

1542 Eielson Street
Fairbanks, Alaska
Sept. 8th 1959

Dear Senator E. L. Bartlett

Enclosed are twenty one photographs showing injustice done by the Bureau of Public Roads, to five new businesses and one business which had been filled in for six years, other photographs showing businesses along Richardson Highway and Steese Highway, these businesses have not been bothered by Bureau of Public Roads. I have talked with heads of B.P.R. here four times. They say it's against their regulations for me to fill the entire front of my business. They will only allow me two 40 foot entrances with 24 inch culverts.

I did not dig up my frontage and put in culverts and neither did any one else, so the B.P.R. sent registered letters telling us they were going to ditch the roads in front of our businesses. The photographs show how they left our business. They claim there is a drainage problem in our area, one business man that was dug out had been filled in for six years with no water problem whatsoever.

1956 and 1957 we had record snowfalls and this year a record rainfall for the year, but no water in the ditches. Badger Road leaving the Highway with no culverts blocks the ditch on my side of the road. It has been there as long as the Highway. Ladd AFB has the ditch filled with no culverts in several places on both sides of the Highway. There has not been any water flow down the

ditch by the Highway in many years. It couldn't have because of all the blockages left there by the B.P.R. for the last five to fifteen years. Yet all of a sudden because a few new businessmen move in the area and have filled in as have the other businesses shown in the photographs.

The heads of the B.P.R. claim there is a big water problem. I have talked with all businessmen and residents in the area, they have offered to sign a petition requesting permission to fill all the ditch along here but the B.P.R. refuse to accept it. We sincerely believe this is very unfair and unjustified. I don't believe the B.P.R. should be able to pick out certain businesses and say we are digging you out; the rest of them can stay as they are, but that's exactly what they have done.

I have written this in request that you might be able to help us. Winter is almost here, if the dirt in front of our businesses is allowed to freeze it will be the middle of next summer before we can do anything with it. All we are asking is we be allowed to fill in our ditches as the other businesses have been allowed to do, or that we be allowed a public hearing. It's not hard for any one driving out the Highway to see that there could not possibly be a water problem and that we are not being treated fair. If a petition would be of any further help please notify me immediately and I will get it and send it to you by return mail.

Sincerely hoping you can help us.

Very sincerely

(Signed) John R. Francis

Miller Files

BUREAU OF PUBLIC ROADS
Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Paul F. Royster, Assistant Commissioner
 23-00 for Operations, Washington, D. C.

DATE: September 1, 1959

FROM : Wm. J. Niemi, Regional Engineer
 10-00 Juneau, Alaska *WJN*

SUBJECT: Congressional Correspondence -- Senator Ernest Gruening

By telegram of August 28, 1959, you were advised of a telegram received from Senator Gruening regarding a complaint of ditching operations in the Big Bend area on South Cushman Street near Fairbanks, Alaska. We are now supplementing that information in greater detail through the attached copies of correspondence.

We find no evidence of arbitrary or discriminatory action on the part of our field forces. Division Engineer H. W. Johansen has dealt in a patient and realistic manner with trespassers on the right-of-way of a public highway.

The incident will point out to the State some of the problems they must assume when they take over the full administration of the highway program and perhaps serve a useful purpose. We now learn that the smoke has largely disappeared and we hope that the fire is out.

Attachment
 (c ltr 9/1 to Mr. Downing w/att)

FEDERAL BUREAU OF INVESTIGATION
 DEPARTMENT OF JUSTICE

SEP 2 1959

BUREAU OF PUBLIC ROADS

SEP 5 1959

P. O. Box 1961
Juneau, Alaska

10-00

September 1, 1959

Mr. Richard A. Downing, Commissioner
Department of Public Works
State of Alaska
P. O. Box 1361
Juneau, Alaska

Dear Mr. Downing:

This will refer to our discussion of a controversy regarding the filling of ditches in the Big Bend area of the Richardson Highway near Fairbanks by private business firms and individuals. It is our understanding that you will visit Fairbanks shortly and investigate the problem for Governor Egan.

