Settlement and Release, being fully informed of its terms, contents, and effect.

12. BLM, BIA, the applicant, and OHNC intend the terms of this Settlement and Release survive execution and delivery of the deed and to be binding upon their heirs, administrators, executors, successors, and assigns forever.

IN WITNESS WHEREOF, the parties have signed this Settlement and Release below.

DATED: _____ _____
(Name of Allottee)

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19____, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for
the State of _____
My Commission expires: _____

OLD HARBOR NATIVE CORPORATION

DATED: _____ By: _____
Title: _____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of Old Harbor Native Corporation, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for
the State of _____
My Commission expires: _____

UNITED STATES OF AMERICA,
Department of the Interior,
Bureau of Land Management

DATED: _____ By: _____
Title: _____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Land Management of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for
the State of _____
My Commission expires: _____

UNITED STATES OF AMERICA,
Department of the Interior,
Bureau of Indian Affairs

DATED: _____ By: _____
Title: _____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Indian Affairs of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for
the State of _____
My Commission expires: _____

3765\26D.001

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That

Old Harbor Native Corporation, hereinafter called grantor, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto the

United States of America and its assigns

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of the grantor's right, title and interest in the surface estate in that certain real property with the tenements, hereditament and appurtenances thereunto belonging or in any wise appertaining, situated in the State of Alaska described as follows, to wit:

[Land Description]

Grantor expressly excepts from this conveyance and reserves to itself, its assigns and its shareholders the following:

A. the right to subsistence hunting and fishing on the described property and in the water on such property;

B. the right to enter on the described property for the purpose of access to grantor's property which is adjacent to the described property so long as any entry does not unreasonably interfere with grantee's or grantee's successor's or assign's use and enjoyment of the property;

C. the right to purchase the described property should grantee or grantee's successors or assigns decide to sell the described property or any portion of it. An offer which includes the price and terms of any proposed sale is to be sent to grantor c/o its then registered agent as listed by the State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations. Grantor shall have sixty (60) days from receipt of the offer to either accept or reject it.

These exceptions and reservations run with the land.

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollars, is zero.

On construing this deed the singular includes the plural as the circumstances may require. Witness grantor's hand this _____ day of _____, 19 ___ .

OLD HARBOR NATIVE CORPORATION

By: _____
Title: _____

CORPORATE ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me personally appeared _____ to me known to be _____ of Old Harbor Native Corporation that executed the foregoing instrument, and acknowledged said instrument to be free and voluntary act and deed of said Corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

_____
Notary Public in and for
the State of _____

Residing at _____

_____

[Seal] _____

My Commission expires: _____

MEMORANDUM

State of Alaska

DEPARTMENT OF LAW

TO: Jim Culbertson
Natural Resources Manager
Division of Land and
Water Management
Resource Allocations

DATE: November 8, 1988

FILE NO: 661-88-0484

TELEPHONE NO: 276-3550

THRU:

SUBJECT: Aguilar Allotment
Settlement and Release
Forms

FROM: Lance B. Nelson LBN
Assistant Attorney General

RECEIVED
REGIONAL SOLICITOR, USDI
NOV 09 1988
ANCHORAGE, ALASKA

Attached please find three settlement release forms to be used in settling Aguilar Native allotment claims. Two of the forms, S&R-01 and S&R-02, are slightly revised versions of the forms I sent to you in October, 1988. Both now include language on the state's right to develop the reserved minerals pursuant to unit agreements and contain definitions of both "unit" and "unit agreement." The other form, S&R-03, is to be used when the state is also reserving coal rights in the land. Let me know if you have any questions or comments.

LBN:jem

Attachments

cc: Dennis Hopewell, Acting Regional Solicitor
Kimberly Heuter, Alaska Legal Services Corp., Barrow

Form S&R-03
(No prior lease, oil, gas & coal reserved)

SETTLEMENT AND RELEASE

This Settlement and Release is entered into by and between the United States Department of the Interior, Bureau of Land Management ("BLM"), the Bureau of Indian Affairs ("BIA"), the State of Alaska ("the state"), and _____ ("applicant") with the assistance and approval of the applicant's attorneys, Alaska Legal Services Corporations. In consideration of the mutual benefits stated below, the parties agree as follows:

1. The applicant filed a timely aplication for a Native allotment pursuant to the Alaska Native Allotment Act of May 17, 1906, 43 U.S.C. § 270-1 et seq. The land for which the applicant intended to apply is more particularly described as

_____

_____

2. Legal title to the land was conveyed by the United States to the state pursuant to Section 6(b) of the Alaska Statehood Act, 72 Stat. 339, under state selection application(s) _____, tentatively approved/patented on _____, 19__.

3. The applicant has alleged that he/she commenced use and occupancy of the land prior to the time that the state filed its application for conveyance of the same land with the Department of Interior. If this allegation is proven true, the applicant is a member of the plaintiff class in Aguilar v.

United States, 474 F. Supp. 840 (D. Alaska 1979), and will be entitled to relief pursuant to this court's July 31, 1979 Opinion and the Stipulated Procedures for Implementation of Order ("Stipulated Procedures") dated February 9, 1983.

4. BLM has determined that the applicant's allotment application is not invalid for reason of any legal defects as described in paragraph 1 of the Stipulated Procedures.

5. The parties desire to reach a full and final compromise, settlement, and release of all matters arising out of the facts described above.

6. The state agrees to quitclaim the land to the United States pursuant to AS 38.05.035(b)(9) for reconveyance to the applicant under the Alaska Native Allotment Act, subject to the following easements, reservations, exceptions, and restrictive covenants:

> (a) The State of Alaska hereby expressly saves, excepts and reserves unto itself, its lessees, successors, and assigns forever, all coal, oils, gases, and associated substances which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such coal, oils, gases, and associated substances and it also hereby expressly saves and reserves unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such coal, oils, gases, and associated substances, and to that end it further expressly reserves unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all

times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved;

(b) the State of Alaska further reserves to itself the right to royalties from the coal, oils, gases, and associated substances reserved herein and the right to regulate, administer, and manage the rights reserved herein;

(c) the State of Alaska further reserves the right to exercise the rights reserved in subparagraphs (a) and (b) pursuant to unit agreements;

(d) in addition, the reconveyance by the state is subject to all other valid existing rights.

7. The state agrees that any coal or oil and gas leases issued after the date the quitclaim deed is issued shall contain provisions for payment of damages according to AS 38.05.130.

8. The applicant agrees that the description of the land in paragraph 1 is accurate and forever waives whatever right he/she may have to amend the legal description, including an amendment pursuant to Section 905(c) of the Alaska National Interest Lands Conversation Act, 43 U.S.C. § 1634(c).

9. BLM will not credit the state's acreage entitlement under Section 6(b) of the Alaska Statehood Act, 72 Stat. 339,

with the amount of acres quitclaimed to it by the state pursuant to this Settlement and Release because the state is retaining ownership of the reserved minerals.

10. BLM, BIA and the applicant hereby waive, and release the state from, any and all claims they may have against the state arising from the state's ownership, use, development, operations on or under, or maintenance of the land prior to the date that the quitclaim is issued.

11. BLM, BIA, the applicant, and the state agree that this Settlement and Release, as implemented, satisfies any and all obligations or liability that BLM or the state may have to the applicant under the Opinion in Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979) and the Stipulated Procedures, and BLM, BIA, and the applicant hereby waive any right to bring an action against the state for the recovery of title to any further interest in land based on a Native allotment claim of the applicant.

12. The applicant acknowledges he/she has received counseling from the BIA with regard to the precise terms of this Settlement and Release. The applicant further acknowledges that he/she has been represented by legal counsel throughout the course of negotiations which led to execution of this Settlement and Release. The applicant desires to enter into this Settlement and Release, being fully informed of its terms, contents, and effect.

13. BLM, BIA, the applicant, and the state intend

the terms of this Settlement and Release to be binding upon their heirs, administrators, executors, successors, and assigns forever.

14. Definitions. Whenever used in this agreement the following words have the following meanings:

(a) "state" means the State of Alaska, its agencies, employees, agents, successors, assigns, lessees, permittees, contractors and subcontractors;

(b) "oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(c) "gas" means all natural gas (except helium gas) and all other hydrocarbons produced that are not defined in this lease as oil;

(d) "associated substances" means all substances except helium produced as an incident of production of oil or gas by ordinary production methods and not defined in this lease as oil or gas;

(e) "unit" means a group of leases covering all or part of one or more potential hydrocarbon accumulations, or all or part of one or more adjacent or vertically separate oil or gas reservoirs which are subject to a unit agreement;

(f) "unit agreement" means the agreement executed by the State of Alaska, working-interest owners, or royalty owners creating the unit.

IN WITNESS WHEREOF, the parties have signed this Settlement and Release below.

