MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities Engineering and Operations Standards

TQ:

Regional Directors

Section Chiefs, E&OS

DATE:

June 21, 1993

FILE NO:

TELEPHONE NO:

465-2951

FAX NUMBER:

465-2460

TEXT TELEPHONE: 465-3652

FROM:

R. D. Shumway, P.E.

Chief Engineer

SUBJECT:

Legal Opinions -

Requests to AG's Office

Please be advised that any future request for legal opinions to the office of the Attorney General should be cleared with the Commissioner's office. Right-of-Way condemnations are excluded. If this results in major problems please advise on a case by case basis. It appears as if there are too many opinion requests that could be resolved through an administrative review and decision.

Dick Chitty, Deputy Commissioner

RECEIVED

JH C . 43

RECEIVED Anchorage, Alaska JUL DOT&PF M & O Central Region

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner
RECEIVED

70: R. D. Shumway, P.E. Chief Engineer

AND: All Regional Engineers

FROM: Dick Chitty

Deputy Commissioner

DATE: June 22, 1993JUN 26 93

TELEPHONE NO: 465-3900 TEXT TELEPHONE: 465-3652

FAX NUMBER: 586-8365

subject: Litigations

DOT&PF

Regions Director
Centrel Region

Smight & Const;

Making, & Const;

Planning

AIA

FIA

Commissioner

Dee, Carron, Oost.

Recently, the State of Alaska completed litigation concerning a 1986 from Successful Contract dispute.

Both Mr. Shumway and Mr. Campbell were involved on behalf of the contractor.

This matter consumed approximately six years of various State employees' time from the first whisper of dispute in June 1987 until now (June 1993).

There can be no doubt that this matter could have been addressed and settled in a "partnering" procedure, if such has existed, probably for a fraction of the final State cost.

The ultimate cost to the State is recorded at about \$700,000, and this does not include the salaries and expenses of State employees who attended depositions, gave testimony, provided documents, etc. Probably, the overall cost approached \$800,000.

I will leave it to the individual to determine if this lawsuit was really in the best interest of the State of Alaska.

I wish all persons involved in disputes on behalf of this Department to realize that economics must be a factor in all decisions regarding settlement of disputes.

This Department has the authority to make administrative settlements without resorting to legal actions.

In making settlement decisions one should at least consider the following:

1) Crusades went out with the middle ages.

2) "A bad settlement is better than a good lawsuit."

RECEIVED.

JUL 1995

DOT & PF M & O Central Region

- An attorney's perspective is generally geared toward "winning" or "losing" hence economics are sometimes not given proper evaluation once legal action commences.
- 4) Ask yourself what settlement ground you would occupy if you were personally liable instead of the State.
- 5) Time is money.

Attachment: Final Settlement Documents and Costs