

## MEMORANDUM State of Alaska

Route A	Init. Date
Director	
Deputy	
C & SC Area	
I & W Area	
SP & SE Area	
Appraisal	
Highway Admin.	
File	
C	I
SE	SC
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TO: Jack Bodine  
Right of Way Director  
Alaska Department of Highways  
Douglas

DATE: February 4, 1977

FILE NO:

TELEPHONE NO:

FROM: William R. Satterberg, Jr.,  
Highway Section  
Fairbanks

SUBJECT: Documentation for Settlement

On November 21, 1975, plaintiffs Curtis Ostrem and Steve Cox filed suit against the State of Alaska Department of Highways for damages and an injunction occasioned by the State of Alaska's entry upon their land to improve Nelson Plack Road. At the time of entry, the State of Alaska was in error and admittedly without legal right to enter, there having been no easements or condemnation accomplished. There additionally appeared to be no dispute as to the nature of the trespass. The law on trespass is relatively clear: a trespass, even if innocent, still entitles the owner of the land to recover for damages occasioned to the land by virtue of the trespass. Recognizing the potential exposure and liability of the State in this action, it was deemed wise to settle this action if a reasonable settlement could be achieved.

This memorandum is to confirm the settlement reached in the suit against the State of Alaska by Curtis Ostrem and Steve Cox, Civil Action Number 751377, which was filed on November 21, 1975, pursuant to a stipulation for settlement attached hereto. The agreed upon sum of \$1,560.00 is considered to be a quite just and equitable sum based on Highway Department estimates of crop damage done to the plaintiff's property coupled with inevitable court costs and attorney's fees which would flow from failure to prevail by virtue of trespass. Because the element of trespass was not in issue by the State, the case resolved itself solely into an assessment of damages. Following extensive investigations and negotiations by Larry Soden for the Department of Highways and myself, the sum of \$1,560.00 as a lump sum settlement was achieved. Had this case been carried to trial, it is quite possible that the loss to the State could have been substantially in excess of the agreed upon settlement.

Mr. Soden is to be complimented for his perseverance and diligence in both his investigation and, perhaps more importantly, in his ability to negotiate with individuals.

WRS/fs

cc: Harold Cameron

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FEB 10 1977

RIGHT OF WAY DIVISION



JAN 20 1977  
FOURTH JUDICIAL DISTRICT  
STATE OF ALASKA

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT

CURTIS OSTREM and  
STEVE COX,

Plaintiffs,

vs.

STATE OF ALASKA,

Defendant.

FILED in the Trial Courts  
State of Alaska, Fourth District

JAN 14 1977

OLGA T. STEIGER, Clerk, Trial Courts

By [Signature] Deputy

C. A. 75-1377

STIPULATION FOR SETTLEMENT

On or about November 21, 1975, plaintiffs, Curtis Ostrem and Steve Cox, filed suit against the defendant, State of Alaska, for damages occasioned by the trespass of the State upon their properties as set out more fully in the complaint in this action.

Pursuant to this stipulation for settlement, defendants agree to pay and plaintiffs agree to accept the sum of ONE THOUSAND FIVE HUNDRED SIXTY and No/100 DOLLARS (\$1,560.00), to be deposited into the court registry, as the full, complete and just compensation for any and all damages and court costs occasioned by defendant's trespass to plaintiffs' land. Plaintiffs further agree, upon payment, to dismiss this suit and to refrain from instituting any and all further claims or causes of action arising out of this trespass.

DATED this 14<sup>th</sup> day of January, 1977.

STATE OF ALASKA

AVRUM M. GROSS  
ATTORNEY GENERAL

[Signature] for:  
STEPHEN C. COWPER, Attorney  
for plaintiffs, Curtis Ostrem  
and Steve Cox


By: [Signature]  
William R. Satterberg, Jr.  
Assistant Attorney General

ORDER

IT IS SO ORDERED.

DATED this 18 day of January 1977.

FILED in the Trial Courts  
State of Alaska, Fourth District

  
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SUPERIOR COURT JUDGE

JAN 19 1977

MCA T. SINGER, Clerk, Trial Courts  
By Nelle M. Thus Deputy

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