DATED:_____ _____
(Name of allottee)

STATE OF ALASKA)
) ss,
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

ALASKA LEGAL SERVICES CORP.
Attorneys for (applicant)

DATED:_____ By:_____
(Name of attorney)

STATE OF ALASKA)
) ss,
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

STATE OF ALASKA, Department of Natural Resources, Divis of Land and Water Management

DATED:_____ By:_____
Gary Gustafson, Director

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Division of Land and Water Management of the Department of Natural Resources of the State of Alaska, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA, Department of the Interior, Bureau of Land Management

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Land Management of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA
Department of the Interior
Bureau of Indian Affairs

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Indian Affairs of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

Form S&R-02
(No prior oil
and gas lease)

SETTLEMENT AND RELEASE

This Settlement and Release is entered into by and between the United States Department of the Interior, Bureau of Land Management ("BLM"), the Bureau of Indian Affairs ("BIA"), the State of Alaska ("the state"), and _____ ("applicant") with the assistance and approval of the applicant's attorneys, Alaska Legal Services Corporations. In consideration of the mutual benefits stated below, the parties agree as follows:

1. The applicant filed a timely aplication for a Native allotment pursuant to the Alaska Native Allotment Act of May 17, 1906, 43 U.S.C. § 270-1 et seq. The land for which the applicant intended to apply is more particularly described as

_____

_____

2. Legal title to the land was conveyed by the United States to the state pursuant to Section 6(b) of the Alaska Statehood Act, 72 Stat. 339, under state selection application(s) _____, tentatively approved/patented on _____, 19__.

3. The applicant has alleged that he/she commenced use and occupancy of the land prior to the time that the state filed its application for conveyance of the same land with the Department of Interior. If this allegation is proven true, the applicant is a member of the plaintiff class in Aguilar v.

United States, 474 F. Supp. 840 (D. Alaska 1979), and will be entitled to relief pursuant to this court's July 31, 1979 Opinion and the Stipulated Procedures for Implementation of Order ("Stipulated Procedures") dated February 9, 1983.

4. BLM has determined that the applicant's allotment application is not invalid for reason of any legal defects as described in paragraph 1 of the Stipulated Procedures.

5. The parties desire to reach a full and final compromise, settlement, and release of all matters arising out of the facts described above.

6. The state agrees to quitclaim the land to the United States pursuant to AS 38.05.035(b)(9) for reconveyance to the applicant under the Alaska Native Allotment Act, subject to the following easements, reservations, exceptions, and restrictive covenants:

> (a) The State of Alaska hereby expressly saves, excepts and reserves unto itself, its lessees, successors, and assigns forever, all oils, gases, and associated substances which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, and associated substances and it also hereby expressly saves and reserves unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, and associated substances, and to that end it further expressly reserves unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings,

machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved;

(b) the State of Alaska further reserves to itself the right to royalties from the oils, gases, and associated substances reserved herein and the right to regulate, administer, and manage the rights reserved herein;

(c) the State of Alaska further reserves the right to exercise the rights reserved in subparagraphs (a) and (b) pursuant to unit agreements;

(d) in addition, the reconveyance by the state is subject to all other valid existing rights.

7. The state agrees that any oil and gas leases issued after the date the quitclaim deed is issued shall contain provisions for payment of damages according to AS 38.05.130.

8. The applicant agrees that the description of the land in paragraph 1 is accurate and forever waives whatever right he/she may have to amend the legal description, including an amendment pursuant to Section 905(c) of the Alaska National Interest Lands Conversation Act, 43 U.S.C. § 1634(c).

9. BLM will not credit the state's acreage entitlement under Section 6(b) of the Alaska Statehood Act, 72 Stat. 339, with the amount of acres quitclaimed to it by the state pursuant to this Settlement and Release because the state is retaining

ownership of the reserved minerals.

10. BLM, BIA and the applicant hereby waive, and release the state from, any and all claims they may have against the state arising from the state's ownership, use, development, operations on or under, or maintenance of the land prior to the date that the quitclaim is issued.

11. BLM, BIA, the applicant, and the state agree that this Settlement and Release, as implemented, satisfies any and all obligations or liability that BLM or the state may have to the applicant under the Opinion in Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979) and the Stipulated Procedures, and BLM, BIA, and the applicant hereby waive any right to bring an action against the state for the recovery of title to any further interest in land based on a Native allotment claim of the applicant.

12. The applicant acknowledges he/she has received counseling from the BIA with regard to the precise terms of this Settlement and Release. The applicant further acknowledges that he/she has been represented by legal counsel throughout the course of negotiations which led to execution of this Settlement and Release. The applicant desires to enter into this Settlement and Release, being fully informed of its terms, contents, and effect.

13. BLM, BIA, the applicant, and the state intend the terms of this Settlement and Release to be binding upon their heirs, administrators, executors, successors, and assigns

forever.

14. Definitions. Whenever used in this agreement t following words have the following meanings:

(a) "state" means the State of Alaska, its agencies, employees, agents, successors, assigns, lessees, permittees, contractors and subcontractors;

(b) "oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(c) "gas" means all natural gas (except helium gas) and all other hydrocarbons produced that are not defined in this lease as oil;

(d) "associated substances" means all substances except helium produced as an incident of production of oil or gas by ordinary production methods and not defined in this lease as oil or gas;

(e) "unit" means a group of leases covering all or part of one or more potential hydrocarbon accumulations, or all or part of one or more adjacent or vertically separate oil or gas reservoirs which are subject to a unit agreement;

(f) "unit agreement" means the agreement executed by the State of Alaska, working-interest owners, or royalty owners creating the unit.

IN WITNESS WHEREOF, the parties have signed this Settlement and Release below.

DATED: _____

_____
(Name of applicant)

STATE OF ALASKA)
) ss,
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

ALASKA LEGAL SERVICES CORP.
Attorneys for _____

DATED:_____ By:_____
(Name of attorney)

STATE OF ALASKA)
) ss,
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

STATE OF ALASKA, Department of Natural Resources, Divis of Land and Water Managemen

DATED:_____ By:_____
Gary Gustafson, Director

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Division of Land and Water Management of the Department of Natural Resources of the State of Alaska, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA, Department of the Interior, Bureau of Land Management

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Land Management of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA
Department of the Interior
Bureau of Indian Affairs

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Indian Affairs of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

Form S&R-01
(Prior oil and
gas lease)

SETTLEMENT AND RELEASE

This Settlement and Release is entered into by and between the United States Department of the Interior, Bureau of Land Management ("BLM"), the Bureau of Indian Affairs ("BIA"), the State of Alaska ("the state"), and _____ ("applicant"), with the assistance and approval of the applicant's attorneys, Alaska Legal Services Corporation. In consideration of the mutual benefits stated below, the parties agree as follows:

1. The applicant filed a timely aplication for a Native allotment pursuant to the Alaska Native Allotment Act of May 17, 1906, 43 U.S.C. § 270-1 et seq. The land for which the applicant intended to apply is more particularly described as:

_____

_____

2. Legal title to the land was conveyed by the United States to the state pursuant to Section 6(b) of the Alaska Statehood Act, 72 Stat. 339, under state selection application(s) _____, tentatively approved/patented on _____, 19__.

3. The applicant has alleged that he/she commenced use and occupancy of the land prior to the time that the state filed its application for conveyance of the same land with the Department of Interior. If this allegation is proven true, the applicant is a member of the plaintiff class in Aguilar v.

United States, 474 F. Supp. 840 (D. Alaska 1979), and will be entitled to relief pursuant to this court's July 31, 1979 Opinion and the Stipulated Procedures for Implementation of Order ("Stipulated Procedures") dated February 9, 1983.

4. BLM has determined that the applicant's allotment application is not invalid for reason of any legal defects as described in paragraph 1 of the Stipulated Procedures.

5. The parties desire to reach a full and final compromise, settlement, and release of all matters arising out of the facts described above.

6. The state agrees to quitclaim the land to the United States pursuant to AS 38.05.035(b)(9) for reconveyance to the applicant under the Alaska Native Allotment Act, subject to the following easements, reservations, exceptions, and restrictive covenants:

> (a) The State of Alaska hereby expressly saves, excepts and reserves unto itself, its lessees, successors, and assigns forever, all oils, gases, and associated substances which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, and associated substances and it also hereby expressly saves and reserves unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, and associated substances, and to that end it further expressly reserves unto itself, its lessees, successors, and assigns forever, the right by its or their

agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved;

(b) the State of Alaska further reserves to itself, its lessees, successors, and assigns forever, all rights granted by the State of Alaska to _____ in oil and gas lease ADL No._____, a copy of which is attached to this Settlement and Release as Appendix 1;

(c) the State of Alaska further reserves to itself the right to royalties under oil and gas lease ADL No._____ and the right to regulate, administer, and manage the rights granted under that lease and the right to issue, regulate, administer, and manage additional leases after the termination of ADL No._____; ,

(d) the State of Alaska further reserves the right to exercise the rights reserved in subparagraphs (a)-(c) pursuant to unit agreements;

(e) in addition, the reconveyance by the state is subject to all other valid existing rights.

7. BLM, BIA and the applicant agree not to challenge the validity of ADL No. _____, an oil and gas lease issued to _____ on _____, ____, 19__ and agree that the lessee, its successors and assigns may continue to exercise all rights granted under the lease during the term of the lease, including use of the surface, subject only to th

provision for payment of damages expressed in ADL No. _____. BLM, BIA, and the applicant hereby waive any claim for damages under the provision for payment of damages in ADL No. _____ for use of the land by the lessee, its successors and assigns prior to the date that the quitclaim deed is issued.

8. The state agrees that any oil and gas leases issued after the date the quitclaim deed is issued shall contain provisions for payment of damages according to AS 38.05.130.

9. The applicant agrees that the description of the land in paragraph 1 is accurate and forever waives whatever right he/she may have to amend the legal description, including an amendment pursuant to Section 905(c) of the Alaska National Interest Lands Conversation Act, 43 U.S.C. < 1634(c).

10. BLM will not credit the state's acreage entitlement under Section 6(b) of the Alaska Statehood Act, 72 Stat. 339, with the amount of acres quitclaimed to it by the state pursuant to this Settlement and Release because the state is retaining ownership of the reserved minerals.

