

(v) Be reserved for future roads, including railroads and roads for future logging operations, only if they are site specific and actually planned for construction within 5 years of the date of conveyance;

(vi) Be reserved in topographically suitable locations whenever the location is not otherwise determined by an existing route of travel or when there is no existing site;

(vii) Be reserved along the marine coastline only to preserve a primary route of travel between coastal communities, publicly owned uplands, or coastal communities and publicly owned uplands;

(viii) Be reserved from publicly owned uplands to the marine coastline only if significant present existing use has occurred on those publicly owned lands below the line of mean high tide. However, for isolated tracts of publicly owned uplands, public easements may be reserved to provide transportation from the marine coastline if there is no other reasonable transportation route;

(ix) Be reserved along major waterways only to provide short portages or transportation routes around obstructions. However, this condition does not preclude the reservation of a trail or road easement which happens to run alongside a waterway;

(x) Not be reserved on the beds of major waterways except where use of the bed is related to road or trail purposes, portaging, or changing the mode of travel between water and land (e.g., launching or landing a boat); a specific portion of the bed or shore of the waterway which is necessary to provide portage or transportation routes around obstructions, including those that are dangerous or impassible or seasonably dangerous or impassible, may be reserved.

(xi) Not be reserved on the beds of nonmajor waterways except where use of the beds is related to road or trail purposes. However, this exception shall not be used to reserve a continuous linear easement on the streambed to facilitate access by boat.

(xii) Not be reserved simply to reflect patterns of Native use on Native lands;

(xiii) Not be reserved for the purpose of protecting Native stockholders from their respective corporations;

(xiv) Not be reserved on the basis of subsistence use of the lands of one village by residents of another village.

(2) Transportation easements shall be limited to roads and sites which are related to access. The use of these easements shall be controlled by applicable Federal, State, or municipal corporation laws or regulations. The uses stated herein will be specified in the interim conveyance and patent documents as permitted uses of the easement.

(i) The width of a trail easement shall be no more than 25 feet if the uses to be accommodated are for travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. G.V.W.);

(ii) The width of a trail easement shall be no more than 50 feet if the uses to be accommodated are for travel by large all-terrain vehicles (more than 3,000 lbs. G.V.W.), track vehicles and 4-wheel drive vehicles, in addition to the uses included under paragraph (b)(2)(i) of this section;

(iii) The width of an existing road easement shall be no more than 60 feet if the uses to be accommodated are for travel by automobiles or trucks in addition to the uses included under paragraphs (b)(2) (i) and (ii) of this section. However, if an existing road is wider than 60 feet, the specific public easement may encompass that wider width. For proposed roads, including U.S. Forest Service logging roads, the width of the public easement shall be 100 feet, unless otherwise justified. Prior to construction, trail uses which are included under paragraphs (b)(2) (i) and (ii) of this section may be permitted if otherwise justified and may continue if the road is not built. If after the road has been constructed a lesser width is sufficient to accommodate the road, the Director shall reduce the size of the easement to that width.

(iv) The width of a proposed railroad easement shall be 100 feet on either side of the center line of any such railroad.

(3) *Site easements.* Site easements which are related to transportation may be reserved for aircraft landing or vehicle parking (e.g., aircraft, boats,

ATV's, cars, trucks), temporary camping, loading or unloading at a trail head, along an access route or waterway, or within a reasonable distance of a transportation route or waterway where there is a demonstrated need to provide for transportation to publicly owned lands or major waterways. Temporary camping, loading, or unloading shall be limited to 24 hours. Site easements shall not be reserved for recreational use such as fishing, unlimited camping, or other purposes not associated with use of the public easement for transportation. Site easements shall not be reserved for future logging or similar operations (e.g., log dumps, campsites, storage or staging areas). Before site easements are reserved on transportation routes or on major waterways, a reasonable effort shall be made to locate parking, camping, beaching, or aircraft landing sites on publicly owned lands; particularly, publicly owned lands in or around communities, or bordering the waterways. If a site easement is to be reserved, it shall:

(i) Be subject to the provisions of paragraphs (b)(1) (ii), (iii), (vi), (xii), (xiii), and (xiv) of this section.

(ii) Be no larger than one acre in size and located on existing sites unless a variance is in either instance, otherwise justified;

(iii) Be reserved on the marine coastline only at periodic points along the coast where they are determined to be reasonably necessary to facilitate transportation on coastal waters or transportation between coastal waters and publicly owned uplands;

(iv) Be reserved only at periodic points on major waterways. Uses shall be limited to those activities which are related to travel on the waterway or to travel between the waterway and publicly owned lands. Also, periodic site easements shall be those necessary to allow a reasonable pattern of travel on the waterway;

(v) Be reserved for aircraft landing strips only if they have present significant use and are a necessary part of a transportation system for access to publicly owned lands and are not suitable for reservation under section 14(c)(4) of the Act. Any such easement shall encompass only that area which

is used for takeoffs and landings and any clear space around such site that is needed for parking or public safety.

