



Highlights of [GAO-06-1107T](#), a testimony before the Committee on Resources, House of Representatives

## Why GAO Did This Study

In 1906, the Alaska Native Allotment Act authorized the Secretary of the Interior to allot individual Alaska Natives (Native) a homestead of up to 160 acres. The validity of some of Copper Valley Electric Association's (Copper Valley) rights-of-way within Alaska Native allotments is the subject of ongoing dispute; in some cases the allottees assert that Copper Valley's electric lines trespass on their land. The Department of the Interior's (Interior) Bureau of Land Management (BLM) and Bureau of Indian Affairs (BIA) are responsible for granting rights-of-way and handling disputes between allottees and holders of rights-of-way.

This testimony is based on GAO's report, *Alaska Native Allotments: Conflicts with Utility Rights-of-way Have Not Been Resolved through Existing Remedies* (GAO-04-923, September 7, 2004). Specifically GAO determined (1) the number of conflicts between Native allotments and Copper Valley rights-of-way and the factors that contributed to these conflicts, (2) the extent to which existing remedies have been used to resolve these conflicts, and (3) what legislative alternatives, if any, could be considered to resolve these conflicts.

[www.gao.gov/cgi-bin/getrpt?GAO-06-1107T](http://www.gao.gov/cgi-bin/getrpt?GAO-06-1107T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robin M. Nazzaro at (202) 512-3841 or [nazzaror@gao.gov](mailto:nazzaror@gao.gov).

# ALASKA NATIVE ALLOTMENTS

## Alternatives to Address Conflicts with Utility Rights-of-way

### What GAO Found

There are 14 cases where conflict exists regarding Copper Valley's rights-of-way within Native allotments. These conflicts stem from three principal sources. First, BLM and a BIA realty service provider have applied the relation back doctrine to invalidate or question Copper Valley's rights-of-way in cases where the Native allottee's use and occupancy of the land predates the right-of-way. In these instances, Copper Valley obtained rights-of-way and built electric lines before the land was awarded as an allotment. Second, Interior does not recognize rights-of-way granted by the State of Alaska to Copper Valley to install electric lines within certain highway easements granted to the state by the federal government. Interior's Alaska Office of the Solicitor has taken the position that the federal government did not convey to the State of Alaska the authority to grant rights-of-way for utilities within certain highway easements. Third, Copper Valley constructed electric lines even though they were never issued a right-of-way.

Few cases have been resolved using existing remedies. Copper Valley currently has three remedies available to it to resolve conflicts. It could (1) negotiate rights-of-way with Native allottees in conjunction with BIA; (2) relocate its electric lines outside of the allotment; or (3) exercise the power of eminent domain, also known as condemnation, to acquire the land. Since the mid-1990s, Copper Valley has negotiated rights-of-way for 3 Native allotments; however, it has not relocated any of its electric lines and has been reluctant to exercise eminent domain to resolve other conflicts. Copper Valley has stopped trying to resolve these conflicts because it maintains that the existing remedies are too costly, impractical, and/or potentially damaging to relationships with the community. Copper Valley officials told GAO that they should not have to bear the cost of resolving conflicts that they believe the federal government caused by applying the relation back doctrine and by not recognizing their state issued rights-of-way.

Copper Valley representatives, Alaska Native advocates, and GAO identified four legislative alternatives that could be considered to resolve these conflicts.

- Change Interior's application of the relation back doctrine to Alaska Native allotments so that the date an allotment was filed, rather than the date an allottee claimed initial use and occupancy of the land, is used to determine the rights of allottees and holders of rights-of-way.
- Allow the U.S. government to be sued with regard to Alaska Native allotments so that legal challenges to the relation back doctrine and other legal issues can be heard in federal court.
- Ratify the rights-of-way granted by the State of Alaska within federally granted highway easements, to provide for a valid right-of-way dating back to the time the state right-of-way was granted.
- Establish a federal fund to pay for rights-of-way across Alaska Native allotments.