11. BLM, BIA and the applicant hereby waive, and release the state from, any and all claims they may have against the state arising from the state's ownership, use, development, operations on or under, or maintenance of the land prior to the date that the quitclaim is issued.

12. BLM, BIA, the applicant, and the state agree that this Settlement and Release, as implemented, satisfies any and all obligations or liability that BLM or the state may have

to the applicant under the Opinion in Aguilar v. United States, 474 F. Supp. 840 (D. Alaska 1979) and the Stipulated Procedur and BLM, BIA, and the applicant hereby waive any right to bring an action against the state for the recovery of title to any further interest in land based on a Native allotment claim of the applicant.

13. The applicant acknowledges that he/she has received counseling from the BIA with regard to the precise terms of this Settlement and Release. The applicant further acknowledges that he/she has been represented by legal counsel throughout the course of negotiations which led to execution of this Settlement and Release. The applicant desires to enter into this Settlement and Release, being fully informed of its terms, contents, and effect.

14. BLM, BIA, the applicant, and the state intend t terms of this Settlement and Release to be binding upon their heirs, administrators, executors, successors, and assigns forever.

15. Definitions. Whenever used in this agreement the following words have the following meanings:

(a) "state" means the State of Alaska, its agencies, employees, agents, successors, assigns, lessees, permittees, contractors and subcontractors;

(b) "oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, including liquid hydrocarbons known as distillate or condensate recovered by separation from gas other than at a gas processing plant;

(c) "gas" means all natural gas (except

helium gas) and all other hydrocarbons produced that are not defined in this lease as oil;

(d) "associated substances" means all substances except helium produced as an incident of production of oil or gas by ordinary production methods and not defined in this lease as oil or gas;

(e) "unit" means a group of leases covering all or part of one or more potential hydrocarbon accumulations, or all or part of one or more adjacent or vertically separate oil or gas reservoirs which are subject to a unit agreement;

(f) "unit agreement" means the agreement executed by the State of Alaska, working-interest owners, or royalty owners creating the unit.

IN WITNESS WHEREOF, the parties have signed this Settlement and Release below.

DATED:_____ _____
(Name of applicant)

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

ALASKA LEGAL SERVICES CORP.
Attorneys for _____

DATED:_____ By:_____
(Name of attorney)

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ known to me to be the person named in and who executed the Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska
My Commission expires:_____

STATE OF ALASKA, Department of Natural Resources, Division of Land and Water Management

DATED:_____ By:_____
Gary Gustafson, Director

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Division of Land and Water Management of the Department of Natural Resources of the State of Alaska, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the
State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA,
Department of the Interior,
Bureau of Land Management

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Land Management of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

UNITED STATES OF AMERICA,
Department of the Interior,
Bureau of Indian Affairs,

DATED:_____ By:_____
Title:_____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____, 19___, before me appeared _____ of the Bureau of Indian Affairs of the Department of the Interior of the United States, who executed the foregoing Settlement and Release and acknowledged voluntarily signing the same.

_____
Notary Public in and for the State of Alaska. My Commission expires:_____

STANDARDS FOR THE PREPARATION OF TITLE EVIDENCE IN LAND ACQUISITIONS BY THE UNITED STATES

The following standards have been prepared for the guidance of Government departments and agencies, vendors to the United States, attorneys of the Department of Justice, and others having occasion to prepare or procure evidence of title and related papers in all cases of acquisition of land by the United States by purchase or condemnation. These standards supersede all previous rules on the subject. Their observance is required where the titles are to be approved by the Attorney General or his delegee and where the title is acquired by condemnation unless exception is made in unusual circumstances.

RESPONSIBILITY FOR PROCURING EVIDENCE OF TITLE

In direct purchase cases it is the duty of the heads of the acquiring agencies to furnish necessary evidence of title to land to be acquired by direct purchase, exchange, or donation, the expense of procuring the same to be paid out of the appropriations made for the respective departments (40 U.S.C. 255, as amended).

In condemnation proceedings, generally, the necessary evidence of title is made available to the Department by the acquiring agency. In compliance with applicable standards, title evidence conforming to the requirements of the Department should be obtained from approved abstracters or title companies. Contracts for the title evidence should include as a separate item the costs of any necessary continuation of the evidence of title.

Title evidence must be obtained promptly to avoid delay in payment to landowners and to permit early consummation of purchases and closing of condemnation proceedings.

EVIDENCE OF TITLE ACCEPTABLE TO PRUDENT ATTORNEYS AND TITLE EXAMINERS IN THE LOCALITY IN WHICH THE LAND IS SITUATED WILL ORDINARILY BE ACCEPTABLE TO THE DEPARTMENT

One of the following types of evidence should be obtained after considering local practice, reliability, security, economy, efficiency and speed:

(a) Abstracts of title prepared in accordance with the requirements of these instructions, by approved abstracters, or by qualified and competent abstracters employed by a department or agency of the Government.

(b) Certificate of title (see form on page 14) prepared in accordance with the requirements set forth below concerning form and contents of certificates of title, by approved title corporations in jurisdictions where corporations may legally issue such certificates.

(c) Owners' duplicate certificates of title issued pursuant to satisfactory state systems of title registration similar to the Torrens system.

(d) Copies of public title records duly authenticated by their official custodian or certified by an approved abstracter.

(e) Title insurance policies (see form on page 19) prepared, in accordance with the requirements set forth in these standards, by approved insurance corporations.

(f) Any other satisfactory evidence of title.

Ordinarily one abstract, certificate or policy will be obtained for all interests in each contiguous area of land in the same ownership. Lands will be deemed to be contiguous although portions thereof are separated by roads, railroads or other rights of way, streams, etc. Where oil, gas and mineral interests are not to be acquired, all leases and other instruments relating to such instruments should be omitted from the title evidence pursuant to the contracts therefor.

QUALIFICATIONS OF ABSTRACTERS AND TITLE COMPANIES

All title evidence must be obtained from attorneys, abstracters or title companies approved by the Department or the authorized department or agency for the preparation of such evidence in the jurisdiction in which the lands are situated. To obtain approval, there should be submitted for consideration information as to the experience and training; organization and title plant of any title corporation; system of examining and abstracting title; financial responsibility (if a corporation); reputation in the community; and whether statutory bonding and other requirements have been complied with.

Individual abstracters must be attorneys at law or professional or official abstracters qualified and authorized by law to prepare and certify to abstracts; have no interest in the land to be acquired; and not be related to the vendors.

Title companies must be qualified and authorized by law to furnish abstracts, certificates of title, or title insurance policies in the state

where the land lies; and have either its home office or a well-established branch office located in the state where the land lies.

FORM AND CONTENTS OF ABSTRACTS

In some sections of the country, and in many of the large cities, abstracts are prepared by an incorporated title company or by a professional or official abstracter, not necessarily an attorney. In other sections of the country the abstracts are prepared by an attorney who also obtains curative data and frequently supplements the abstract with a history of the title and his opinion as to its sufficiency. The following requirements are, therefore, subject to modification to adapt them to the type of abstract commonly in use in the locality where the land is situated:

(a) *Form and arrangement.*—The abstract should be printed or typewritten (or consist of photostatic copies of original documents), and the description of the land covered by the abstract should appear on a caption page. Where the descriptions in abstracted items are the same as those contained in the captions, or in preceding instruments, the descriptions should not be recopied, but the abstracters should indicate that the same lands are involved. The various entries should be numbered and appear in the chronological sequence of recording. Affidavits and other papers submitted by the abstracter with the abstract should be numbered or lettered and referred to by such number or letter in the item of the abstract to which they relate.

(b) *Contents, in general.*—The abstract should contain a sufficient summary of the material portions of every recorded instrument, affecting the title to the land described in the caption, to enable the examiner to determine the nature and effect of such instruments. No attempt is made to specify all items which must be shown in the abstract, but the following, which are sometimes omitted, must be shown exactly as they appear in the records: The marital status of all grantors and grantees; the consideration and receipt thereof; the dates of execution, witnesses where necessary, acknowledgment, and recordation of each instrument; and the due date of any unsatisfied mortgages or deeds of trust, the amount of the indebtedness secured thereby; and any reservations, limitations or conditions. Releases of homestead, dower, and other statutory rights should be affirmatively shown. Where titles to separate parcels are derived from a common preceding chain of title, a master abstract should be prepared and supplemented by individual abstracts.

(c) Abstracts containing instruments which do not affect the title or do not refer to or mention the land covered by the abstract are not acceptable and the abstracter is not entitled to receive payment

for such extraneous material. Also, abstracts which contain illegible photostats of instruments are not acceptable.

Period of Search

For the purposes of this paragraph, "title instrument" means any recorded instrument purporting to evidence the transfer of a fee simple title (other than as security for debt), including patents, direct deeds of conveyance, deeds by trustees, referees, guardians, executors, administrators, masters, or sheriffs, wills or decrees of descent, and also decrees, judgments or orders of courts of competent jurisdiction purporting to quiet, confirm, or establish title in fee simple. The "period of search," referred to in each of the numbered subparagraphs hereinafter set out, means the number of years of continuous coverage by an abstract of the record beginning with a title instrument recorded at least the required minimum number of years prior to the date of the abstracter's certificate. Regardless of the applicable period of search, all abstracts must contain or be accompanied by proof that the title was originally divested from the sovereign by patent or grant of the land involved. All mineral or other reservations to the sovereign shall be specifically noted. All instruments antedating the applicable period of search which are disclosed by instruments recorded within the period of search and which contain reservations, exceptions, restrictions, limitations, or other rights or interests or impose conditions or liens possibly outstanding or affecting the title, must be shown. Subject to all the foregoing provisions of this paragraph, the periods of search shall be as follows:

(1) A minimum of 60 years as to all acquisitions (including easements) except those mentioned in the following subparagraphs (2), (3), (4), and (5).