As a result of a telegram received from Senator Gruening, and acting on verbal information received from Governor Egan's office, I personally investigated the complaints resulting from opening of ditches by Public Roads forces to provide the necessary drainage. Mr. B. D. Stewart, Chief, Construction and Maintenance Section, also had an investigation made by Maintenance Engineer W. P. Cameron. His memorandum of this date to me on the subject is enclosed and provides considerable detail on just what occurred.

Lateral ditches are a part of a highway and are within the right-of-way of the highway. Anyone entering upon and filling a highway ditch without permit is actually in trespass. I fail to see where individuals in trespass are in a very good position to complain of normal highway maintenance operations.

As indicated during our discussions, and as covered by Mr. Stewart's report, the determination of where open ditches are required and where the slope of the land is such that they are not required in an urban area is within the province of those responsible for highway maintenance.

Division Engineer H. W. Johansen acted within the scope of his authority in a reasonable manner and is fully supported in his actions by this office.

Yours very truly,

Wm. J. Niemi
Regional Engineer

WJN
WJN

WJNiemi:ls
cc: Mr. Johansen
Washington office

RG 30, Bur. of Public Roads
E. & D, Gen. Corr. + Related Recs, 1955-59
Box 1128

cc: Haskins, E.

10-00 Mr. Wm. J. Niemi, Regional Engineer
Juneau, Alaska

September 1, 1959

10-00.2 B. D. Stewart, Jr., Construction and
Maintenance Engineer, Juneau, Alaska

Maintenance Ditching, FAP Route 62, Big Bend-South Cushman Street Area,
Fairbanks Vicinity

Following receipt of complaints by the office of Governor Egan, an investigation has been made of the subject operation. Mr. W. P. Cameron, Chief, Force Account Construction and Maintenance Unit, was in Fairbanks when the complaint was received and he was requested to check into this matter and submit a telephoned report.

According to Mr. Cameron's report, and confirmed by later conversation with Division Engineer H. W. Johansen, the Division maintenance forces have been engaged in a normal and routine operation. Early in the summer work of removing drainage obstructions from the roadside ditches was begun at Mile Post 330, located 33 miles south of Fairbanks, and continued north toward Fairbanks. Obstructions removed included entrances to private driveways that had been constructed without formal permit and which did not provide adequate drainage. Included in the area in which this work has been completed were several access roads to Eielson Air Force Base. All such work in this area was consummated without discord or argument on the part of the property owners involved.

Early in August the maintenance supervisors decided that similar work, necessary to provide adequate drainage in the Big Bend area immediately south and east of the Fairbanks city limits, should be scheduled next in order to accomplish the work before freeze-up and because the problem was more acute there than in other as yet uncorrected areas.

The Division Engineer reports that unauthorized filling of the roadside ditches had been observed in the Big Bend area early in the summer and the parties concerned were at that time verbally notified by the maintenance foreman that they were in trespass and that the unauthorized ditch blocks would have to be removed. He was assured by the property owners that they would apply for permits and construct the approved driveways at a later date. One property owner did follow this procedure. This man has since complained to the Division Office that he was being flooded because the other parties did not comply and their ditch blocks were causing the water to back up over his land.

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E. G. D., Gen. Corr. + Related Recs, 1955-59
Box 1128

September 1, 1959

The Maintenance General Foreman again contacted the offending property owners but received only non-committal assurances that the required work would be performed. The State Police were then requested to assist in securing removal of the obstructions. The property owners were contacted by State Police patrolmen and were given the same non-committal assurances. Finally, on August 14, 1959, the Division Engineer notified all trespassing property owners in the area, by letter sent via certified mail, that maintenance crews would begin the ditch cleaning operation on August 24, 1959, and that costs incurred in removing the unauthorized obstructions would be at the owners' expense. No corrective action was taken by any of the offenders, therefore work was begun on August 25, 1959.

The charge that this action is arbitrary and capricious is without foundation. The charge that property owners on South Cushman Street are being given favorable treatment in that no similar work is scheduled there is without foundation. The South Cushman Street drainage is such that no roadside ditching is required. There is uncontrolled access over the full width of each lot adjacent to South Cushman; however, the indicated corrective action in this area is to reconstruct the highway as a street, with curbs, gutters and sidewalks. Authorized curb cuts will then control the access.

