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# U.S. National Archives & Records Administration

## QUOTATION FOR REPRODUCTION SERVICES

*Return one copy of this quotation with your payment and retain a copy for your records.*

<b>Quote Number:</b> QO1-46541529	<b>Prepared By:</b> NWCT2R, Morris Izlar
<b>Customer Name:</b> Karen Tilton	<b>Date Prepared:</b> 5/18/2009
<b>Customer Phone:</b>	<b>Unit Phone:</b>
<b>Customer Number:</b> 1-RG7Z1	

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Department of Justice,  
United States Attorney,  
District of Alaska  
Fourth Judicial Division

Fairbanks, Alaska.  
June 18, 1938

The Attorney General,  
Washington, D. C .

Sir:

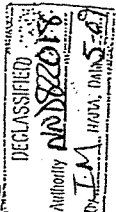
Re: Clark vs. Taylor and Spach  
Department reference initials  
and number CEC-RSB, 236274

I have your letter of May 13, 1938, authorizing me to defer institution of the condemnation proceedings which is proposed in regard to a relocation of part of the Ophir-Takotna road and bridge across Ganes Creek.

Regarding above injunction case, enclosed herewith find copy of plaintiff's reply and copy of Agreed Statement of Facts which I was able to procure from plaintiff's attorney. Investigation showed that Clark, through his attorney in fact, C. L. Baker, had actually occupied the Spot Association Mining Claim for many years and had done a certain amount of work on said ground each year. Accordingly, the likelihood of our being able to prove a forfeiture was rather limited. To expedite the proceedings and obviate expense to both parties, we stipulated away our challenge to Clark's title and hinged the case on the right-of-way question.

The Court held that the public has an 18-foot prescriptive right-of-way across Clark's mining claim, representing the maximum width to which said road has been improved to accommodate present requirements of traffic. The Court further held that we transgressed upon Clark's ground with our new bridge to the extent of 13 feet of the width of said bridge. Accordingly, an injunction was granted preventing the completion of the approaches to said new bridge.

Regarding Section 1731, Compiled Laws of Alaska 1933 fixing the lawful width of the right-of-way of all roads or trails in Alaska at 60 feet, the Court held same to apply only to regularly established highways authorized by the Territorial Board of Road Commissioners. This would mean that the Alaska Road Commission, a purely Federal agency, would not obtain the benefits of said act. Regarding a right-of-way acquired by



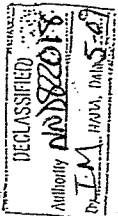
The Attorney General - June 18, 1938.

prescription, the Court held that same would not be limited to the width of the track, but would include adjacent ground necessary for improvements to accommodate the requirements of traffic. Marchand v. Town of Maple Grove (Minn.) 51, N. W. 606. Montgomery v. Somers (Ore.) 90 Pac. 674. Bayard et al. v. Standard Oil Co. (Ore.) 63 Pac. 614.

In view of the foregoing, we will proceed with the condemnation proceedings already authorized. As soon as written judgment in the equity case is entered, we will send forward a copy of same.

Respectfully,  
Ralph J. Rivers,  
United States Attorney.

RJR:HAB  
Encl. 2.



IN THE DISTRICT COURT FOR THE TERRITORY OF ALASKA  
FOURTH JUDICIAL DIVISION.

ROBERT A. CLARK, JUNIOR, )  
Plaintiff, )  
-vs- )  
IKE P. TAYLOR and FRED SPACH, )  
Defendants. )

No. 4129. Civil.

AGREED STATEMENT OF FACTS

For the purposes of avoiding a trial to determine the facts herein, it is mutually stipulated by and between the attorneys appearing for the above parties that if witnesses were called and examined, the following facts would be established by the testimony, to wit:

I.

The Alaska Road Commission now is and at all times involved herein has been a department of the United States Government, authorized to build and maintain roads and bridges in the Territory of Alaska.

II.

The plaintiff has a valid and subsisting placer mining location known as the Spot Association Mining Claim, located in the Innoke Precinct, Fourth Division, Territory of Alaska, which was duly and regularly located by William Marklin upon June 12th, 1912, and which lawfully came to the plaintiff through mesne conveyances.

III.

A stream known as Ganes Creek flows over and through said Spot Association Mining Claim.

IV.

In 1917 said Commission did build and establish a public wagon road over said claim, and as a part of said road, did construct a wooden bridge across Ganes Creek, linking the respective sections of said road

on opposite sides of said creek; that at the outset said road was used mostly by sleds and wagons and was comparatively narrow, but has been gradually improved and widened during the ensuing years so that said road is now maintained at a width of between fifteen (15) and eighteen (18) feet to accommodate present requirements of traffic; that at all times since the original construction of said road and old bridge, same has been subjected to actual, open, notorious, adverse and uninterrupted use as a right-of-way by the general public, and has been classified by said Road Commission as a public wagon road.

V.

During October 1937, defendant Ike P. Taylor was, and he now is, Chief Engineer of said Alaska Road Commission; that at said time Fred Spach was, and he now is, Superintendent of the Alaska Road Commission in the said Innoko Precinct; that during the month of October 1937, said defendants authorized and procured the construction of another bridge across Ganer Creek, to be used in lieu of the old bridge as a connecting link between the same sections of road hereinbefore mentioned; that the new bridge as designed and built has been determined by the Territorial Board of Road Commissioners to be essential for meeting the requirements of traffic on said road; that said new bridge has been completed with the exception of the approaches thereto; that said new bridge is built contiguous to the old bridge on the upstream side of the old bridge, the old bridge having been retained during the construction of the new bridge to take care of the requirements of traffic in the interim; that the new bridge is not more than fifteen (15) feet wide over all; that the old bridge is only fourteen (14) feet wide; that the distance from the center line of the old bridge to the far side of the new bridge is not more than twenty-two (22) feet, and the proposed approaches would be within the same limits.

VI.

Unless restrained, defendants are ready to proceed with the construction of the approaches to said bridge within the footage above mentioned, and stipulate that, if so doing would be an unlawful appropriation of plaintiff's land, plaintiff would suffer irreparable injury and be without adequate remedy at law.

J. C. Winter,  
Attorney for Plaintiff.

Ralph J. Rivers,  
Harry O. Arend,  
Attorneys for Defendants.

IN THE DISTRICT COURT FOR THE TERRITORY OF ALASKA, FOURTH JUDICIAL DIVISION.

ROBERT A. CLARK, JUNIOR, )  
Plaintiff, )  
-vs- )  
IKE P. TAYLOR and FRED SPACH, )  
Defendants. )

No. 4129. Civil.

J U D G M E N T.

This cause came on regularly for trial before this court on 19th day of May, 1938, the plaintiff appearing by his attorney, J. C. Winter, and the defendants' appearing by their attorneys', Ralph J. Rivers and Harry O. Arend, and the cause was submitted to the court on an agreed statement of facts, and therefrom the court made and filed the findings of fact and conclusions of law in favor of the plaintiff.

WHEREFORE, It Is Ordered and Adjudged as follows:

That the defendants', Ike P. Taylor and Fred Spach, are permanently enjoined from going upon, or causing the employees of the Board of Road Commissioners of Alaska, or of the Alaska Road Commission, to go upon, the Spot Association Mining Claim, located in the Innoko Precinct, Fourth Judicial Division, Territory of Alaska, on Ganes Creek, at any point outside the prescriptive right of way thereon of the old bridge and road, which is nine (9) feet on either side of the center line thereof. That plaintiff is entitled to his costs herein incurred in the sum of \$37.00, to be taxed by the clerk of the court.