(2) A minimum of 80 years as to all tracts to be acquired for considerations in excess of $100,000.00 and as to Federal building sites.

(3) A minimum of 40 years as to lands of small value.

(4) A minimum of 25 years as to the acquisition of easements to be acquired for considerations in excess of $100 but not in excess of $5,000.00 as follows: For telephone and telegraph lines, electric transmission lines, channel excavation, relocation of utilities such as fire alarm systems, water mains and pipes, pipelines, railroad spurs for temporary use in transporting materials for construction purposes, access and other roads, highways, spoil disposal, intermittent flowage (where the estimated frequency of flooding is not

oftener than 5 years), borrow pits, and other uses of the general character and type of those herein specified.

(5) As to easements to be acquired for considerations of $100 or less and temporary use or term takings in condemnation proceedings involving the payment of an estimated rental of $2,500 or less per annum, last owner searches showing the owner under the last deed of record and encumbrances against the title under which the abstracters or title companies assume no liability and without regard to the period of search may be accepted as satisfactory title evidence.

(6) Abstracts relating to acquisitions of all other easements must be prepared in accordance with the applicable preceding subparagraphs in the same manner as abstracts relating to fee simple titles.

Records Lost or Destroyed

Where title records, for the full periods of search required above, have been lost or destroyed, or are otherwise permanently unavailable, the abstract should begin with the first available record and be supplemented by the following:

(1) A certificate of the abstracter as to the fact of the loss or destruction of the records, that no reservations, limitations, encumbrances, or defects in the title are known to the abstracter, and that the beginning point of the abstract is accepted by competent attorneys in the community, and either:

(a) Proof of compliance with requirements of statutory proceedings, if any, to establish titles affected by the loss or destruction of the records; or

(b) Secondary documentary evidence, complying with statutory requirements, which, if offered in a judicial proceeding, would be admissible as evidence of title, and evidence of title by adverse possession as provided in the instructions set out below under Adverse Possession.

Wills and Probate Proceedings

Wills should be reproduced in full. Essential portions of probate proceedings disclosing all material facts of record must be shown, including, for example, the petition, names and ages, and the incompetency, if any, of parties in interest as shown by the record; proof of service of citations; date of approval of bond; issuance of letters testamentary; publication of notices or other action necessary to start the running of any statutes of limitations; ancillary probate of the will in the jurisdiction where the land lies, if the original probate were elsewhere; guardianship proceedings of any parties

who are incompetent; and whether estate and inheritance taxes have been paid or releases thereof obtained.

When title has been or is to be conveyed by administrator's or executor's deed, the court orders or other authority of the fiduciary and sufficient portions of the proceedings to demonstrate their regularity must be shown.

If the title has been or is to be conveyed by the devisees, the abstract should show whether all specific legacies, debts, and taxes have been paid, and where necessary whether there has been final distribution of the estate, discharge of the executor, and closing of the estate.

Title by Descent

In every instance where title has passed by descent, the abstract should show whether there has been administration on the estate, and in case of administration, the abstract should show sufficient portions of the record of the proceeding to determine whether necessary jurisdictional facts existed and statutory requirements essential to the validity of the proceeding were observed, including service of necessary notices, qualifications of the administrator, and the date of the approval of his bond or other action necessary to start the running of any statutes of limitation.

If there has been administration, but title has been or is to be conveyed by deed of the intestate's heirs as established in the proceeding, the abstract should show the correct names of all persons determined to be heirs as they appear in the proceeding, and should also show whether debts and charges, including all taxes against the estate, have been paid or provided for, and, where necessary, whether there has been final distribution of the estate and discharge of the administrator.

Whether or not there has been administration, if the conveyance to the United States is to be made by the intestate's heirs, and the intestate's heirs have not been established in a judicial proceeding, determination of heirship will be required as hereinafter provided.

Foreclosure Proceedings

In all cases involving foreclosure proceedings the abstract should disclose sufficient of the mortgage foreclosed to determine the validity and effect of the foreclosure, including the sum secured, description of the premises, conditions of the mortgage, signatures, dates of execution and recording, and the nature of the default.

If the foreclosure is by judicial proceeding, the abstract should

show the names of all persons made parties to the foreclosure case and sufficient portions of the record to determine the jurisdiction of the court, the regularity of the proceeding, whether all necessary parties had proper notice, and whether the provisions of the foreclosure statute were adequately observed.

If foreclosure is under a power of sale, the terms of the power, compliance or noncompliance therewith and with applicable statutory provisions, should appear. Partial or installment foreclosures, continuing the balance of the mortgage in effect, must be affirmatively shown.

Sales by Receivers, Execution Sales, Tax Sales, Divorces, and Other Judicial Proceedings

The abstract should fully disclose sufficient portions of the record of all sales by receivers, execution sales, tax sales, divorces, and other judicial proceedings affecting the title to the land to be acquired, to determine the legal effect of such sales or proceedings, and whether all statutory requirements have been observed and the time for redemption, appeal, or reopening the matter has expired.

Sales by Trustees and Others in a Fiduciary or Representative Capacity

The abstract should contain all essential parts of trust instruments, powers of attorney, and of the record of any court proceedings conferring authority for conveyances in the chain of title by fiduciaries or persons acting in a representative capacity, and show whether the purchaser is relieved of the responsibility for the application of the purchase price. Any conditions or limitations on the authority of a fiduciary or representative, contained in such instruments or proceedings, or in any deed to the trustee, or to the beneficiary or principal for whom such trustee or representative is acting, should be fully set forth and, where possible, the abstract should show whether such conditions have been fulfilled.

Search for Liens of Judgments and Decrees of Federal Courts

Search is required of the Federal court records in all divisions of the district where the land lies for possible liens of judgments and decrees of and cases pending in Federal courts in those states which have not enacted a statute authorizing the judgments and decrees of the United States courts to be registered, recorded, docketed, indexed, or otherwise conformed to the rules and requirements

relating to the judgments and decrees of the courts of the state. (28 U.S.C. 1962.)

In those states which have enacted such conformity statutes (in accordance with the provisions of 28 U.S.C. 1962), no search of the Federal court records is necessary for liens of judgments and decrees, unless under state law judgments and decrees of the state courts become liens on the property of the judgment debtor in the county where rendered, upon entry in the court where rendered, in which case search of the Federal court records is necessary if those records are located in the county in which the land is situated.

Dedication and Vacation of Streets and Alleys

Where the land includes streets or alley areas, dedicated or vacated, there must be shown all matters of record affecting the ownership of such areas, including the following:

(a) The complete proceeding had upon such dedication and, if vacated, the vacation proceedings.

(b) All facts of record bearing on the existence or elimination of prior rights of the public, prescriptive or otherwise, and rights of public utilities, if any.

Special Assessments for Improvements, School Districts, Etc.

Abstracts containing references to assessments for drainage, school, or other special improvement districts, water, paving, sewer and other assessments, should set out, in addition to the current and delinquent assessments, the total benefit assessments and charges against the land, and should contain references to the statutes creating the districts and establishing the liens.

Abstracter's Certificate

A satisfactory certificate of the abstracter must be made a part of the abstract. Generally, certificates will be acceptable if in the form approved by a title association of recognized standing in the state where the land is situated and if the abstracter certifies that he has examined all public records pertaining to the title for the required period of search, and that all matters of record affecting the title are correctly shown in the abstract. In those states where the liability of the abstracter is based upon the contract to search the title, the certificate should contain a statement that the abstract is furnished to the United States of America (or its grantor) and assigns. Otherwise, and generally, the certificate should not be limited to any contracting party, other person or corporation.

FORM AND CONTENTS OF CERTIFICATES OF TITLE AND TITLE INSURANCE POLICIES

Preliminary reports or binders, when satisfactory in form, of approved title companies based upon a preliminary search and committing such companies to issue final certificates of title or title insurance policies in the approved form, will be accepted, as a basis for preliminary opinions which contemplate further submission of the matter for final approval of title. See forms on pages 14 and 19 of these standards.

The certificate of title, title reports and binders must disclose the name of each person in whom title to any interest is vested of record or known to the company. Where the subsurface easements or other interests in the property to be acquired are owned by persons other than the owners of the fee title, the present record ownership of each such outstanding estate or interest and all data of record relating thereto or sufficient portions thereof shall be shown in the certificate of title or data relating to such interests. The addresses of all parties having any interest in the lands must be set out where this information is disclosed by the public records or known to the company.

Schedule "B" of the certificate or report must disclose all essential information on matters affecting the title which are set up in the schedule as exceptions or objections to the title. Schedule "B" shall not set forth exceptions or objections in general terms or by reference to deeds, instruments, proceedings or other matters of record, without including copies or a sufficient abstract or digest of the instruments or the proceedings or other matters of record creating or imposing the rights, interests, or encumbrances mentioned in Schedule "B," to enable an attorney examining the certificate to determine the nature and extent of such matters and their effect on the validity of the title to the land described in Schedule "A." The names of the persons holding such interests from whom releases must be obtained must be furnished by the company, if known.