Similar ditch cleaning work is in progress in both the Anchorage and Juneau Divisions as a normal maintenance function and has aroused no undue criticism or argument such as occurred in this instance.

cc: Washington DC ✓
Mr. Downing

20-00

SEP 11 1959

Honorable Ernest Gruening
United States Senate
Washington 25, D. C.

Dear Senator Gruening:

This is in further reply to your recent telegram to Mr. William J. Niemi, and supplements our letter to you dated September 8.

We now have the detailed written report referred to in that letter, advising us that no evidence of arbitrary or discriminatory action on the part of our field forces has been found; that our Division Engineer has dealt in a patient and realistic manner with trespassers on the right-of-way of a public highway and it is now learned that the heat has largely gone out of the complaints made to you.

The work of removing drainage obstructions from the roadside ditches was begun early in the summer at Mile Post 330, located 33 miles south of Fairbanks and was continued north toward Fairbanks. No discord or argument on the part of the property owners was encountered until early August when similar work was commenced in the Big Bend area. The problem was more acute there than in other as yet uncorrected areas, and it was desirable to complete the work before freeze-up time.

The complaining parties concerned were verbally notified early in the summer of the unauthorized filling of roadside ditches. Property owners assured our Division Engineer that they would apply for permits and construct approved driveways at a later date. One property owner did so, but non-compliance on the part of the others caused water to back up over his land.

Subsequently, both the Maintenance General Foreman and the State police patrolmen were given assurances that the required work would be performed. Finally, on August 14, the Division Engineer notified all trespassing property owners in the area, by certified mail, that maintenance crews would begin the ditch cleaning operation on August 24 and that costs incurred in removing the unauthorized obstructions would be at the owners' expense. No corrective action was taken by any of the offenders, therefore work was begun on August 25, as we have previously reported to you.

*Brought Forward
To 23-10 - How Bartlett*

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The charge of discrimination is further answered by information that the South Cushman Street drainage is such that no roadside ditching is required. However, in this area the highway is to be reconstructed as a street, with curbs, gutters, and sidewalks. Access to the highway will then be controlled by authorized curb cuts.

We trust these facts are sufficient to clarify the situation to your satisfaction. Of course we stand ready to supply any further information you may require as to Federal-aid highways in Alaska.

Sincerely yours,

ELLIS L. ARMSTRONG
Commissioner of Public Roads

RPR
RPRosengren: cmd
Control No. PR 4901
cc: Files(2)
Mr. Tallamy
Mr. Armstrong
Mr. Manneroy
Col. Rosengren
Mr. Royster
CCUnit

9-11-59

Cleared through
Public Correspondence Unit

20-00

September 6, 1959

Honorable Ernest Gruening
United States Senate
Washington 25, D. C.

Dear Senator Gruening:

This is in reply to your recent telegram to Mr. Wm. J. Niemi, our Regional Engineer for Alaska, concerning alleged discriminatory "spot" ditching operations on South Cushman Street, near Fairbanks.

Following an investigation we have had an interim report by wire from Mr. Niemi stating that the work in question is a continuation of the normal maintenance ditch cleaning operation. It is further reported that complainants in most instances have constructed unlimited access to the highway for the full width of their business lots without the required permit or authorization, and with inadequate or no provision for normal highway drainage.

The parties were notified in writing by certified mail ten days in advance, that adequate drainage requirements must be met by a specified date or maintenance crews would perform the necessary work at the owners expense. The complainants failed to comply and the maintenance crews were put to work. Similar work is in progress in all areas of the State under standard procedures and with the approval of the State Department of Public Works.

With respect to statements that no work is being contemplated between the south city limits of Fairbanks and Big Bend, making present actions seem discriminatory, the drainage problem is not the same in that area and culverts are not required.

A detailed written report is promised soon, at which time we shall advise you further.

Sincerely yours,

RPR:BDT:ew

Control PR 4901

cc - Files (2)

Mr. Tallamy ✓

Mr. Armstrong ✓

Mr. Mannerow ✓

Col. Rosengren ✓

Mr. Royster ✓

CC Unit

Mr. Niemi, Regional Engineer (2)

B. D. TALLAMY
Federal Highway Administrator

Cleared Through
Administrator's Correspondence Unit

9-9-59

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Box 1128

RS434

BUREAU OF PUBLIC ROADS
WASHINGTON, D.C.