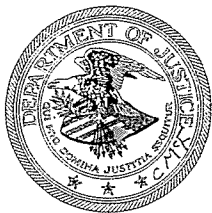
Dated this 21st day of June, 1938.

Harry E. Pratt,  
District Judge.

The foregoing is certified to be a full, true and correct copy of the original judgment filed herein.

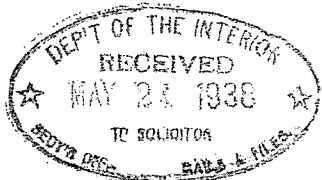
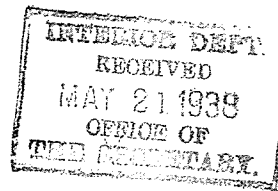
J. C. Winter,  
Attorney for Plaintiff.





Office of the Attorney General  
Washington, D.C.

May 16, 1938.



*Terr*



*Vol*

Honorable Harold L. Ickes,  
Secretary of the Interior,  
Washington, D. C.

Dear Mr. Secretary:

I have the honor to refer to your letter of March 25, 1938, requesting the condemnation of certain lands in the Innoko Precinct, Fourth Judicial District, Territory of Alaska, for use in connection with the construction of approaches to a bridge over Ganes Creek, on the Ophir-Takotna Road, and advise that the United States Attorney at Fairbanks, Alaska, was instructed to institute these proceedings.

On April 26, 1938, the United States Attorney advised that there is an injunction proceeding pending in the District Court of the United States for the Fourth Judicial District of Alaska entitled Clark v. Taylor and Spach, involving the right of the Alaska Road Commission to construct a 60 foot wide right of way over the area which you requested be condemned.

The United States Attorney has recommended that the condemnation proceedings be held in abeyance until the outcome of the Clark case. This recommendation is being approved by the Department and the institution of condemnation proceedings will be deferred until that time unless you request a different course of procedure.

Respectfully,

*Howe*  
Attorney General.

DECLASSIFIED  
Authority NND 82018  
By: J.M. HAVA, DINS-67



The Attorney General--Washington, D. C.--April 26, 1938--Page 2

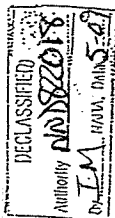
Clark and his predecessors have failed during many years to record affidavits of annual labor and may have considerable difficulty in providing an existing mineral location.

It seems that before consulting with this office, Mr. Ike P. Taylor, Chief Engineer of the Alaska Road Commission, proposed condemnation proceedings to the Secretary of Interior, pursuant to which a request was made along such lines and the necessary papers prepared by the Department of Justice. I have just received same and a letter of transmittal dated April 6, 1938, signed by Carl McFarland, Assistant Attorney General, and referred to as JEW-WEM 33-2-39. As I have previously stated, however, the width of right-of-way should be tested and exact footage determined before a condemnation proceedings is established. Accordingly, I will hold said papers pending the outcome of the present action and your further advices.

Respectfully,

(S) Ralph J. Rivers  
United States Attorney

RJR:HAB  
Encl. 2



DECLASSIFIED  
Authority: *ND 82018*  
By: *T.M. HALL, DAB 5-07*

C O P Y

IN THE DISTRICT COURT FOR THE TERRITORY OF ALASKA

FOURTH JUDICIAL DIVISION

\_\_\_\_\_)  
ROBERT A. CLARK, JUNIOR, )  
Plaintiff, )  
-vs- )  
IKE P. TAYLOR and FRED SPACH, )  
Defendants. )  
\_\_\_\_\_)

*April 22-1938*

No. 4129 Civil

A N S W E R

Come now the above named defendants and for answer to the plaintiff's complaint herein admit, deny and allege:

I

Defendants deny the allegations of Paragraph I of said complaint, and the whole thereof.

II

Answering Paragraph II of said complaint, defendants admit that during the month of October, 1937, Ike P. Taylor was the Chief Engineer of the Alaska Road Commission, and Fred Spach was the Superintendent in the Innoko Precinct, and that said Commission is a department of the United States government and has to do with the building of roads and bridges in the Territory of Alaska; that defendants deny each and every other allegation and recital in said Paragraph II contained.

III

Answering Paragraph III of said complaint, defendants admit that Road Commission employees began construction of the bridge referred to in said paragraph, but deny each and every other allegation and recital in said paragraph contained.

IV

Answering Paragraph IV, defendants deny each and every allegation and recital therein contained and the whole thereof.

V

Answering Paragraph V of said complaint, defendants deny each and every allegation therein contained, excepting that defendants admit construction of the approaches to said bridge will continue unless such activity is enjoined by the Court.

AND THE DEFENDANTS, FOR A FURTHER AND SEPARATE ANSWER, AND BY WAY OF A FIRST AFFIRMATIVE DEFENSE, ALLEGE:

I

That the Alaska Road Commission now is, and at all times hereinafter mentioned has been, a department of the United States government, and as such now is, and at all times hereinafter mentioned has been, authorized to build and maintain roads and bridges in the Territory of Alaska, and to acquire and avail itself of all rights pertinent thereto;

II

That during the year A. D. 1917, said Commission did build and establish a public wagon road over the area referred to by plaintiff in his complaint as the Soot Association Claim on Ganes Creek, in the Innoko Precinct, Fourth Division, Territory of Alaska, and as a part of said road, did construct a wooden bridge (hereinafter referred to as the old bridge) across Ganes Creek, linking the respective sections of said road on opposite sides of said creek; that at the outset said road was used mostly by sleds and wagons and was comparatively narrow, but has been gradually improved and widened during the ensuing years so that said road is now maintained at a width of between fifteen (15) and eighteen (18) feet to accommodate present requirements of traffic; that at all times since the original construction of said road and old bridge, same has been subjected to actual, open, notorious, adverse and uninterrupted use as a right-of-way by the general public, and has been classified by said Road Commission as a public wagon road.

III

That during October 1937 defendant, Ike P. Taylor, was, and he now is, Chief Engineer of said Alaska Road Commission; that at said time Fred Spach was, and he now is, Superintendent of the Alaska Road Commission in the said Innoko Precinct; that during the month of October 1937, said defendants, acting solely in their said capacities of Alaska Road Commission officials, authorized and procured the construction of another bridge (hereinafter referred to as the new bridge) across Ganes Creek, to be used in lieu of the old bridge as a connecting link between the same sections of road hereinbefore mentioned; that the new bridge as designed and built has been determined by the Territorial Board of Road Commissioners to be essential for meeting the requirements of traffic on said road; that said new bridge has been completed with the exception of the approaches thereto; that said new bridge is built contiguous to the old bridge on the upstream side of the old bridge, the old bridge having been retained during the construction of the new bridge to take care of the requirements of traffic in the interim; that the new bridge is only fourteen (14) feet wide; that the distance from the center line of the old bridge to the far side of the new bridge is not more than twenty-two (22) feet; that the new bridge, including the area indicated for approaches, is well within the limits of the public right-of-way long established at that point in accordance with the law which fixes at sixty (60) feet the lawful width of right-of-way of all public trails and roads in the Territory of Alaska.