Period of Search

In general, certificates of title and title insurance policies based upon a search of all records affecting the title and unqualified as to the period of search are preferred and should be issued. However, as to specific types of easements as defined in the instructions relating to abstracts, certificates of title or title insurance policies may be limited to the periods of search prescribed in those instructions provided the certificates or policies contain statements to the effect that the title of the sovereign has been divested, and set forth any reservations which are contained in the patents or grants.

Limitation of Liability

A certificate of title or title insurance policy by one title company for a single acquisition valued at more than 25 percent of the admitted assets (after deducting existing liabilities secured or unsecured and excluding any trust or escrow funds) of the issuing company is not acceptable.

Generally, certificates of title or title insurance policies shall not limit the liability of the title company to a sum less than 50 percent of the reasonable value of the property; however, as to acquisitions valued at more than $50,000, the limitation of liability of the issuing title company under the certificate of title or title insurance policy may be limited to 50 percent of the first $50,000 and 25 percent of that portion of the value in excess of that amount. Certificates of title and title insurance policies which provide that the United States is required as co-insurer or otherwise to assume any portion of the limited liability are not acceptable.

PLATS

The title evidence should include or be accompanied by a plat or plan, based on a survey by a competent surveyor or engineer, sufficient to enable the examining attorney to locate the land described in the title evidence. Any encroachments or rights of way, on or over the land, should be shown or noted on the plat. If the land is described by metes and bounds, or by lands of adjoining owners, abutting streets, ways, etc., its boundaries should be defined on the plat by courses, distances, and monuments, natural or otherwise, and the ownership and contiguous boundaries of adjoining lands and names of abutting streets, ways, etc. When the land is part of a subdivision, a copy of the subdivision plat, or the section thereof in which the land is located, should be submitted. If necessary to identify the land with a United States patent or a state grant which is the source of title, a plat of the land being acquired should be superimposed on a copy of the plat of the United States survey or state grant. If the land being acquired is part of a larger tract described in an abstract, it should, when necessary for its identification, be shown drawn to a common scale on a map showing the larger tract and any successive diminishing tracts.

SUPPLEMENTAL AND SUPPORTING TITLE EVIDENCE

The closing of transactions is often delayed due to failure to supply necessary supporting title data. Requirements covering some of these items are indicated below.

Sales by Corporations

Private corporations.—The title evidence should contain or be accompanied by sufficient portions of the charters or other records of corporations, conveying to the United States, to determine the power of the corporations to hold and convey real estate and the validity of such conveyances. In jurisdictions where franchise taxes are a lien, or where nonpayment of such taxes or failure to file required reports or statements suspends or terminates a corporation's power to do business or transfer property, the title evidence should also be accompanied by a certificate or statement of the proper state officer showing payment of such taxes and that the corporation is in good standing. A certified copy of the resolution of the proper corporate body, authorizing the conveyance to the United States, is required. In case of conveyances of all or substantially all of the real estate of such a corporation, a certified copy of a resolution authorizing the conveyance, enacted in compliance with pertinent statutory requirements at a meeting of stockholders, is necessary.

Public corporations.—Where the title evidence discloses a public corporation as grantor in the chain of title, or the vendor to the United States is a public corporation, the title evidence should include or be accompanied by sufficient portions of the charter, resolutions, or other source of authority of each such corporation to convey land, and also with evidence of compliance with all statutory requirements necessary to the transfer of a valid title.

Determination of Heirship

When the conveyance to the United States is by the intestate's heirs and there has been no judicial determination of heirship, the fact that the grantors are all the heirs of the deceased must be judicially established where practicable. If such judicial determination is impracticable, proof of heirship must be shown by acceptable affidavits (see form on page 18) of the grantors and, if possible, of two or more disinterested reputable persons having knowledge of the facts.

Adverse Possession

Evidence of adverse possession, when required, must include satisfactory affidavits of possession, which shall contain the following:

(a) Execution by three or more reputable persons living in the vicinity of the land and having no interest in the sale of the property;

(b) Identification of the land and a statement of the character, extent, and duration of possession for at least as long as the maximum local statutory period of limitations, prescriptions, or adverse possession, but not less than 22 years; and

(c) All necessary facts fully set out, together with convincing proof of the establishment of title by adverse possession under local law. The affidavits should not contain mere conclusions of the affiants.

In cases where large tracts of land are being acquired which embrace what formerly were smaller tracts, the affidavits of adverse possession must relate specifically to the component parts of such tracts and contain sufficient facts to establish adverse possession to each such part.

Where two or more grants, patents, or transfers affect the same land, the exact location of the land over which the acts of possession are relied upon must be shown on a map and by the affidavits.

Where the acquiring agency does not contemplate acquisition of the land subject to mineral, or other rights or easements of any kind appearing in the chain of title, such affidavits must show convincing proof of adverse possession against any and all such rights or interests.

Unrecorded Title Papers

In all cases any unrecorded title papers and copies of resolutions, ordinances, and title opinions containing references to statutes or cases in point relating to the condition of the title or objections thereto with respect to such land, which may be available to the vendor, should accompany the title evidence.

Final and Continuation Title Evidence

(a) In direct purchases:

(1) Abstracts must be continued to and including the recordation of the deed to the United States and any necessary curative data.

(2) Final certificates of title or title insurance policies must be based on a search of the records from the dates of the preliminary certificate reports or title binders to the date of the recordation of the deed to the United States, which must certify to or guarantee the title of the United States, which was acquired under the deed.

(b) In condemnation cases:

(1) The abstract must be continued to the date of the filing of *lis pendens* or other notice in the proceedings.

(2) A supplemental certificate of title or continuation title

report binder or endorsement based on a search of the records to the date of the filing of notice in the condemnation proceeding must be obtained. No final certificate or policy is required provided the preliminary certificate report or binder does not limit the title company's liability or the company assumes the required financial liability and the certificate, report or binder contains no provision under which the issuing company denies liability for losses if the final certificate or policy is not issued.

Deed to the United States

The deed to the United States should conform to local statutory requirements and generally adhere to the following requirements:

(a) Be a general warranty deed; however, this requirement may be waived, upon a proper showing, as to conveyances by states, municipal corporations, and fiduciaries and other persons acting solely in a representative capacity.

(b) Disclose the capacity in which any grantor acts who conveys in other than an individual capacity.

(c) Show the name of the grantor in the body of the deed and its acknowledgment, be signed by him, exactly as his name appears as grantee in the conveyance to him; and account for any unavoidable difference by a recital identifying the grantor with the grantee in the preceding conveyance.

(d) Disclose the marital status of each grantor.

(e) Recite the true consideration and the receipt thereof.

(f) Convey the land to the "United States of America and its assigns."

(g) Contain a proper description of the land.

(h) Convey all the right, title and interest of the grantor in and to any alleys, streets, ways, strips, or gores abutting or adjoining the land.

(i) Contain no reservations or exceptions not approved by the department or agency of the Government acquiring the land; however, when land is to be conveyed subject to certain rights, such as easements or mineral rights thought to be outstanding in third parties, they must not be *excepted* from the conveyance, but the deed should be framed to convey all the grantor's right, title, and interest *subject to* the outstanding rights, unless the contract or option expressly provides otherwise.

(j) Refer to the deed(s) to the grantor(s), or other source of grantor's title, by book, page, and place of record, wherever customary or required by statute.

(k) Contain a reference to the name of the agency for which

the lands are being acquired. This statement should follow the description of the land and in no instance should it be included in the granting, habendum or warranty provisions of the deed.

(l) Release all rights of homestead, dower, curtesy, and other interests of the grantor's spouse, as required by local law.

(m) Be signed, sealed, attested, and acknowledged by all grantors and their spouses, as required by local law.

(n) If executed by a corporation, be signed in the full and correct name of the corporation by its duly authorized officer or officers, sealed with the corporate seal, attested and acknowledged, as required by local law.

(o) If executed by an attorney in fact be signed in the name of the principal by the attorney, properly acknowledged by the attorney as the free act and deed of the principal, and be accompanied by the original or a certified copy of the power of attorney and satisfactory proof that the principal was living and the power in force at the time of its exercise.

(p) Have affixed sufficient documentary revenue stamps.

Certificate of Possession

There must be submitted, as part of the title evidence, a certificate of possession, based on an inspection and inquiry made at the time of the closing of the purchase or as of the date of taking in condemnation, by a duly authorized employee of the acquiring agency, or by an attorney of the Department of Justice. The certificate of possession must be in form approved by the Department of Justice. The standard form of certificate (see form on page 16) should be used in all acquisitions.

The interest or claim of any persons other than the record owners who are occupying or using any part of the lands should be ascertained and if possible disclaimers should be obtained from such persons (see form on page 17). In the event such person or persons claim other than a tenant's or lessee's interest a quitclaim deed should be obtained and recorded.

CERTIFICATE OF TITLE

Name of title company _____ Address _____.

To (_____ and) United States of America:

The _____, a Corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, certifies that it has [made] [obtained a report showing] a thorough search of the title to the

property described in Schedule A hereof, beginning with the _____ day of _____, 19____, and hereby certifies that the title to said property was indefeasibly vested in fee simple of record in _____ as of the _____ day of _____, 19____, free and clear of all encumbrances, defects, interests, and all other matters whatsoever, either of record or otherwise known to the corporation, impairing or adversely affecting the title to said property, except as shown in Schedule B hereof.

The maximum liability of the undersigned under this certificate is limited to the sum of $_____.