AUG 28 1959

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FM NIEMI BPR JUNEAU ALASKA

TO PAUL F ROYSTER BPR WASHDC

PRA GRNC

BT

UNCLAS HAVE WIRE FROM SENATOR GRUENING AS FOLLOWS QUOTE THROUGH THEIR ATTORNEY, GEORGE B. MCNABB, JR., SIX BUSINESSES LOCATED IMMEDIATELY SOUTH OF THE BID BEND ON SOUTH CUSHMAN STREET NEAR FAIRBANKS HAVE PROTESTED TO ME ABOUT ALLEGED "SPOT" DITCHING OPERATIONS WHICH HAVE MADE THEM INACCESSIBLE TO VEHICLES. REPORT I HAVE RECEIVED SAYS NO SIMILAR DITCHING IS IN PROGRESS AND NONE IS ANTICIPATED FROM THE CITY LIMITS TO BIG BEND, MAKING ACTION APPEAR ARBITRARY AND CAPRICIOUS. I HAVE EVEN HAD RTORTED TO ME A RUMOR THAT THE SIX AFFECTED BUSINESSES HAVE PARTICULARLY BEEN SELECTED TO BE "MADE AN EXAMPLE OF". PLEASE INVESTIGATIGATE AND REPORT ON SITUATION UNQUOTE. HAVE INVESTIGATED

**PUBLIC
ROADS**

83674

PAGE TWO RUKPC 49A

SITUATION AND ASCERTAINED WORK IN QUESTION IS CONTINUATION OF NORMAL MAINTENANCE DITCH CLEANING OPERATION. COMPLAINANTS IN MOST INSTANCES HAVE CONSTRUCTED UNLIMITED ACCESS TO HIGHWAY FOR FULL WIDTH OF THIER BUSINESS LOTS WITHOUT PERMIT OR AUTHORIZATION AND WITH INADEQUATE OR NO PROVISION FOR NORMAL HIGHWAY DRAINAGE. PARTIES NOTIFIED IN WRITING BY CERTIFIED MAIL TEN DAYS IN ADVANCE THAT ADEQUATE DRAINAGE

REQUIREM *RG 30, Bur. of Public Roads
E. & D, Gen Corr. + Related Recs, 1955-59* D DATE OR MAINTENANCE CREWS WOULD
PERFORM *Box 1128* ENCE

FORM 305 PRINTED BY THE STANDARD REGISTER CO., DAYTON, OHIO, U. S. A. 37401-05

ATTORNEY, GEORGE D. HONNAY, CIVIL, SIX BUSINESSES LOCATED IMMEDIATELY SOUTH OF THE BID BEND ON SOUTH CUSHMAN STREET NEAR FAIRBANKS HAVE PROTESTED TO ME ABOUT ALLEGED "SPOT" DITCHING OPERATIONS WHICH HAVE MADE THEM INACCESSIBLE TO VEHICLES. REPORT I HAVE RECEIVED SAYS NO SIMILAR DITCHING IS IN PROGRESS AND NONE IS ANTICIPATED FROM THE CITY LIMITS TO BIG BEND, MAKING ACTION APPEAR ARBITRARY AND CAPRICIOUS. I HAVE EVEN HAD RTORTED TO ME A RUMOR THAT THE SIX AFFECTED BUSINESSES HAVE PARTICULARLY BEEN SELECTED TO BE "MADE AN EXAMPLE OF". PLEASE INVESTIGATIGATE AND REPORT ON SITUATION UNQUOTE. HAVE INVESTIGATED

PAGE TWO RUKPC 49A

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BT

28/1830Z

PR 4901

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Box 1128

BUREAU OF PUBLIC ROADS

A + F - 4 - 1
Alaska

Mr. C. E. Fischer, Jr.

September 23, 1959

E. N. DeFreitas

84-23

Treatment of Claims under Apprn. 612 by Region 10

This memorandum is furnished in connection with the recently reported June 30, 1959, appropriation balances.