AND THE DEFENDANTS, FOR A FURTHER AND SEPARATE ANSWER, AND BY WAY OF A SECOND AFFIRMATIVE DEFENSE, ALLEGE:

I

Defendants are informed and believe, and therefore allege, that

William Marklin, upon June 12, 1912, located the Spot Association Placer Mining Claim on Ganes Creek, Innoko Precinct, Fourth Division, Territory of Alaska, as unpatented mineral land of the United States, but that said William Marklin and his successors, including the plaintiff herein, did fail and neglect to perform work and improvements of a value of one hundred dollars (\$100) each year on said claim for the years 1912 to 1933, inclusive, and therefore said mining claim as located by William Marklin became forfeited and open for location; that the said ground, on the 1st day of October, 1937, had not been located or patented by anyone and was on said day unappropriated mineral land of the United States and a part of the public domain, and at all times since then up to the present time has been part of the public domain.

FURTHER ANSWERING THE COMPLAINT HEREIN, AND BY WAY OF COUNTERCLAIM, DEFENDANTS ALLEGE:

I

Defendants refer to, embrace herein, and by this reference make a part hereof, the contents of Paragraphs I, II and III of their first affirmative defense hereinabove set forth.

II

That upon the 1st day of October 1937, one C. L. Baker was, and at all times since then, has been, the attorney in fact for the above named plaintiff with a general power of attorney to act in plaintiff's behalf.

III

That during the month of October 1937, said C. L. Baker acting for and in behalf of the plaintiff at the situs of the new bridge then and there being, did then and there wrongfully interfere with the defendants in their said construction of said bridge as follows: The said C. L. Baker did order them off of said right-of

way; did threaten violence to person and property; did procure the arrest of one of the Road Commission employees engaged on said job and did prefer criminal charges against several others to the obstruction of said project and the great harassment of these defendants.

IV

That plaintiff, acting by and through said C. L. Baker, Threatens further disorder and interference in the premises to obstruct the completion of the approaches to said bridge.

WHEREFORE, defendants pray (1) that plaintiff take nothing by this suit and that his alleged cause of action be dismissed with prejudice; (2) That plaintiff and all of his agents or representatives be restrained from further interfering in any way with proper activity on the part of defendants and other Alaska Road Commission employees in completing said bridge and the approaches thereto; and (3) that defendants have judgment for their costs and disbursements herein including a reasonable attorney's fee and such other and further relief as the Court shall deem fit and proper in the premises.

(S) Ralph J. Rivers  
Of Attorneys for Defendants.

UNITED STATES OF AMERICA )  
: ss.  
TERRITORY OF ALASKA )

Ralph J. Rivers, being first duly sworn, on oath deposes and says: I am one of the attorneys for the defendants named in the above entitled action; I make this verification for the reason that neither of the above named defendants is present at the place where this affidavit of verification is made; I have read the within and foregoing answer, know the contents thereof, and believe the same to be true.

(S) Ralph J. Rivers

Subscribed and sworn to before me this 22nd day of April, 1938.

(S) Harry O. Arend  
Notary Public for Alaska.  
My Commission expires \_\_\_\_\_.



6-1  
O  
P  
Y  
Department of Justice

UNITED STATES ATTORNEY

District of Alaska  
Fourth Judicial Division

Fairbanks, Alaska  
April 12, 1938

The Attorney General  
Washington, D. C.

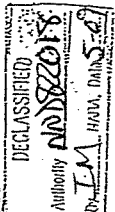
Sir:

Re: Clark Vs. Taylor and Spach.  
Department reference initials  
and number--CEC-LSB, 236274

We acknowledge your letter of March 25, 1938, containing confirmation of your telegram of March 21, 1938, authorizing this office to represent Taylor and Spach and to protect the interests of the United States.

Regarding the nature of the suit, the enclosed copy of the complaint is largely self-explanatory. The contention of the plaintiff is that the Alaska Road Commission has overreached the boundary of the existing right of way across Ganes Creek, in the Innoko Precinct, by the construction of a new steel bridge across said creek, in connection with which the Commission has transgressed upon the plaintiff's mining location. The suit is in equity and seeks to enjoin the completion of the approaches to the bridge, and suggests that the government should bring condemnation proceedings to compensate the plaintiff for his ground.

The interest of the government consists in protecting its investment already made in the new steel bridge, which is complete except for the approaches. The government would also be interested in establishing the boundary of its existing right of way across Ganes Creek. Section 1731, Compiled Laws of Alaska 1933, provides that the lawful width of the right of way of all roads or trails shall be 60 feet. The road across Baker's mining claim, including the old wooden bridge, has been a public highway for about twenty years. Since both bridges are 14 feet wide, and the new structure is immediately alongside the old one, it is apparent that the Road Commission is well within the 60 feet which is indicated. The distance from the center line of the old bridge to the far side of the new bridge would only be 21 feet now occupied, as against the 30 feet from the center line of the existing right of way to which the Road Commission would apparently be entitled.



The Attorney General--Washington, D. C.

Page 2

Accordingly, it is our contention that no condemnation proceeding is justified for the purpose of compensating Baker, as the Road Commission is well within an established right of way. We further take the position that the plaintiff should bring a law action under our code for the recovery of real property (Section 3761 CLA 1933) in the nature of an ejectment, for the purpose of establishment of his title to the disputed area. Accordingly, we will endeavor to get the plaintiff nonsuited in the present injunction proceedings. Should he then bring the ejectment action and succeed in getting the boundary of the right of way established in his favor, it would then become necessary to institute condemnation proceedings for the exact area involved.

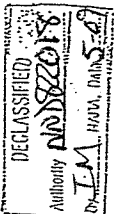
Enclosed find copies of all pleadings on file in said case to date.

Respectfully,

(Signed) Ralph J. Rivers

United States Attorney

RJR:HAB  
Encl. 2



\*\*\*\*\*  
COPY

IN THE DISTRICT COURT FOR THE TERRITORY OF ALASKA, FOURTH JUDICIAL DIVISION  
-----oOo-----

ROBERT A. CLARK, JUNIOR, )  
                                  ) Plaintiff, )  
                                  ) )  
-vs- )  
                                  ) )  
IKE P. TAYLOR AND FRED SPACH, )  
                                  ) Defendants. )

*Sub. 12-1938*

No. 4129 Civil

C O M P L A I N T

The Plaintiff Complains and Alleges:

I

That at the times hereinafter mentioned, plaintiff was the owner and in possession of the SPOT ASSOCIATION MINING CLAIM, located in the Innoko Precinct, Fourth Judicial Division, Territory of Alaska, over and through which flows a stream known as Ganes Creek, to the possession and use of which claim he is entitled;

II

That during the month of October, 1937, Ike P. Taylor, above named defendant, who is the chief engineer of the Alaska Road Commission, and above defendant, Fred Spach, who is superintendent of the Alaska Road Commission in the said Innoko Precinct, and which said Road Commission is a Department of the United States Government, and has to do with the building of roads and bridges in the Territory of Alaska, without acquiring any rights and in excess of their jurisdiction, and without authority from the United States Government, instructed the employees of the said Alaska Road Commission, over whom they exercise control, to construct a bridge with approaches thereto on a portion of the said Association Claim;

III

That during the said month of October, said defendants and their employees began construction of said bridge and approaches thereto, and at which time plaintiff posted notices and notified said defendants and their employees of his possession and ownership of said land, but they ignored the same, and resisted plaintiff and caused plaintiff's agent to be arrested and incarcerated so that defendants and said employees would continue to build said bridge on plaintiff's said claim and so that it would become a permanent easement upon the same and deprive plaintiff of the use and en-



W/enk

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
DIVISION OF TERRITORIES AND ISLAND POSSESSIONS  
WASHINGTON

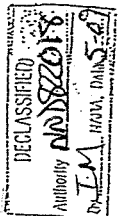
March 9, 1938.