In consideration of the premium paid, this certificate is issued for the use and benefit of (said _____ and) the United States of America (and each of them).

In Witness Whereof, said Corporation has caused these presents to be signed in its name and behalf, sealed with its corporate seal, and delivered by its proper officers thereunto duly authorized, as of the date last above mentioned.

_____
(Name of title company)

By _____
(Title of executing officer)

Attest:

_____
(Title of attesting officer)

SCHEDULE A

The property covered by this certificate is accurately and fully described as follows _____

_____

_____

SCHEDULE B

The property described in Schedule A hereof is free and clear from all interests, encumbrances, and defects of title and all other matters whatsoever of record, or which, though not of record, are known to this corporation to exist, impairing or adversely affecting the title to said property, except the following:

CERTIFICATE OF INSPECTION AND POSSESSION

I, _____ a _____ of the Department of _____, hereby certify that on the _____ day of _____, 19___, I made a personal examination and inspection of that certain tract or parcel of land situated in the County of _____, State of _____, designated as Tract No. _____, and containing _____ acres (proposed to be) acquired by the United States of America in connection with the _____ Project, from _____

_____

(In the condemnation proceeding entitled _____ Civil No. _____.)

_____

1. That I am fully informed as to the boundaries, lines and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with the making of any repairs or improvements on said land; and that I made careful inquiry of the above-named vendor (and of the occupants of said land) and ascertained that nothing had been done on or about said premises within the past ____ months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.

2. That I also made inquiry of the above-named vendor (and of all occupants of said land) as to his (their) rights of possession and the rights of possession of any person or persons known to him (them), and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of the above-named vendor or the United States of America.

3. That I was informed by the above-named vendor (and by all other occupants) that to the best of his (their) knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

4. That to the best of my knowledge and belief after actual and diligent inquiry and physical inspection of said premises there is no evidence whatever of any vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now in existence owned or being

actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

5. That to the best of my knowledge and belief based upon actual and diligent inquiry there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records.

6. That said premises are now wholly unoccupied and vacant except for the occupancy of _____ as tenant(s) at will, from whom disclaimer(s) of all right, title, and interest in and to said premises, executed on the _____ day of _____, 19___, has (have) been obtained. The property is also occupied by the following:

_____

Name Interest claimed

Dated this _____day of _____, 19___.

Approved:

_____

DISCLAIMER

County of _____
State of _____ ss:

We (I) _____ (wife) (husband), being first duly sworn, depose and say (deposes and says) that we are (I am) occupying all (a part) of the land (proposed to be) acquired by the United States of America from _____, described as _____ acres, Tract No. _____, lying in_____ County, State of _____, and do hereby aver that we are (I am) occupying said land as the tenants (tenant) of _____ _____; that we (I) claim no right, title, lien or interest in and to the above-described premises or any part thereof.by reason of said tenancy or otherwise and will vacate said premises upon demand for the possession of said lands by the United States of America.

Dated this _____day of _____, 19___.

_____
(Tenant)

Witnesses:

_____
(Spouse)

_____

_____

AFFIDAVIT OF HEIRSHIP

I, _____ (Name of affiant), residing at _____ (Street and number) in _____ (City or town), _____ (State), _____ (County) being of full legal age, for the purpose of establishing the legal ownership of certain land in _____ (City or town), _____ (County), _____ (State), proposed to be purchased by the United States of America from all the lawful heirs of _____ (Name of decedent) late of _____ (City or town), _____ (County), _____ (State), who died on the _____ day of _____, 19___, at the age of ___ years, a resident of _____ (City or town), _____ (County), _____ (State), on oath depose and say as follows:

(1) That I was personally acquainted with the above-named decedent for the period of _____ years from _____ 19,___ until his death, and that my relationship to said decedent was _____.

(2) That said decedent was married to but once and then to _____ (Spouse) at _____, in 19____, who [survived] [predeceased]. (The affiant should cross out any statement enclosed in brackets which is not applicable to said decedent.)

(3) That the following is a list of the full names, relationships to the decedent, ages, marital status, and addresses of all surviving issue or other heirs of said decedent:

Full name	Relationship to decedent	Age	Married to	Address

(4) [That said decedent left no will, no issue, or no collateral heirs other than those named above and no unpaid debts or claims except as stated below.] (All statements made by the affiant will be considered to be made on the affiant's personal knowledge unless the contrary is expressly indicated.) [That I have made careful inquiry and that to the best of my information and belief said decedent left no will, no issue, or no collateral heirs other than those named above, and no unpaid debts or claims except as stated below.] (The affiant should cross out any statement enclosed in brackets which is not applicable.)

(Unpaid debts)

(5) That the value of the decedent's entire estate at death, including all property, real and personal, then owned by the decedent, did not exceed $_____, and that all funeral expenses and debts against the estate have been paid.

(6) That I am [not] interested financially or by reason of relationship to said decedent in the proposed conveyance to the United States of America in connection with which this affidavit is furnished, and understand that it is secured for the purpose of inducing the United States to purchase land owned by said decedent.

---, 19___

---, ss:

Then personally appeared before me the above-named _____ _____, who subscribed the foregoing affidavit and made oath that the statements contained therein are true.

(Title)

POLICY OF TITLE INSURANCE

Issued by

BLANK TITLE INSURANCE COMPANY

Policy Number _____ Amount $_____

Blank Title Insurance Company, a blank corporation, herein called the Company, for a valuable consideration _____

_____ HEREBY INSURES _____

The United States of America

hereinafter called the Insured, against loss or damage not exceeding ---------- dollars, together with costs and expenses which the Company may become obligated to pay as provided in the Conditions and Stipulations hereof, which the Insured shall sustain by reason of:

any defect in or lien or encumbrance on the title to the estate or interest covered hereby in the land described or referred to in Schedule A, existing at the date hereof, not shown or referred to in Schedule B or excluded from coverage by the General Exceptions;

All subject, however, to the provisions of Schedules A and B and to the General Exceptions and to the Conditions and Stipulations hereto annexed; all as of the ---------- day of ----------, 19___, the effective date of this policy.

In Witness Whereof, Blank Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers.

Countersigned:

BLANK TITLE INSURANCE COMPANY

By ----------
President

By ----------
Secretary

SCHEDULE A

1. The estate or interest in the land described or referred to in this schedule covered by this policy is:

(Will be shown as a fee or such lesser estate or interest owned by the person or party named in paragraph 2 of this Schedule.)

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

3. The land referred to in this policy is situated in the County of ----------, State of ----------, and is described as follows:

(This phraseology may be modified to eliminate a specific description by including it by reference to the description as contained in a specific instrument.)

SCHEDULE B

This policy does not insure against loss or damage by reason of the following:

1. Current and delinquent taxes and assessments as follows:
   (List all taxing districts in which the land is situated and other taxing authorities that have jurisdiction over said land for the levy of taxes; showing lien date for each and amounts for all such assessments that have not been paid on the date of the policy.)
2. (Continue with the Special Exceptions such as recorded easements, liens, etc., showing in addition the persons or parties holding such interests of record, and who the Company would require to convey such interest or who would be the proper parties defendant in a condemnation proceeding to eliminate such matter.

   The writeup could be substantially as follows:
   An easement for road purposes conveyed to _____ _____, by deed recorded _____.)

GENERAL EXCEPTIONS

Governmental Powers

1. Because of limitations imposed by law on ownership and use of property, or which arise from governmental powers, this policy does not insure against:

(a) consequences of the future exercise or enforcement or attempted exercise or enforcement of police power, bankruptcy power, or power of eminent domain, under any existing or future law or governmental regulation; (b) consequences of any law, ordinance or governmental regulation, now or hereafter in force (including building and zoning ordinances), limiting or regulating the use or enjoyment of the property, estate or interest described in Schedule A, or the character, size, use or location of any improvement now or hereafter erected on said property.

Matters Not of Record

2. The following matters which are not of record at the date of this policy are not insured against:

(a) rights or claims of parties in possession not shown of record;
(b) questions of survey;
(c) easements, claims of easement or mechanics' liens where no notice thereof appears of record; and

(d) coveyances, agreements, defects, liens or encumbrances, if any, where no notice thereof appears of record; provided, however, the provisions of this subparagraph 2(d) shall not apply if title to said estate or interest is vested in the United States of America on the date hereof.

Matters Subsequent to Date of Policy

3. This policy does not insure against loss or damage by reason of defects, liens or encumbrances created subsequent to the date hereof.

Refusal to Purchase

4. This policy does not insure against loss or damage by reason of the refusal of any person to purchase, lease or lend money on the property, estate or interest described in Schedule A.

CONDITIONS AND STIPULATIONS

Notice of Actions

1. If any action or proceeding shall be begun or defense asserted which may result in an adverse judgment or decree resulting in a loss for which this Company is liable under this policy, notice in writing of such action or proceeding or defense shall be given by the Attorney General to this company within 90 days after notice of such action or proceeding or defense has been received by the Attorney General; and upon failure to give such notice then all liability of this Company with respect to the defect, claim, lien or encumbrance asserted or enforced in such action or proceeding shall terminate. Failure to give notice, however, shall not prejudice the rights af the party insured, (1) if the party insured shall not be a party to such action or proceeding, or (2) if such party, being a party to such action or proceeding be neither served with summons therein nor have actual notice of such action or proceedings, or (3) if this Company shall not be prejudiced by failure of the Attorney General to give such notice.

Notice of Writs.