Under memorandum of April 14, 1959, Region 10 had raised the general question as to the obligation of claims by contractors under Appropriation 130230 Construction, Operation, and Maintenance of Roads, Alaska, Bureau of Public Roads, BPR No. 612. Contractor claims totaling \$656,480.55 had been filed with the region as of that date. These claims were not obligated by the region prior to payment. On June 30, 1959, as required by the Alaska Omnibus Act, the unobligated balance of this appropriation was withdrawn by the Treasury.

In July 1959 claims totaling about \$34,000.00 were paid by Region 10 under the appropriation 612. In response to Office of Budget and Management inquiry, the region advised that under 37 Comp. Gen. 691, such claims were not valid obligations as defined by Section 1311 and therefore had not been obligated prior to payment. Budget informally passed the matter to us on September 18, 1959.

A review of the cited 37 Comp. Gen. 691 shows it to be specifically applicable to public enterprise funds. The governing decision in the matter of contingent liabilities against appropriated funds is B-124268 of October 3, 1955. This states the general rule that claims shall be recorded as obligations within the meaning of Section 1311 only when the Government is definitely liable for the payment of money and where the litigation is for the purpose of determining the amount. This decision is commonly applied to contingent liabilities within the Government - specifically, the Department of the Air Force in their Regulation No. 170-8 states ".... obligations exist only in those cases where the Government has admitted its liability for the payment of money [on claims under litigation] and the amount of such payment is to be determined by the litigation." Parenthetical note supplied.

Accordingly, although the Region 10 reference was in error, its treatment of the claims was proper. In view of this, we will so advise them, including procedural information furnished as option (2) in attached internal Budget memorandum of September 16, 1959.

ENDeFreitas:mh

cc: File _____
Chron.

Reading

Mr. E. E. Olmert
Extra

Attachment

BUREAU OF PUBLIC ROADS

Mr. William J. Meent
Regional Engineer, Juneau, Alaska

September 9, 1959

26-10

C. W. Barfield, General Counsel, Washington, D. C. C. W. Barfield
Performance of services for State of Alaska

This is in confirmation of our telephone conversation of September 8, 1959, concerning the above subject.

Attached hereto is a copy of Governor Egan's letter of August 13 to the President, requesting that the Bureau of Public Roads be permitted to continue to perform certain services in Alaska under the provisions of section 44(b) of the Alaska Omnibus Act, and a copy of a letter written by the Director of the Bureau of the Budget to the Secretary of Commerce under date of September 1, concerning the same subject. In his letter to the President, Governor Egan requests that the Bureau of Public Roads be permitted to continue to perform various services "such as, but not limited to, maintenance of small airfields and maintenance or construction of access roads off the Federal Aid Highway System."

In order for the President to issue appropriate authorization to Public Roads under section 44(b) of the Alaska Omnibus Act, it is necessary to specify with particularity the services to be performed. It is not necessary to designate by name or location the airfields and access roads to be constructed or maintained, but it is necessary to carefully prescribe the limits of the services to be performed by Public Roads. The phrase "such as but not limited to" is much too broad to permit the President to issue the necessary authorization to Public Roads and to permit Public Roads to establish appropriate procedures and administrative controls. It is requested that you contact proper State officials, and advise us as to the specific services the Governor desires to be performed.

As we advised you in our memorandum of August 7, 1959, the provisions of section 44(b) are sufficiently broad to permit performance of the requested services upon approval of the President, provided the services are limited to those performed by Public Roads prior to the effective date of the Alaska Omnibus Act.

Performance of the requested services on the basis of direct reimbursement from the State, rather than on the basis of allocation of transitional funds by the President, is permissible, since section 44(b) makes such allocation discretionary with the President.

It will be necessary, however, to establish administrative procedures for such reimbursement, and we have asked Mr. J. C. Allen, Assistant Commissioner for Administration, to look into this aspect of the matter.

You will note that the Director of the Bureau of the Budget has requested submission of recommendations and drafts of necessary documents. We are now working on this part of the problem, to the extent that we can, pending advice from you as to the specific services to be performed. We will again confer with you before taking affirmative action concerning the request of Governor Egan.