MEMORANDUM for the Assistant Secretary:

The Governor of Alaska has just advised this Division that in October last, the construction of a small bridge was commenced over Ganes Creek near Ophir in the Fourth Judicial District of Alaska, and that this bridge is now completed with the exception of the approaches thereto. It appears that although this bridge replaces a former bridge, a slight change in location of the new bridge makes it necessary that certain private property be secured for the approaches, and that condemnation proceedings will be required to secure the additional land. The Governor therefore requests that authority be secured from the Secretary of the Interior to bring these proceedings through the District Attorney at Fairbanks under the provisions of Title 40, Section 258-A of the U. S. Code; also that a tender of \$100 be made as the estimated fair value of the ground in question, to be paid from "Funds contributed for improvement of roads, bridges, and trails, Alaska, (Trust Fund) 14-8047".

The Governor reports in addition that the land required for these approaches consists of unpatented mining claims which have been held through performance of assessment work for about twenty years, and that the owner is Robert A. Clark, Jr. The description of this land is as follows:

"Beginning at a point which bears east two feet from the center of the east end of the steel cap supporting the north end of the steel bridge over Ganes Creek, situated on the Ophir-Takotna Road, a distance of seventeen miles from Takotna and five miles from Ophir in the Innoko Precinct, Fourth Judicial District, Territory of Alaska, thence east 20°-30' west, parallel with the center line of the new steel bridge a distance of 320 feet, thence north 12°-45' east 200 feet, thence north 20°-30' east 120 feet, thence north 30°-30' east 200 feet, thence south 22°-46' west for 195.3 feet to place of beginning; the above described land comprising an area of 0.20 of an acre, more or less."



W. K. M.

The Governor also states that the Territory has set up an item of \$100 under the Appropriation "Funds contributed for improvement of roads, bridges, and trails, Alaska (Trust Fund) 14-8047" as the estimated amount required to pay for this land, but that the Territory agrees to contribute such additional funds for this purpose as may be required by a court award.

It is suggested that this matter be referred to the Solicitor for the preparation of correspondence necessary to institute condemnation proceedings in this case, under appropriate statutory authority, with the understanding that details of the proceedings may be handled through the District Attorney for the Fourth Judicial District of Alaska, and the Governor of the Territory. There is attached a file containing the correspondence upon this subject, which should be returned to this Division when no longer required.

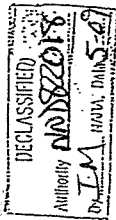
ERNEST GRUENING,  
Director.

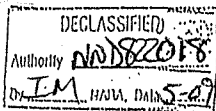
Enclosure 1352417.

MAR 11 1938

Respectfully referred to the Solicitor, with the request that the necessary correspondence be prepared for instituting condemnation proceedings in this case.

(Sgd.) OSCAR L. CHAPMAN  
Assistant Secretary.





3-19-38.

Authority of the Secretary of the Interior  
to Construct Roads in Alaska

January 27, 1905 (33 Stat. 616) Title 48 Sec. 321, etc.  
May 14, 1906 (34 Stat. 192) Title 48 Sec. 321, etc.  
June 30, 1932 (47 Stat. 446) Title 48 Sec. 321a, 321b.  
June 30, 1932 - Dept. Order 585.  
December 3, 1932 - Dept. Order 605 amends 585 - Approved  
by President December 7, 1932;  
(See also Comptroller General's Decision July 7, 1933 -  
A-46727; Solicitor's Opinion December 29, 1932 -  
M.27301.)

Appropriations:

33 Stat. 616 January 27, 1905 "Alaska Fund"  
34 Stat. 192 May 14, 1906 " "  
35 Stat. 601 February 6, 1909 " "  
37 Stat. 728 March 3, 1913 " "  
48 Stat. 1224 June 26, 1934 " " abolished as "permanent" fund.  
49 Stat. 176 (213) May 9, 1935 Appropriation for year ending  
June 30, 1936  
49 Stat. 1757 (1800) June 22, 1936 " " " "  
June 30, 1937  
50 Stat. 564 (612) August 9, 1937 " " " "  
June 30, 1938.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON

DEPARTMENT OF THE INTERIOR  
WASHINGTON  
COPY FOR INFORMATION

JUN - 8 1939

9-1-46

James Creek Bridge

The Honorable

The Attorney General.

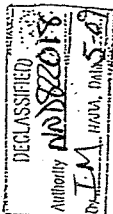
My dear Mr. Attorney General:

I have received your letter of May 4 (your file JIM-228-32-2-39) enclosing a copy of a letter dated April 16, 1939, from Ralph J. Rivers, United States Attorney, at Fairbanks, Alaska, in which he suggests that the condemnation proceeding entitled United States v. 9.30 of an Acre of Land in Innoko Precinct, Alaska, Cause No. 4178, should be abandoned.

On March 25, 1938, you were requested to condemn the instant lands for use in constructing approaches to a bridge over Canon Creek. Robert A. Clark, Jr., the ostensible owner of the outstanding interests in these lands, had refused to convey the land necessary for these approaches, and in order that the United States might obtain immediate title and possession, a declaration of taking was forwarded to you for filing in the action. On May 16, 1938, you advised that an injunction proceeding instituted by Robert A. Clark, Jr. was pending in the District Court of the United States for the Fourth Judicial District of Alaska, involving the right of the Alaska Road Commission to construct a road over the area included in the proposed action, and you recommended that the institution of the condemnation proceeding be deferred until the injunction proceeding had been completed. On June 21, 1938, the request of Robert A. Clark, Jr. for an injunction was granted. Thereafter, the condemnation proceeding, including the filing of the declaration of taking, was instituted.

The outstanding interest intended to be condemned appeared to be an unpatented mining claim and this Department determined that the value of the interest taken did not exceed \$100. Therefore, that amount was deposited in the registry of the court and a motion for immediate possession was presented. On March 10, 1939, the commissioners reported the value of the property sought to be appropriated and all improvements thereon to be \$11,000. It appears that this award is greatly in excess of the true value of the property taken.

Although this Department does not have a record of the proceeding it is my understanding that the court, upon the filing of a motion for





immediate possession, handed down findings of law and facts. These findings included a determination (1) that it was unnecessary for the United States to obtain a fee simple title as requested in the declaration of taking; (2) that the United States was entitled to an easement for highway purposes only; and (3) that the owner of the mineral rights retained his ownership and right to mine the same, provided he did not interfere with the highway easement. If it is legally possible for the judgment to include an easement only, and if the taking of an easement in lieu of fee is likely materially to reduce the award of the commissioners or of a jury, it has been determined that such an easement will be satisfactory to this Department.

The United States Attorney Rivers has suggested that the pending action be abandoned and that the new bridge and its approaches be located on the site of the old bridge over Ganes Creek. Since the new bridge has been constructed and since the United States may now be irrevocably liable to compensate the owner for the land or interest taken, it does not appear that the suggestion is feasible. One of your attorneys has requested informally that the Department suggest the amount of an award which might be used as a compromise figure. It has been estimated that the new bridge could be relocated at a cost of approximately \$2,000, and for this reason it is suggested that the sum of \$2,000 is the maximum amount that should be paid for the vesting of a fee simple title in the United States.

