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lands in which each of the cities is located. After review and public hearings, the Secretary shall withdraw up to 46,080 acres near each of the cities from the lands nominated. Each corporation representing the Native residents of the four named cities may select not more than one-half the area withdrawn for selection by that corporation. The Secretary shall convey the area selected.

§ 2653.8 Primary place of residence.

(a) An application under this subpart may be made by a Native who occupied land as a primary place of residence on August 31, 1971.

(b) Applications for a primary place of residence must be filed not later than December 18, 1973.

§ 2653.8-1 Acreage to be conveyed.

A Native may secure title to the surface estate of only a single tract not to exceed 160 acres under the provisions of this subpart, and shall be limited to the acreage actually occupied and used. An application for title under this subpart shall be accompanied by a certification by the applicant that he will not receive title to any other tract of land pursuant to sections 14 (c)(2), (h)(2), or 18 of the Act.

§ 2653.8-2 Primary place of residence criteria.

(a) *Periods of occupancy.* Casual or occasional use will not be considered as occupancy sufficient to make the tract applied for a primary place of residence.

(b) *Improvements constructed on the land.* (1) Must have a dwelling.

(2) May include associated structures such as food cellars, drying racks, caches etc.

(c) *Evidence of occupancy.* Must have evidence of permanent or seasonal occupancy for substantial periods of time.

§ 2653.8-3 Appeals.

Appeals from decisions made by the Bureau of Land Management on applications filed pursuant to section 14(h)(5) of the Act shall be made to the

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Board of Land Appeals in accordance with 43 CFR part 4, subpart E.

[41 FR 14740, Apr. 7, 1976]

§ 2653.9 Regional selections.

(a) Applications by a regional corporation for selection of land within its boundaries under section 14(h)(8) of the Act shall be filed with the proper office of the Bureau of Land Management in accordance with § 2650.2(a). Selections made under section 14(h)(1), (2), (3), and (5) of the Act will take priority over selections made pursuant to section 14(h)(8). Lands available for section 14(h)(8) selections are those lands originally withdrawn under section 11(a)(1), (3), or 16(a) of the Act and not conveyed pursuant to selections made under sections 12(a), (b), or (c), 16(b) or 19 of the Act.

(b) A regional corporation may select a total area in excess of its entitlement to ensure that it will obtain its entitlement in the event of any conflicts. Any acreage in excess of its entitlement shall be identified as alternate selections and shall be numerically ordered on a section by section basis to indicate selection preference.

(c) Selections need not be contiguous but must be made along section lines in reasonably compact tracts of at least 5,760 acres, not including any unavailable land contained therein. The exterior boundaries of such tracts shall be in linear segments of not less than two miles in length, except where adjoining unavailable lands or where shorter segments are necessary to follow section lines where township lines are offset along standard parallels caused by the convergence of the meridians. However, selected tracts may contain less than 5,760 acres where there is good cause shown for such selection, taking into consideration good land management planning and principles for the potentially remaining public lands, and which would not leave unduly fragmented tracts of such public lands. Each tract selected shall not be considered to be reasonably compact if (1) it excludes other lands for selection within its exterior boundaries, or (2) an isolated tract of public land of less than 1,280 acres remains after selection of the total entitlement. Regional corporations shall not

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be precluded from selecting less than 5,760 acres where the entire tract available for selection constitutes less than 5,760 acres. Selection shall conform as nearly as practicable to the United States land survey system.

(d) Notice of the filing of such selections, including the date by which any protest of the selection should be filed, shall be published once in the FEDERAL REGISTER and one or more newspapers of general circulation in Alaska once a week for three consecutive weeks by the Bureau of Land Management. Any protest to the application should be filed in the Bureau of Land Management office in which such selections were filed within the time specified in the notice.

(e) Appeals from decisions made by the Bureau of Land Management with respect to such selections shall be made to the Board of Land Appeals in accordance with 43 CFR part 4, subpart E.

[41 FR 14740, Apr. 7, 1976, as amended at 41 FR 49487, Nov. 9, 1976]

§ 2653.10 Excess selections.

Where land selections by a regional corporation, Native group, any of the four named cities, or a Native pursuant to section 14(h) (1), (2), (3), or (5) exceed the land entitlement, the Bureau of Land Management may request such corporation to indicate its preference among lands selected.

[41 FR 14740, Apr. 7, 1976]

§ 2653.11 Conveyance reservations.

(a) Conveyances issued pursuant to this subpart are subject to the conveyance reservations described in § 2650.4 of this chapter.

(b) In addition to the reservations provided in paragraph (a) of this section, conveyance for cemetery sites or historical places will contain a covenant running with the land providing that (1) the regional corporation shall not authorize mining or mineral activity of any type; nor shall it authorize any use which is incompatible with or is in derogation of the values of the area as a cemetery site or historical place (standards for determining uses which are incompatible with or in derogation of the values of the area are

found in relevant portions of 36 CFR 800.9 (1974); and (2) that the United States reserves the right to seek enforcement of the covenant in an action in equity. The covenant placed in this subsection may be released by the Secretary, in his discretion, upon application of the regional corporation grantee showing that extraordinary circumstances of a nature to warrant the release have arisen subsequent to the conveyance.

(c) Conveyances for cemetery sites and historical places shall also contain the covenant required by § 2650.4-6 of this chapter.

[38 FR 14218, May 30, 1973. Redesignated and amended at 41 FR 14740, Apr. 7, 1976]

Subpart 2654—Native Reserves

§ 2654.0-3 Authority.

Section 19(b) of the Act authorizes any village corporation(s) located within a reserve defined in the act to acquire title to the surface and subsurface estates in any reserve set aside for the use and benefit of its stockholders or members prior to December 18, 1971. Such acquisition precludes any other benefits under the Act.

§ 2654.0-5 Definitions.

Reserve lands means any lands reserved prior to the date of enactment of the act which are subject to being taken in lieu of other benefits under the act pursuant to section 19(b) of the Act.

§ 2654.1 Exercise of option.

(a) Any village corporation which has not, by December 18, 1973, elected to acquire title to the reserve lands will be deemed to have elected to receive for itself and its members the other benefits under the Act.

(b) The election of a village to acquire title to the reserve lands shall be exercised in the manner provided by its articles of incorporation. However when two or more villages are located on the same reserve there must be a special election to acquire title to the reserve lands. A majority vote of all the stockholders or members of all corporations located on the reserve is required to acquire title to the reserve