Attachments - 2

RLMay:fpc

cc: Files (2)

Messrs. Tallamy, Armstrong, Turner, Allen, Williams, Holmes,
Royster

General Counsel (Dept)

Mr. Andrew Drance

Bureau of Budget

Gen Counsel

Legis

Mr. Krevor

Mr. Guandolo

Chron

BUREAU OF PUBLIC ROADS

September 18, 1959

Mr. C. W. Bafield

J. C. Allen

24-70

Performances of services for State of Alaska

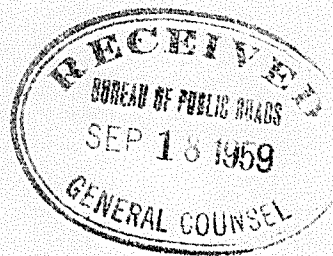
In regard to Governor Egan's request of August 13 to the President, and Mr. Stans' letter of September 1, for the performance of work such as maintenance of airfields and maintenance or construction of access roads by the Bureau of Public Roads for Alaska on a reimbursable basis, the existing accounting procedures of Public Roads are adequate for the recordation and control of such activities.

Assuming that a contract between the Bureau of Public Roads and the State of Alaska would not be necessary in addition to the President's reply to the Governor, the procedure would be as follows:

1. Upon the request of the State to Public Roads for performing specific work the Bureau of Public Roads would submit an estimate of the cost thereof to the State for their concurrence and approval.
2. Projects so approved will be financed from the trust fund established with State contributed funds, Appropriation 13X8050. An allotment will be established by the Washington office based upon estimated receipts as reported by the Region. Subsidiary accounts as necessary to record and report costs to the State will be maintained as required.
3. The expenditures made by the Bureau will be reported at least monthly to the Governor in the same manner and as a part of the report as provided in the July 1, 1959, contract between Public Roads and the State of Alaska.
4. Reimbursement of 100 percent of the expenditures will be accomplished in the same manner and as a part of the replenishment of the fund as provided in the above mentioned contract.

EFAllen/amq (9-18-59)

cc: Mr. C. E. Fincher
 Mrs. M. Nicholson
 Mr. R. E. Olmert
 Mr. E. F. Allen
 Chron. File



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

AUGUST 13, 1959

The President
The White House
Washington 25, D. C.

My dear Mr. President:

Section 41(a) of the Alaska Omnibus Act states, in part, "The Governor of Alaska may submit to the President a request that a Federal agency continue to provide services or facilities in Alaska for an interim period, pending the provision of such services or facilities by the State of Alaska."

The Bureau of Public Roads has, prior to July 1, 1959, performed various services for the Territory and the State of Alaska such as, but not limited to, maintenance of small airfields and maintenance and construction of access roads off the Federal Aid Primary System. The State wishes to request that Public Roads be permitted to continue such services with its own facilities, by contract, or with other facilities under its custody and control.

Section 41(b) provides that the President may allocate such funds as may be necessary for those services, and such funds so allocated are to be deducted from the grant funds provided by the Alaska Omnibus Act. The State does not wish to take advantage of this provision, but proposes that Public Roads be permitted to perform services on the basis of direct reimbursement from the State.

The period for furnishing miscellaneous services would continue as long as the Bureau of Public Roads retains custody, as operating agent for the State, of the equipment and facilities granted the State by the Alaska Omnibus Act, but in any event not after June 30, 1960.

An emergency now exists due to termination of extra services on June 30, 1959, so your early and favorable consideration of this request will be deeply appreciated.

Sincerely yours,

William L. Green

William L. Green
Governor

BUREAU OF PUBLIC ROADS

Mr. Wm. J. Niemi
Regional Engineer, Juneau, Alaska

August 7, 1959

G. W. Enfield, General Counsel
Washington, D. C.

R. L. May, Jr.

26-11

Services to the State of Alaska

With his memorandum of July 21, 1959, Mr. Cunningham, Western Counsel, has transmitted your memorandum to him of July 16 on the above subject.

You have inquired as to the authority of the Bureau of Public Roads to perform certain airfield maintenance work and other types of services previously performed in Alaska, but which cannot be considered as related to highway functions, thereby precluding Bureau performance under 23 U.S.C. 308.