Since the award of the commissioners apparently relates to the taking of a fee simple title, it is possible that the question of the value of an easement may be resubmitted to the commissioners if you determine that the judgment may include the easement only, or it may be that an appeal from the present award should be made to a jury. In any event, it is urgently requested that the necessary steps be taken to obtain a reasonable award for the taking of this property or the suggested easement.

Very truly yours,

*[Signature]*  
Assistant Secretary.

DEPARTMENT OF THE INTERIOR  
ALASKA ROAD COMMISSION  
JUNEAU, ALASKA

May 22, 1941

Mr. Rupert Emerson, Director  
Division of Territories & Island Possessions  
Department of the Interior  
Washington, D. C.

Dear Mr. Emerson:

May I refer to Mr. Taylor's letter to you of May 14 concerning the payment of \$1,750 to Mr. C. L. Baker to conclude the Ganes Creek Bridge matter? Specifically, I wish to refer to the second paragraph, in which Mr. Taylor asked for a copy of the proposed settlement in order that the exact area could be described. In discussing this matter with Mr. Skinner--who, in the absence of Mr. Taylor and Mr. Sterling, is in charge of the Juneau Office--I indicated to him that we had sent the Alaska Road Commission all of the details of the settlement available to the Division.

The proposal submitted by Mr. Baker to the Attorney General on March 1 does not indicate by metes and bounds the land involved. Neither does the description of the land condemned (which description is available to the Division) cover all of the land required. In discussing this matter, Mr. Skinner brought to my attention a copy of a letter of April 2 to the United States Attorney at Fairbanks, Mr. Ralph Rivers, in which the minimum requirements of the Road Commission are described. The Alaska Road Commission assumes that Mr. Rivers has furnished this description to the Department of Justice but inasmuch as the letter had not been brought to my attention before leaving Washington I have some apprehension that the Department of Justice might not have available this additional material. For that reason I am enclosing four copies of Mr. Sterling's letter of April 2 to the United States Attorney at Fairbanks and suggest that the descriptions as contained therein be furnished the Department of Justice at once in order that we might be certain they are available for its use.

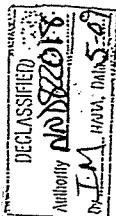
You will note that the last paragraph in the letter refers to the disposition of the check for \$1,750. The letter from Mr. Taylor of May 14 will indicate, of course, that the Alaska Road Commission is aware of the instructions to send the check to Washington.

Very truly yours,

Paul W. Gordon  
Supervisor, Alaskan Affairs

PHG:IW

Enc. copy of letter - in quad.



DEPARTMENT OF THE INTERIOR  
ALASKA ROAD COMMISSION  
JUNEAU, ALASKA

May 14, 1941

Division of Territories & Island Possessions  
Department of the Interior  
Washington, D. C.

Gentlemen: (THRU Office of Governor of Alaska.)

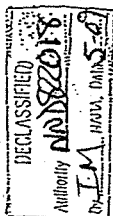
Upon instructions from the Office of the Secretary, to the Governor, we have prepared and forwarded to C. L. Baker a voucher to cover payment of the remaining \$1,750 in the matter of compromise settlement of condemnation proceedings for the Ganes Creek Bridge location. We proposed that check be drawn to the order of the Clerk of Court at Fairbanks, as funds could be combined with the \$250 now held in that office. Had this been done, voucher could have been prepared without the signature of Mr. Baker or Mr. Clark and payment effected immediately. However, the Department of Justice preferred to have check made payable to Baker and Clark and forwarded to it for delivery. It has therefore been necessary, as noted above, to send this voucher to Baker at Ophir for signature, and possibly also to Mr. Clark at Chicago. It is anticipated, therefore, that several weeks of delay will result, as Ophir is reached by only infrequent mail service.

In the meanwhile, will you please request the Department of Justice to furnish us a copy of the proposed settlement? We can then determine just what area will be released by Messrs. Baker and Clark and make our plans accordingly.

The present Ganes Creek Bridge is in a dangerous condition for heavy loading and it is desired on this account to complete the approaches to the new steel bridge at the earliest date possible so it will be available for the use of mining operators during the present season. However it is not anticipated that we will be able to enter upon the premises and begin actual construction work until the proposed settlement has actually been consummated.

Very truly yours,

Ike P. Taylor  
Chief Engineer



*Handwritten signature and date: Taylor 5/14/41*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
ALASKA ROAD COMMISSION  
JUNEAU, ALASKA

April 2, 1941

Mr. Ralph J. Rivers  
U. S. Attorney  
Fairbanks, Alaska

Dear Sir:

In accordance with request thru Mr. Nash regarding the Baker case there is furnished herewith a print of map showing the Ganes Bridge situation upon which is shown Plat No. 1 in red and Plats Nos. 2 and 3 in blue outline.

Plat No. 1 is described as follows:

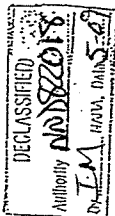
Beginning at the initial point which bears north two feet from the center of the north end of the steel cap supporting the west end of the steel bridge over Ganes Creek, which point is identical with the beginning point of the previously condemned area, thence N.78°44' W. a distance of 50 feet, thence S.82°05' E. a distance of 370.03 feet, thence S.9°W. a distance of 9 feet thence N. 81°W. along and coinciding with the north boundary of the previously condemned area, a distance of 320 feet to place of beginning, comprising an area of .046 acre, more or less; the intent of the description as written above is to cover all land between the right of way of the road and the previously condemned area having an easterly boundary as described above.

The "previously condemned area" referred to is the .20 acre shown in yellow which was awarded to the Road Commission by the court after payment of \$250.00 had been made and which we presume is that referred to by the Department of Justice as "pending condemnation proceedings."

No. 1 is the minimum area necessary to provide access from the existing 18-foot right of way to "previously condemned area."

Actually, from a point beginning approximately at the eastern boundary of Plat No. 1, the existing road is about 30 feet wide from outside of ditch to outside of ditch, and has been that width since it was constructed. Because this part of the road is a turnpike section rather than a fill, the necessary drainage ditches, one on each side, can not be maintained because they are now outside of the theoretical 18-foot right of way as allowed by the Court.

It is requested therefore that in making settlement with Mr. Baker, endeavor be made to secure an easement of Plats Nos. 2 and 3, described as follows:



RJR - #2

4-2-41

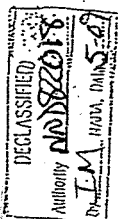
Two strips of land 6 feet wide by 976 feet long, one on each side of and adjoining the 18-foot right of way of the existing Takotna-Ophir road, the westerly boundaries of which coincide with the easterly boundary and an extension thereof, of Plat No. 1, the easterly boundaries of which coincide with easterly limit line of the Spot Association claim, the two strips containing a total of 0.269 acre more or less.

We presume when the matter is finally settled we will be furnished a copy of the compromise agreement and will then place with the Clerk of the Court the additional \$1,750.00 required.

Very truly yours,

Hawley Sterling  
Acting Chief Engineer

Enc.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON

*Bo. C. C.*  
*Minidok*  
*W. L. C.*  
*E. C. C.*

TO SECRETARY  
MAY 23 1941  
FOR SIGNATURE

JUN -5 1941

*4-1-46*  
*Ganes Creek Bridge*

The Honorable  
The Attorney General.