2. In case knowledge shall come to the Attorney General of the issuance or service of any writ of execution, attachment or other process to enforce any judgment, order or decree adversely affecting the title, estate or interest insured said party shall notify this company thereof in writing within 90 days from the date of such knowledge; and upon a failure to do so, then all liability of this

Company in consequence of such judgment, order or decree or matter thereby adjudicated shall terminate unless this Company shall not be prejudiced by reason of such failure to notify.

Defense of Claims

3. This Company agrees, but only at the election and request of the Attorney General of the United States, to defend at its own cost and expense the title, estate or interest hereby insured in all actions or other proceedings which are founded upon or in which it is asserted by way of defense, a defect, claim, lien or encumbrance against which this policy insures, provided, however, that the request to defend is given within sufficient time to permit the Company to answer or otherwise participate in the proceeding. If any action or proceeding shall be begun or defense be asserted in any action or proceeding affecting or relating to the title, estate or interest hereby insured and the Attorney General elects to defend at the Government's expense, the Company shall upon request, cooperate and render all reasonable assistance in the prosecution or defense of such proceeding and in prosecuting appeals.

If the Attorney General shall fail to request and permit the Company to defend, then all liability of the Company with respect to the defect, claim, lien or encumbrance asserted in such action or proceeding shall terminate; provided, however, that if the Attorney General shall give the Company timely notice of all proceedings and an opportunity to suggest such defenses and actions as it shall conceive should be taken and the Attorney General shall present the defenses and take the actions of which the Company shall advise him in writing, then the liability of the Company shall continue; but in any event the Company shall permit the Attorney General without cost or expense to use the information and facilities of the Company for all purposes which he thinks necessary or incidental to the defending of any such action or proceeding or any claim asserted by way of defense therein and to the prosecuting of an appeal.

Compromise of Adverse Claims

4. Any compromise, settlement or discharge by the United States or its duly authorized representative of an adverse claim, without the consent of this Company shall bar any claim against the Company hereunder; provided, however, that the Attorney General may at his election submit to the issuing company for approval or disapproval any proposed compromise, settlement or discharge of any adverse claim and in the event of the consent of the issuing

company to the proposed compromise, settlement or discharge it shall be liable for the payment of the full amount paid.

Statement of Loss

5. A statement in writing of any loss or damage sustained by the party insured, and for which it is claimed this Company is liable under this policy, shall be furnished by the Attorney General to this Company within 90 days after said party has notice of such loss or damage and no right of action shall accrue under this policy until 30 days after such statement shall have been furnished. No recovery shall be had under this policy unless suit be brought thereon within one year after said period of 30 days. Failure to furnish such statement of loss or to bring such suit within the times specified shall not affect the Company's liability under this policy unless this Company has been prejudiced by reason of such failure to furnish a statement of loss or to bring such suit.

Policy Reduced by Payments of Loss

6. All payments of loss under this policy shall reduce the amount of this policy pro tanto.

Amendment of Policy

7. No provision or condition of this policy can be waived or changed except by writing endorsed hereon or attached hereto signed by the President, a Vice President, the Secretary, and Assistant Scretary or other validating officer of the Company.

Notices, Where Sent

8. All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at (insert proper address).

ENDORSEMENT

Attached to Policy No.

Issued by

BLANK TITLE INSURANCE COMPANY

1. Schedule A of the above policy is hereby amended in the following particulars:
   (a) Paragraph 1 of Schedule A is hereby deleted and the following is substituted:

1. The estate or interest in the land described or referred to in this Schedule covered by this policy it: (An easement for _____.)

(b) Paragraph 2 of Schedule A is hereby deleted and the following is substituted:

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

THE UNITED STATES OF AMERICA

(Follow with appropriate reference to Declaration of Taking or Deed.)

(c) Paragraph 3 of Schedule A is hereby deleted and the following is substituted:

3. The land referred to in this policy is situated in the County of _____, State of _____, and is described as follows:

(Here give description of land actually acquired.)

2. Schedule B of the above policy is hereby amended in the following particulars:

(a) Paragraphs numbered ____, ____, ____ and ____ of Schedule B are hereby deleted.

(Enumerate those paragraphs eliminated by proper releases, conveyances, etc.)

(b) Schedule B of the above policy is amended by adding the following paragraphs numbered ____ to ____, inclusive.

3. Subparagraph 2(d) of the General Exceptions of the above policy is hereby deleted.

4. The effective date of the above policy is hereby extended to _____.

(Date o frecording of Deed or Notice of Action, since no insurance is to be afforded as to regularity of proceedings.)

The total liability of the Company under said policy and this endorsement thereto shall not exceed, in the aggregate, the sum of $____ and costs which the Company is obligated under the Conditions and Stipulations thereof to pay.

This endorsement is made a part of said policy and is subject to the Schedules, General Exceptions and the Conditions and Stipulations therein, except as modified by the provisions hereof.

Dated:

BLANK TITLE INSURANCE COMPANY,

By _____
(Authorized officer)

DOJ-1977-09

APPENDIX 13

COMPANIES/INDIVIDUALS APPROVED TO PROVIDE TITLE EVIDENCE TO THE DEPARTMENT OF THE INTERIOR IN ALASKA[1]

ALASKA	CITY[2]
Alaska Title Guaranty Co.	Anchorage
Chicago Title Ins. Co.	Chicago, IL
Commonwealth Land Title Ins. Co.	Philadelphia, PA
Davis & Renfrew	Anchorage
First American Title Ins. Co.	Santa Ana, CA
Kelleher, Thomas P., Title Guarantee Trust Company	Anchorage
Klindt, Miss Kathleen H. (Office of District Engineer)	Anchorage
Lawyers Title Insurance Corp.	Anchorage
Safeco Title Insurance Company	Anchorage
Security Title & Trust Co. of Alaska	Anchorage
Title Insurance Company of Minnesota	
Transamerica Title Ins. & Trust	Anchorage
Tregaskis, Jack, Corps of Engineers, Department of the Army	Anchorage
Land Field Services	Anchorage
TransAlaska Title	Statewide
Stewart Title Company of Alaska	Statewide
Alaska First Title Insurance Agency	Palmer
Title Insurance Agency	Juneau
William O. Vallee / Abstract Services	Anchorage
Fairbanks Title Agency	Fairbanks
Kachemak Bay Title Agency, Inc.	Homer
Land Title Co.	Anchorage

Current as of: November 13, 1991

For updates, call the Office of the Regional Solicitor at 271-4131.

1/ Some of these entities are still on the approved list even though they are defunct.

2/ The city listed is where the approved entity has an established office. An approved entity may, however, provide title evidence for other areas so long as its title plant and system of examination is sufficient.

Security Title & Trust Agency of Alaska, Inc.

3333 Denali #100 • Anchorage, AK 99503 • (907) 276-0909 • FAX (907) 279-9253
Suite 200, Centerfield Center • Eagle River, AK 99577 • (907) 694-8070

Complete Title & Escrow Services
Agent In Alaska For
First American Title
Insurance Com

INSURANCE TO AND INCLUDING	BASIC RATE	ALTA ONLY	ALTA MORTGAGEE SIMULTANEOUS	INSURANCE TO AND INCLUDING	BASIC RATE	ALTA ONLY	ALTA MORTGAGEE SIMULTANEOUS
28,000	250.00	275.00	175.00	78,000	494.00	543.50	223.25
29,000	256.00	281.75	175.00	79,000	498.00	548.00	224.50
30,000	262.00	288.25	175.00	80,000	502.00	552.25	225.75
31,000	268.00	295.00	175.00	81,000	506.00	556.75	227.00
32,000	274.00	301.50	175.00	82,000	510.00	561.00	228.00
33,000	280.00	308.00	175.00	83,000	514.00	565.50	229.25
34,000	286.00	314.75	175.00	84,000	518.00	570.00	230.50
35,000	292.00	321.25	175.00	85,000	522.00	574.25	231.75
36,000	298.00	328.00	175.00	86,000	526.00	578.75	233.00
37,000	304.00	334.50	175.00	87,000	530.00	583.00	234.00
38,000	310.00	341.00	175.00	88,000	534.00	587.50	235.25
39,000	316.00	347.75	175.00	89,000	538.00	592.00	236.50
40,000	322.00	354.25	175.00	90,000	542.00	596.25	237.75
41,000	328.00	361.00	175.00	91,000	546.00	600.75	239.00
42,000	334.00	367.50	175.25	92,000	550.00	605.00	240.00
43,000	340.00	374.00	177.00	93,000	554.00	609.50	241.25
44,000	346.00	380.75	179.00	94,000	558.00	614.00	242.50
45,000	352.00	387.25	180.75	95,000	562.00	618.25	243.75
46,000	358.00	394.00	182.50	96,000	566.00	622.75	245.00
47,000	364.00	400.50	184.25	97,000	570.00	627.00	246.00
48,000	370.00	407.00	186.00	98,000	574.00	631.50	247.25
49,000	376.00	413.75	188.00	99,000	578.00	636.00	248.50
50,000	382.00	420.25	189.75	100,000	582.00	640.25	250.00
51,000	386.00	424.75	191.00	101,000	585.00	643.50	250.50
52,000	390.00	429.00	192.00	102,000	588.00	647.00	251.50
53,000	394.00	433.50	193.25	103,000	591.00	650.25	252.50
54,000	398.00	438.00	194.50	104,000	594.00	653.50	253.25
55,000	402.00	442.25	195.75	105,000	597.00	656.75	254.25
56,000	406.00	446.75	197.00	106,000	600.00	660.00	255.00
57,000	410.00	451.00	198.00	107,000	603.00	663.50	256.00
58,000	414.00	455.50	199.25	108,000	606.00	666.75	257.00
59,000	418.00	460.00	200.50	109,000	609.00	670.00	258.00
60,000	422.00	464.25	201.75	110,000	612.00	673.25	258.75
61,000	426.00	468.75	203.00	111,000	615.00	676.50	259.50
62,000	430.00	473.00	204.00	112,000	618.00	680.00	260.50
63,000	434.00	477.50	205.25	113,000	621.00	683.25	261.50
64,000	438.00	482.00	206.50	114,000	624.00	686.50	262.25
65,000	442.00	486.25	207.75	115,000	627.00	689.75	263.25
66,000	446.00	490.75	209.00	116,000	630.00	693.00	264.00
67,000	450.00	495.00	210.00	117,000	633.00	696.50	265.00
68,000	454.00	499.50	211.25	118,000	636.00	699.75	266.00
69,000	458.00	504.00	212.50	119,000	639.00	703.00	266.75
70,000	462.00	508.25	213.75	120,000	642.00	706.25	267.75
71,000	466.00	512.75	215.00	121,000	645.00	709.50	268.50
72,000	470.00	517.00	216.00	122,000	648.00	713.00	269.50
73,000	474.00	521.50	217.25	123,000	651.00	716.25	270.50
74,000	478.00	526.00	218.50	124,000	654.00	719.50	271.25
75,000	482.00	530.25	219.75	125,000	657.00	722.75	272.25
76,000	486.00	534.75	221.00	126,000	660.00	726.00	273.00
77,000	490.00	539.00	222.00	127,000	663.00	729.50	274.(