It is our opinion that the provisions of section 44(b) of the Alaska Omnibus Act are sufficiently broad to permit a request by the Governor of Alaska to the President that the Bureau of Public Roads provide services under that section, such as the maintenance of airfields or other services which the Bureau performed, or had authority to perform, prior to enactment of the Alaska Omnibus Act.

As Mr. Cunningham has pointed out, it would seem that the Governor's request under said section 44(b) need only cover the services of the Bureau of Public Roads. While the State may have need of the services of other Federal agencies, the request for such services may be considered a separate matter and handled in another request.

Your attention is invited to the next to the last paragraph of Mr. Cunningham's memorandum stating that charges for these services would be made against the Alaska Trust Fund in the same manner as for other costs. The Office of Administration advises that payment for services under said section 44(b) would not be charged against the trust account, but would be made from a transfer appropriation account to which would be transferred funds allocated to the Bureau by the President for these services from the transitional grants provided for under section 44(a) of the Alaska Omnibus Act.

MKNicholson:ert

cc: Files (2) ✓

Mr. H. E. Cunningham, Western Counsel ✓

Mr. Allen ✓

Legis

Gen Counsel; Opinions Branch; Prec: Chron; Mr. Guandolo; Mr. Krevor

8/11/59
H.R.

Office of the Governor
Juneau, Alaska

August 13, 1959

The President
The White House
Washington 25, D. C.

My dear Mr. President:

Section 44(b) of the Alaska Omnibus Act states, in part, "The Governor of Alaska may submit to the President a request that a Federal agency continue to provide services or facilities in Alaska for an interim period, pending the provision of such services or facilities by the State of Alaska."

The Bureau of Public Roads has, prior to July 1, 1959, performed various services for the Territory and the State of Alaska such as, but not limited to, maintenance of small airfields and maintenance or construction of access roads off the Federal Aid Highway System. The State wishes to request that Public Roads be permitted to continue such services with its own facilities, by contract, or with other facilities under its custody and control.

Section 44(b) provides that the President may allocate such funds as may be necessary for these services, and that funds so allocated are to be deducted from the grant funds provided by the Alaska Omnibus Act. The State does not wish to take advantage of this provision, but proposes that Public Roads be permitted to perform services on the basis of direct reimbursement from the State.

The period for furnishing miscellaneous services would continue as long as the Bureau of Public Roads retains custody, as operating agent for the State, of the equipment and facilities granted the State by the Alaska Omnibus Act, but in any event not after June 30, 1964.

An emergency now exists due to termination of extra services on June 30, 1959, so your early and favorable consideration of this request will be deeply appreciated.

Sincerely yours,

William A. Egan
Governor

cc: R. A. Downing, Commissioner of Public Works
W. J. Niemi, Regional Engineer, Bureau of Public Roads ✓

RG 30, Bur. of Public Roads
E. G. D., Gen. Corr. + Related Recs, 1955-59
Box 1128

BUREAU OF PUBLIC ROADS

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. C. W. Enfield, General Counsel
 26-11 : Washington, D. C.
 26-00

DATE: August 17, 1959

FROM : Wm. J. Niemi, Regional Engineer *WJN*
 10-00 Juneau, Alaska

SUBJECT: Services to the State of Alaska

Your memorandum of August 7, 1959, on the above subject reached this office August 13. This pertains to the performance of certain airfield maintenance work and other types of services for the State of Alaska by Region 10.

This office had already requested the Governor to seek authority under Section 44(b) of the Alaska Omnibus Act for such service. A copy of the Governor's letter to the President is attached. The third paragraph of that letter requests that allocation of funds to Public Roads not be made, but that the State would reimburse Public Roads directly for such services. The trust fund would not be involved.

Since the Governor's letter on this subject has gone forward, we will take no further action other than to pass this information on to you. Undoubtedly the Governor's request will be referred to Commerce and will receive your review.