Sir:

This has reference to correspondence in connection with the case of the United States v. .20 of an Acre in Innoko Precinct, Alaska.

Please furnish this Department with a copy of the proposed settlement in order that we may be advised just what area will be released by Messrs. Baker and Clark. In this connection I am enclosing a copy of a letter dated April 2 to the United States Attorney at Fairbanks, Alaska, from the Acting Chief Engineer of the Alaska Road Commission, giving the metes and bounds of the area which the Alaska Road Commission desires to be released in order that work may go forward on the construction of the Ganes Creek bridge.

The present bridge is in a dangerous condition for heavy loading and it is desired on this account to complete the approaches to the new steel bridge at the earliest date possible so it will be available for the use of mining operators during the present season.

It is not anticipated that any work will be done until the proposed settlement has actually been consummated. In this connection you are advised that steps are being taken to forward a check in the amount of \$1,750 to your office to cover payment of the compromise settlement. Inasmuch as it was the wish of your office to have the check sent to Washington, it was necessary to prepare a voucher and to send it to Mr. Baker at Ophir for signature. This will entail some little delay as Ophir is reached only by infrequent mail service.

Please advise if the area described in the letter of April 2 to the United States Attorney at Fairbanks can be encompassed in the proposed settlement.

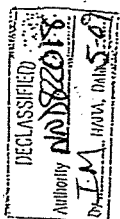
Very truly yours,

(Sgd.) USCAR L. CHAFWAM

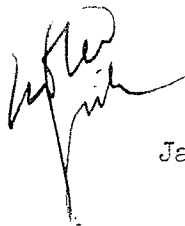
Assistant Secretary.

KB:hhg

Enclosure 2105763.



TERRITORY OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU



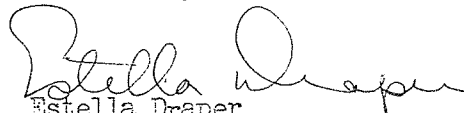
January 16, 1941

Mr. Rupert Emerson  
Director, Division of Territories and Island Possessions  
Department of the Interior  
Washington, D. C.

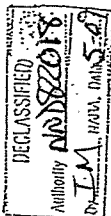
Dear Mr. Emerson:

In connection with our correspondence concerning the Baker case,  
I enclose a copy of an opinion written by George W. Folta, Counsel  
at Large, on December 10, 1940. This is just for your information  
and file.

Sincerely yours,



Estella Draper  
Secretary to the Governor



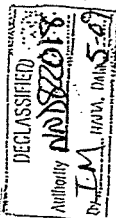
JUNEAU, ALASKA  
December 10, 1940

Honorable Ernest Gruening,  
Governor of Alaska,  
Juneau, Alaska.

My dear Governor Gruening:

I have just read a copy of the Department's letter to you of November 28 regarding the Baker case, and in view of some of the statements made it occurs to me that you might be interested in my comments thereon. The United States is not only not obligated to condemn the entire interest of the owner in land desired by it, but it is its duty to acquire only a right-of-way for highway purposes. Apparently this was overlooked with the result that when it developed at some stage of the trial that a fee simple title could not be condemned for the reason that the owner had nothing but a possessory right, the pleadings, by which I mean the complaint and declaration of taking, must accordingly have been amended. Such an amendment is allowable at any time before the verdict is returned. Although information as to this is unavailable here, the fact that the award of \$250 was for a right-of-way is proof in itself that the pleadings must have been amended. Surely Baker cannot complain that the Government did not condemn his entire estate in the land instead of merely a right-of-way, but if he should attempt to assign this as an error, the complete answer to this contention is as pointed out, that the Government is under no obligation to acquire or pay for any more than a right-of-way. Moreover, if the pleadings were amended as it appears they must have been, there could be no inconsistency between the award and the pleadings upon which Baker could urge error.

My information indicates that it was the Judge himself who called attention to the fact that Baker lacked a fee simple title. Therefore, if there was any substantial evidence as to value, I contend that the question of value is foreclosed by the verdict. This would be true even though Baker's evidence overwhelmed that of the Government on the question of value because of conflict on any issue during the trial must be resolved by the jury, and its verdict will be upheld on appeal if there is any substantial evidence to support it, regardless of how great the conflict of evidence might be as between the litigants.





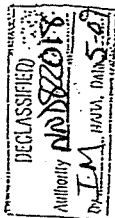
Governor Gruening - 2

The basis of this rule governing decisions on appeal is that the trial court, and particularly the jury, is in a far better position to judge of the credibility of witnesses and the weight of the evidence. The Appellate Court sees nothing but the testimony in type, whereas the jury is instructed that it is its duty to size up each witness and to judge of his credibility and the weight of his testimony in arriving at a verdict.

While the matter is somewhat moot now, since the Department has accepted your recommendation, yet in view of the statement as to the contribution of funds by the Territory for the payment of any further award, it occurred to me that I should make the foregoing comments to relieve you of any feeling of uncertainty you may have as to the wisdom of your recommendation.

Very truly yours,

George W. Folta /s/  
GEORGE W. FOLTA,  
Counsel at Large.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON

FILE COP.  
Surname:  
Div. of  
Territories

<i>Kammerman</i>
<i>John Klundus</i>
<i>Stuyvesant</i>
<i>Graham</i> Asst. Sec. Off.

TO SECRETARY  
NOV 20 1903  
FOR SIGNATURE

The Honorable

The Attorney General. ✓

Sir:

Reference is made to the letter of the Acting head, Lands Division, dated September 19 (C&D-FR; 33-2-39), enclosing an offer of compromise from Charles L. Baker in connection with the case of the United States v. 0.20 of an acre of land in Imoko Precinct, Alaska, Robert A. Clark, Jr., et al., and inquiring whether this Department approves or disapproves the acceptance of this offer.

Enclosed herewith are copies of a radiogram dated October 2 and a letter dated November 9 from the Governor of Alaska to the Director, Division of Territories and Island Possessions, in which the rejection of the offer of compromise is recommended.

While the rejection of the offer may involve the possibility of a substantial award if a new trial becomes necessary as a result of the appeal in the above case, in view of the apparent willingness of the Governor to incur that risk and the fact that the award will be paid out of funds contributed by the Territory of Alaska, this Department concurs in the recommendation that the offer be rejected.

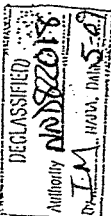
Very truly yours,

Assistant Secretary.

Enclosure 690413

COPY FOR THE DIVISION OF TERRITORIES

~~COPY FOR THE SECRETARY'S OFFICE~~



Kaman  
John

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON

The Honorable

The Attorney General.

Sir:

Reference is made to the letter of the Acting head, Lands Division, dated September 19 (C-4-PK; 33-2-39), enclosing an offer of compromise from Charles L. Baker in connection with the case of the United States v. 0.20 of an acre of land in Innoko Precinct, Alaska, Robert A. Clark, Jr., et al., and inquiring whether this Department approves or disapproves the acceptance of this offer.

Enclosed herewith are copies of a radiogram dated October 2 and a letter dated November 9 from the Governor of Alaska to the Director, Division of Territories and Island Possessions, in which the rejection of the offer of compromise is recommended.