Escrow Rates: $150 plus $1 per thousand dollars of sales price. Please call for Rate Quotes on your transaction.

We maintain title plants for the following Recording Districts:
ANCHORAGE, BETHEL, KUSKOKWIM, and VALDEZ.
Title Insurance anywhere in Alaska.
We're the Title Company that cares about you! We make sure you get the Best Rates Statewide

INSURANCE TO AND INCLUDING	BASIC RATE	ALTA ONLY	ALTA MORTGAGEE SIMULTANEOUS	INSURANCE TO AND INCLUDING	BASIC RATE	ALTA ONLY	ALTA MORTGAGEE SIMULTANEOUS
128,000	666.00	732.75	275.00	185,000	837.00	920.75	326.25
129,000	669.00	736.00	275.75	186,000	840.00	924.00	327.00
130,000	672.00	739.25	276.75	187,000	843.00	927.50	328.00
131,000	675.00	742.50	277.50	188,000	846.00	930.75	329.00
132,000	678.00	746.00	278.50	189,000	849.00	934.00	329.75
133,000	681.00	749.25	279.50	190,000	852.00	937.25	330.75
134,000	684.00	752.50	280.25	191,000	855.00	940.50	331.50
135,000	687.00	755.75	281.25	192,000	858.00	944.00	332.50
136,000	690.00	759.00	282.00	193,000	861.00	947.25	333.50
137,000	693.00	762.50	283.00	194,000	864.00	950.50	334.25
138,000	696.00	765.75	284.00	195,000	867.00	953.75	335.25
139,000	699.00	769.00	284.75	196,000	870.00	957.00	336.00
140,000	702.00	772.25	285.75	197,000	873.00	960.50	337.00
141,000	705.00	775.50	286.50	198,000	876.00	963.75	338.00
142,000	708.00	779.00	287.50	199,000	879.00	967.00	338.75
143,000	711.00	782.25	288.50	200,000	882.00	970.25	339.75
144,000	714.00	785.50	289.25	225,000	957.00	1,052.75	362.25
145,000	717.00	788.75	290.25	250,000	1,032.00	1,135.25	384.75
146,000	720.00	792.00	291.00	275,000	1,107.00	1,217.75	407.25
147,000	723.00	795.50	292.00	300,000	1,182.00	1,300.25	429.75
148,000	726.00	798.75	293.00	325,000	1,257.00	1,382.75	452.25
149,000	729.00	802.00	293.75	350,000	1,332.00	1,465.25	474.75
150,000	732.00	805.25	294.75	375,000	1,407.00	1,547.75	497.25
151,000	735.00	808.50	295.50	400,000	1,482.00	1,630.25	519.75
152,000	738.00	812.00	296.50	425,000	1,557.00	1,712.75	542.25
153,000	741.00	815.25	297.50	450,000	1,632.00	1,795.25	564.75
154,000	744.00	818.50	298.25	475,000	1,707.00	1,877.75	587.25
155,000	747.00	821.75	299.25	500,000	1,782.00	1,960.25	609.75
156,000	750.00	825.00	300.00	525,000	1,844.50	2,029.00	628.50
157,000	753.00	828.50	301.00	550,000	1,907.00	2,097.75	647.25
158,000	756.00	831.75	302.00	575,000	1,969.50	2,166.50	666.00
159,000	759.00	835.00	302.75	600,000	2,032.00	2,235.25	684.75
160,000	762.00	838.25	303.75	625,000	2,094.50	2,304.00	703.50
161,000	765.00	841.50	304.50	650,000	2,157.00	2,372.75	722.25
162,000	768.00	845.00	305.50	675,000	2,219.50	2,441.50	741.00
163,000	771.00	848.25	306.50	700,000	2,282.00	2,510.25	759.75
164,000	774.00	851.50	307.25	725,000	2,344.50	2,579.00	778.50
165,000	777.00	854.75	308.25	750,000	2,407.00	2,647.75	797.25
166,000	780.00	858.00	309.00	775,000	2,457.00	2,702.75	812.25
167,000	783.00	861.50	310.00	800,000	2,507.00	2,757.75	827.25
168,000	786.00	864.75	311.00	825,000	2,557.00	2,812.75	842.25
169,000	789.00	868.00	311.75	850,000	2,607.00	2,867.75	857.25
170,000	792.00	871.25	312.75	875,000	2,657.00	2,922.75	872.25
171,000	795.00	874.50	313.50	900,000	2,707.00	2,977.75	887.25
172,000	798.00	878.00	314.50	925,000	2,757.00	3,032.75	902.25
173,000	801.00	881.25	315.50	950,000	2,807.00	3,087.75	917.25
174,000	804.00	884.50	316.25	975,000	2,857.00	3,142.75	932.25
175,000	807.00	887.75	317.25	1,000,000	2,907.00	3,197.75	947.25
176,000	810.00	891.00	318.00	1,500,000	3,907.00	4,297.75	1,247.25
177,000	813.00	894.50	319.00	2,000,000	4,907.00	5,397.75	1,547.25
178,000	816.00	897.75	320.00	2,500,000	5,532.00	6,085.25	1,734.75
179,000	819.00	901.00	320.75	3,000,000	6,157.00	6,772.75	1,922.25
180,000	822.00	904.25	321.75	3,500,000	6,782.00	7,460.25	2,109.75
181,000	825.00	907.50	322.50	4,000,000	7,407.00	8,147.75	2,297.25
182,000	828.00	911.00	323.50	4,500,000	8,032.00	8,835.25	2,484.75
183,000	831.00	914.25	324.50	5,000,000	8,657.00	9,522.75	2,672.25
184,000	834.00	917.50	325.25				

MICHAEL R. SPAAN
United States Attorney
Department of Justice
Room C-252, Mail Box 9
701 "C" Street
Anchorage, Alaska 99513
(907) 271-5071

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

ETHEL AGUILAR, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. A76-271 Civil

MOTION FOR APPROVAL OF SETTLEMENT

By Order dated February 7, 1983, this court approved the attached Stipulated Procedures for Implementation of this court's July 31, 1979 Order that the Department of the Interior adjudicate the substantive claims of the plaintiffs in this class action to land patented to the State of Alaska. Paragraphs 11 and 12 of those stipulated procedures provide:

> 11. If at any time the State is willing to convey a portion of the allotment, or the entire allotment subject to reservations, in settlement of the applicant's claim and tenders a valid and appropriate deed, the Solicitor's Office will forward the offer to the applicant and coordinate the settlement. Counseling for the applicant will be available from the BIA. Provided, this paragraph shall not apply to any application which would be determined invalid for legal defects as described in paragraph.

12. If after counseling, the applicant wishes to accept the settlement, a settlement agreement will be drawn up and submitted to the Court for approval. Acreage received by the applicant shall be credited to the State entitlement under which the lands were originally conveyed.

The Bureau of Land Management, Bureau of Indian Affairs, the State of Alaska and the individual applicants (after counseling by the Bureau of Indian Affairs) have agreed to the settlement and release agreements attached hereto for the following allotment applications:

1. Alice Bouwens (Native Allotment AA-6995)

2. William C. Bouwens (Native Allotment AA-6996)

Accordingly, the parties move for an order and final partial judgment approving the above-listed settlements.

Respectfully submitted,

MICHAEL R. SPAAN
UNITED STATES ATTORNEY

DATED: 11/15/88

MICHAEL R. SPAAN
Attorney for Defendant

DATED: November 17 1988

DAVID FLEURANT
Alaska Legal Services Corp.
Attorney for Plaintiffs

FILED

DEC 06 1988

[illegible] COURT

By [illegible] Deputy

ORDER

IT IS SO ORDERED this 6 day of December, 1988 at Anchorage, Alaska.

U.S. DISTRICT COURT JUDGE

cc: Alaska Legal Services
U.S. Attorney

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