Attachment

Memorandum to the President dated 8/13/59



Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. C. W. H. Field, General Counsel
26-00 Washington, D. C.
FROM : H. G. Cunningham, Western Counsel
26-40 San Francisco, California

DATE: July 21, 1959

SUBJECT: Services to State of Alaska

You will recall the discussions in Billings with Mr. Downing in particular, concerning BPR rendering certain services to Alaska in addition to those relating to the Federal-aid System, such as maintenance of airfields and construction and maintenance of roads not on the Federal-aid System.

It is noted in the attachment that it may not be generally possible to make the airport maintenance by request through the Federal Aviation Agency and utilizing BPR authority to do work for other Federal agencies. If then is a question of considering what other authority, if any, we may have to handle this situation.

Requirements of this transfer of property, and the contract arrangements under Section 44(c) of the Civilian Act, such would not seem to give the State of Alaska the benefits of paragraph (b) of said section. Section 44(c) authorizes a Federal agency, upon request of the Governor of Alaska and approval of the President, to continue to provide services or facilities in Alaska for a period not to exceed beyond June 30, 1961. Previous to June 30, 1959, BPR has provided certain maintenance of airfields at the request of the State on a reimbursement basis, such maintenance being performed during each winter when the equipment and personnel were not needed for highway work. Airfield maintenance was performed under the Civilian Act. Such engineering services were performed under the Civilian Act.

It is noted that the provisions of Section 44(c) are intended to provide services for Alaska that are in the public interest. It is noted that the Civilian Act was passed to provide the State of Alaska with certain services and facilities. It is noted that the Civilian Act was passed to provide the State of Alaska with certain services and facilities. It is noted that the Civilian Act was passed to provide the State of Alaska with certain services and facilities.

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It further would seem that the Governor's request need only cover BFR's services. He may have need of the services of other Federal agencies, but that would be a separate matter; that is, there seems to be no need to make an overall combined request on the part of the Governor to the President.

In the present case, charges would be made against the Alaska Trust Fund in the same manner as for other costs, and it would be simply a case of no Federal funds involved in the transaction.

Please answer Mr. Miani direct.

Attachments

BUREAU OF PUBLIC ROADS
Office Memorandum • UNITED STATES GOVERNMENT

26-40

TO : Mr. Harry E. Cunningham - Western Counsel
San Francisco 3, California

DATE July 16, 1959

10-00.1

FROM : Mr. J. Niemi, Regional Engineer,
Juneau, Alaska

SUBJECT: Services to State of Alaska

A problem has arisen in relation to the performance of services for the State of Alaska by the Bureau of Public Roads, Region 10. Because of restrictions imposed by enactment of the Alaska Omnibus Act, it had been determined that the Bureau would no longer be so situated as to accomplish certain services which had heretofore been performed for Alaska.

Of particular concern is the maintenance of airfields which are now under the custody of the State of Alaska. Maintenance of airfields is an item which cannot be considered within the purview of the provisions of Title 23 U.S.C. Sec. 308. In connection with this, we had anticipated during our discussions at Billings last month the possibility of performance of the airfield maintenance upon request of the Federal Aviation Agency under the provisions of Title 31 U.S.C. Sec. 686. Commissioner Downing of the Alaska Department of Public Works, has advised us that the Federal Aviation Agency states that inasmuch as it has no jurisdiction over the greater portion of the airfields in Alaska it would be unable to request maintenance services for such airfields.

The state has requested of us such services as indicated above as well as other types of services heretofore performed by the Bureau. These other types of services similarly cannot be considered as related to highway functions thereby precluding Bureau performance under the provisions of Title 23 U.S.C. Sec. 308.

You are aware of course, that as a result of enactment of Public Law 86-70 approved June 25, 1959 (the Alaska Omnibus Act) the Bureau of Public Roads transferred real and personal property in Alaska to the State of Alaska, and contracted with the State to continue the performance of highway maintenance and construction functions. Under this contractual arrangement, property transferred as above noted, is now in the custody of the Bureau of Public Roads, Region 10.

While it is probable that there are no legislative provisions permitting such an arrangement, it must be recognized that the contractual arrangement with the State is in itself a definite departure from Bureau operations elsewhere. It follows that the situation requires a determination of permissive performance directly concomitant with the intent of the Alaska Omnibus Act, and in the absence of specific

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