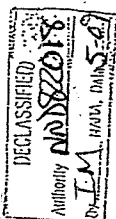
While the rejection of the offer may involve the possibility of a substantial award if a new trial becomes necessary as a result of the appeal in the above case, in view of the apparent willingness of the Governor to incur that risk and the fact that the award will be paid out of funds contributed by the Territory of Alaska, this Department concurs in the recommendation that the offer be rejected.

Very truly yours,

(Sgd.) OSCAR L. CHAPMAN

Assistant Secretary.

Enclosure 690413



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON

FILE COPY

Surname:

Div. of  
Territories

<i>Kamerling</i>
<i>Blumenthal</i>
<i>Sturges</i>
<i>Graham</i> Sgd. Sec. VII.

TO SECRETARY  
NOV 20 1913  
FOR SIGNATURE

Hon. Ernest Gruening,  
Governor of Alaska,  
Juneau, Alaska.

My dear Governor Gruening:

Reference is made to your letter of November 9 to the Director, Division of Territories and Island Possessions, in which you recommend the rejection of the offer of compromise from Charles L. Baker in connection with the case of United States v. 0.20 of an acre of land in Innoke Precinct, Alaska, Robert A. Clark, Jr., et al.

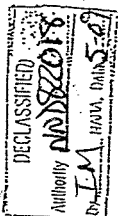
While Baker and Clark do not have the fee title to the land sought to be condemned, it would seem clear that the United States is obligated to compensate them for their entire interest by reason of the filing of the declaration of taking and that their interest is more than a mere easement or right-of-way. Accordingly, the fact that they do not have the entire fee would not preclude them from urging, on appeal, that the award of \$250, which was for a right-of-way only, does not conform to and is inconsistent with the complaint and declaration of taking filed in the proceedings. Therefore, the question of the value of their interest is not necessarily foreclosed by the verdict of the jury and it is questionable whether it could be contended on behalf of the United States, if a new trial becomes necessary, that the taking did not interfere with the mining operations of the defendants.

However, in view of your willingness to incur the risk of a substantial award if the case is remanded for retrial and the fact that the award will be paid out of funds contributed by the Territory of Alaska, the Department, in a letter to the Attorney General, has concurred in your recommendation that the offer of compromise be rejected.

Sincerely yours,  
(Sgd.) OSCAR L. CHAPMAN

Assistant Secretary.

COPY FOR THE DIVISION OF TERRITORIES  
~~COPY FOR THE SECRETARY'S OFFICE~~



TERRITORY OF ALASKA

OFFICE OF THE GOVERNOR

JUNEAU

*Nov 15 '40  
Read to Mr. Hoque of  
Dept of Justice*

November 9, 1940

Mr. Rupert Emerson  
Director, Division of Territories and  
Island Possessions  
Department of the Interior  
Washington, D. C.

Dear Mr. Emerson:

Since the receipt of your recent letter urging a reconsideration of Baker's offer of compromise of the case growing out of the Ganes Creek Bridge controversy for the reasons set forth in your letter, I have discussed the matter with Messrs. Taylor and Folta. A review of the history of this case and a consideration of the relative merits of the offer and the available alternatives lead me to affirm the recommendation made in the telegram of October 2.

The road of which the bridge is a part was laid out by the Alaska Road Commission in accordance with a practice which by general recognition and approval of miners may be said to have been firmly established at the time that the dispute in question arose. The primary, if not sole, purpose of the road was to serve the mining industry, and Baker, because of the proximity of his mining operations to the road, was one of its principal beneficiaries. The practice of building roads across mining property without obtaining rights-of-way or easements was based on general consent and since mining operations across and along such roads were permitted upon the condition that detours be provided and the road ultimately restored to its original location and condition, no interference with mining operations resulted. Baker raised no formal objection to the maintenance of this road until an attempt was made to relocate the bridge over Ganes Creek when he demanded that the road over his entire mining property be relocated. Upon the refusal of the Alaska Road Commission to accede to his wishes he became extremely hostile, and ever since has done everything in his power to hinder and interfere with the construction of the bridge and maintenance of the road. In this it appears that he has been motivated by spite and ill will rather than by an honest belief that he had been unfairly dealt with. Gumply and his resort to the forum of the District Court to air his reckless and baseless charges against the Commission have discredited him and may prejudice him in the defense of another condemnation suit. Undoubtedly since his arrival in Washington he has adopted a more reasonable attitude, but it is noted that he still clings to his claims as to the value of the property. In view of his contentious and vindictive nature, it seems extremely unlikely that any offer emanating from him could be reasonable.

DECLASSIFIED  
Authority NND 82018  
Date 11/15/00  
IM

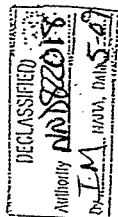
Mr. Rupert Emerson

-2-

While it is true that a declaration of taking of the fee commits the Government to pay for the entire interest of the owner, this consequence does not follow in the present case because Baker was not vested with a fee-simple title. I am informed that this fact became known at some stage of the suit and is reflected in the judgment. Even if this had not occurred, his inability to convey a fee-simple title precludes him from urging on appeal the point that the jury might have based its award on the theory that all that the Government sought to condemn was a mere right-of-way but, if the true state of the title was not discovered until after the return of the verdict, the Government could properly argue that the jury based its award on the theory that Baker was being divested of a fee-simple title and that therefore the award was greater than it should have been.

From what I am able to learn of the issues in the pending case, there is a far greater probability that the Government will prevail in the Appellate Court than that it will lose. The value of \$30,000 fixed by Baker upon the strip of two-tenths of an acre is not only fantastic, but the question of value is foreclosed by the verdict. Moreover, the evidence of valuation secured by drilling and exploratory work upon the tract involved in the pending suit would undoubtedly be admissible on the question of value in the contemplated condemnation suit since the two tracts adjoin and comprise but a very small area. In this connection it should not be overlooked that whatever value there is in the ground underneath the right-of-way is not lost because, as pointed out, mining operations through and under roads are permitted. While jurors are not allowed of course to impeach their verdict, some of the members of the jury which awarded \$250 to Baker have stated that it was believed that Baker was not entitled to any compensation and that it was only in a spirit of liberality with Uncle Sam's money that he was awarded \$250. The award of the \$11,000 by the Commission unsupported as it was by any credible evidence whatever must be attributed to the confusion of allegations of value with the discovery of a bonanza.

Similarly without merit is the claim of \$600 for tailings used in the repair of the road. Tailings, rock and water were deliberately discharged by Baker in such a manner as to inundate and damage the road. This act of his was so indefensible that other miners dependent on the road for transportation of supplies, etc. sought to have Baker prosecuted for obstructing the road. In these circumstances the use of the tailings, particularly under the mining practice pointed out, not only did not constitute a conversion but its use was necessitated because of the damage done by Baker. Since the damage was purposely inflicted to interfere with and impede the Commission, the principle of law that a wrongdoer should not be permitted to profit from his own wrongs ought to be applied. The District Attorney's recommendation that Baker's offer be accepted is based on two grounds:



Mr. Rupert Emerson

3

- (1) "The defect in amended description of condemned area", and
- (2) The avoidance of "future conflict with Baker's mining activities" by the relocation of the road.

I presume that what is meant by the first ground is that another condemnation suit would be avoided. This has already been discussed. The remaining ground does not impress me as substantial. The Government now has a valid right-of-way which cannot be affected regardless of the outcome of the appeal. It would be wholly unreasonable to require the Government to relocate a road in order to avoid a dispute with some eccentric character.