(c) *Miscellaneous easements.* The public easements referred to in this subsection which do not fall into the categories above may be reserved in order to continue certain uses of publicly owned lands and major waterways. These public easements shall be limited in number. The identification and size of these public easements may vary from place to place depending upon particular circumstances. When not controlled by applicable law or regulation, size shall not exceed that which is reasonably necessary for the purposes of the identified easement. Miscellaneous easements may be reserved for the following purposes:

(1) Public easements which are for utility purposes (e.g., water, electricity, communications, oil, gas, and sewage) may be reserved and shall be based upon present existing use. Future easements for these purposes may also be reserved, but only if they are site specific and actually planned for construction within 5 years of the date of conveyance;

(2) Easements for air light or visibility purposes may be reserved if required to insure public safety or to permit proper use of improvements developed for public benefit or use; e.g., protection for aviation or navigation aids or communications sites;

(3) Public easements may be reserved to guarantee international treaty obligations or to implement any agreement entered into between the United States and the Native Corporation receiving the conveyance. For example, the agreement of May 14, 1974, related to Naval Petroleum Reserve Number Four (redesignated June 1, 1977, as the National Petroleum Reserve-Alaska) between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, shall be incorporated in the appropriate conveyances and the easements necessary to implement the agreement shall be reserved.

(d) *Conveyance provisions.* (1) Public easement provisions shall be placed in interim conveyances and patents.

(2) Permissible uses of a specific easement shall be listed in the appropriate

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conveyance document. The conveyance documents shall include a general provision which states that uses which are not specifically listed are prohibited.

(3) The easements shall be identified on appropriate maps which shall be part of the pertinent interim conveyance and patent.

(4) All public easement shall be reserved to the United States and subject, as appropriate, to further Federal, State, or municipal corporation regulation.

(5) All conveyance documents shall contain a general provision which states that pursuant to section 17(b)(2) of the Act, any valid existing right recognized by the Act shall continue to have whatever right of access as is now provided for under existing law.

[43 FR 55329, Nov. 27, 1978]

§ 2650.5 Survey requirements.

§ 2650.5-1 General.

(a) Selected areas are to be surveyed as provided in section 13 of the Act. Any survey or description used as a basis for conveyance must be adequate to identify the lands to be conveyed.

(b) The following procedures shall be used to determine what acreage is not to be charged against Native entitlement:

(1) For any approved plat of survey where meanderable water bodies were not segregated from the survey but were included in the calculation of acreage to be charged against the Native corporation's land entitlement, the chargeable acreage shall, at no cost to the Native corporation, be recalculated to conform to the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, except as modified by this part. Pursuant to such principles, the acreage of meanderable water bodies, as modified by this part, shall not be included in the acreage charged against the Native corporation's land entitlement.

(2) For any plat of survey approved after December 5, 1983, water bodies shall be meandered and segregated from the survey in accordance with the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, as modified by

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this part, as the basis for determining acreage chargeability.

(3) If title to lands beneath navigable waters, as defined in the Submerged Lands Act, of a lake less than 50 acres in size or a river or stream less than 3 chains in width did not vest in the State on the date of Statehood, such lake, river or stream shall not be meandered and shall be charged against the Native corporation's entitlement.

(4) Any determinations of meanders which may be made pursuant to this paragraph shall not require monumentation on the ground unless specifically required by law or for good cause in the public interest.

[38 FR 14218, May 30, 1973, as amended at 50 FR 15547, Apr. 19, 1985]

§ 2650.5-2 Rule of approximation.

To assure full entitlement, the rule of approximation may be applied with respect to the acreage limitations applicable to conveyances and surveys under this authority, i.e., any excess must be less than the deficiency would be if the smallest legal subdivision were eliminated (see 62 I.D. 417, 421).

§ 2650.5-3 Regional surveys.

Lands to be conveyed to a regional corporation, when selected in contiguous units, shall be grouped together for the purpose of survey and surveyed as one tract, with monuments being established on the exterior boundary at angle points and at intervals of approximately 2 miles on straight lines. If requested by the grantee, the Secretary may survey, insofar as practicable, the individual selections that comprise the total tract.

§ 2650.5-4 Village surveys.

(a) Only the exterior boundaries of contiguous entitlements for each village corporation will be surveyed. Where land within the outer perimeter of a selection is not selected, the boundaries along the area excluded shall be deemed exterior boundaries. The survey will be made after the total acreage entitlement of the village has been selected.

(b) Surveys will be made within the village corporation selections to delineate those tracts required by law to be