It is quite possible that some of the employees of the Government were inconsiderate of Baker's demands or even discourteous and if so that is regrettable. Nevertheless, the Government should neither be penalized for the dereliction of its employees nor should that fact, if it be a fact, influence the consideration of the merits of the offer.

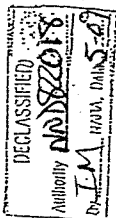
Viewed in the light of the facts and circumstances set forth, Baker's demands savor somewhat of blackmail. That the policy of the Government should be marked by reasonableness or even occasional generosity, may not be doubted. Yet, when it appears that the litigation or claims is such as the information available indicates this is, it would seem to be preferable to risk an unfavorable outcome than to yield. There is an increasing tendency on the part of some people in Alaska, (perhaps also elsewhere), to expect everything of the government, which in Alaska gives much, and yet to overlook no opportunity to bleed it. Mr. Baker's performance seems to me an outstanding example of this attitude.

My conclusion, therefore, is that the offer should be rejected and that a decision as to which alternative should be pursued, be held in obedience pending the outcome of the appeal.

Sincerely yours,



Ernest Gruening  
Governor of Alaska



# Signal Corps, United States Army

Received at

War Department Message Center,  
Room 3441, Munitions Building,  
Washington, D. C.

*Ganes Creek Bridge*  
*W. H. [Signature]*

3-9813 U. S. GOVERNMENT PRINTING OFFICE

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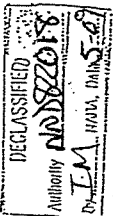
TERRITORIES INTERIOR DEPT WASHINGTON D C

LETTER RE GANES CREEK CONTROVERSY, ADVISING STRONGLY AGAINST SETTLEMENT OF  
ANY KIND WITH BAKER BEING AIR MAILED YOU TODAY

GRUENING GOVERNOR

828PM

*Nov 12 40*  
*Show to Mr. Kummerow*  
*[Signature]*





UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
DIVISION OF TERRITORIES AND ISLAND POSSESSIONS  
WASHINGTON

*Handwritten signature: Ernest Gruening*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

*Oct 2 1918*

Hon. Ernest Gruening,  
Governor of Alaska,  
Juneau, Alaska.

My dear Governor Gruening:

In the telegram of Acting Governor Bartlett dated October 2, with reference to Baker's offer of settlement in connection with the Ganes Creek Bridge controversy, it is stated that the total cost of settlement would approximate \$7,000. The suggestion is made that the Government either proceed with the pending condemnation suit and acquire by condemnation an additional strip of land along the south side of the road, east of the bridge, or, rebuild the bridge on the location of the original structure.

Your reconsideration of this matter is urged for the following reasons:

1. In the pending condemnation proceedings, the Government has filed a Declaration of Taking covering the fee to the land. Accordingly, the Government stands committed to compensate Baker for his entire interest in the land, and the attorneys in the Department of Justice handling this matter are definitely of the opinion, after extended conferences with Baker, that he would not consent to the withdrawal of the pending condemnation suit. Baker is therefore in a position to urge, on appeal, that the amount awarded by the jury was for a right-of-way only. In view of the fact that the award of \$11,000 by the commission first appointed was also for a right-of-way and not the fee, the possibility of Baker's obtaining a substantial award, in the event a new trial becomes necessary, should not be minimized. As you may know, the land is valued by Baker at \$30,000.

2. The amount of the award for the additional strip of land, which it will be necessary to condean, is problematical.

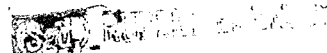
DECLASSIFIED  
Authority: 48 CFR 1.10105-1  
DATE: 11/15/01  
BY: J.M. DAVIS-07

3. The validity of Baker's claim for \$600 for the use of tailings by the Alaska Road Commission in repairing the Ophir-Takotna road seems to hinge on the fact question whether such use was authorized. If, upon trial, it is found that authority was not granted, it is quite possible that he may be awarded the full amount of his claim.

4. United States Attorney Rivers has recommended to the Department of Justice that Baker's offer of settlement be accepted.

It is requested that you further discuss this troublesome situation with Messrs. Taylor and Polta in the light of the foregoing and advise me of your views with respect thereto at your earliest opportunity.

Sincerely yours,

  
RUFERT EMERSON,  
Director.

ADDRESS REPLY TO  
"THE ATTORNEY GENERAL"  
AND REFER TO  
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

CRD-FH

33-2-39

September 16, 1940

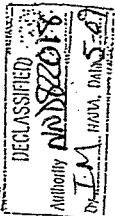
MEMORANDUM TO CHARLES R. DENNY, JR., CHIEF OF APPELLATE SECTION

FROM: FRANCIS HOAGUE

RE: HISTORY OF DEALINGS BETWEEN ALASKA ROAD COMMISSION AND  
CHARLES L. BAKER

Mr. Charles L. Baker is a miner and prospector in Innoko County, Alaska. Since 1917 he has prospected ground on both sides of Ganes Creek, called the Spot Association land. An unpatented mining claim to this land stands in the name of Robert A. Clark, Jr., of Chicago, Illinois, Baker's nephew. Baker holds and has recorded a power of attorney from Clark to act for him in every respect within the Territory of Alaska.

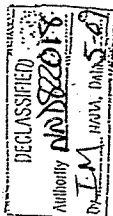
A road was constructed over the Spot Association land around 1923 by the Alaska Road Commission. A wooden bridge was built across Ganes Creek in the winter of 1922-1923, which is still standing and is being used, although it is in bad repair. No land or rights were acquired by the Road Commission prior to this road and bridge construction. Baker acknowledges that there is a prescriptive right to the roadway but denies any such right to the bridge. On October 25, 1938 a notice was attached to the bridge demanding its removal within 90 days. An affidavit of such posting was recorded on March 14, 1939, at Vol. 5, p. 287 of Innoko Records. Baker states that prior to the devaluation of the dollar the Spot Association claim could do little more than meet expenses. Since the rise in the price of gold, however, the value has increased to around \$40,000.00. He states and has charts showing \$170,000.00 worth of gold in a lode 600 feet by 200 feet which is cut in two by the road and the bridge. Baker states that this lode cannot be mined by cold water thawing "without ruining the road as it is now located". He was offered \$30,000.00 for the property November 30, 1939 by A. A. Shanbeck, but refused the offer.



Since the rise in mining values, Baker appears to have made efforts to have either the road or the bridge or both relocated so as not to interfere with the lode he had prospected. At various times he has offered to grant the road commission a right of way thirty feet wide on higher ground above the lode.

On October 26, 1937 the Alaska Road Commission entered on the Spot Association land and started construction of a steel bridge adjacent to the wooden bridge but lying to the southeast of it. Baker protested against this work and on October 29, 1937 filed a criminal complaint with the United States Commissioner at Ophir against William Murry, the foreman of the construction, charging trespass in violation of section 4830 C. L. A. A warrant for Murry's arrest issued the next day and was given to Christian Bolgen, Special Deputy Marshal. On October 30, 1937 Bolgen returned the warrant to the United States Commissioner unsatisfied and stated that Fred Spach, the assistant engineer in charge of the construction, had told him he would be held liable for damages if he made the arrest. After discussion with the Commissioner, Bolgen served the warrant and returned with Murry under arrest on October 31, 1937. Murry entered a plea of not guilty on the ground that he was working under the Road Commission. The United States Commissioner released Murry on his own recognizance to refrain from further trespassing, and wired Ralph Rivers, United States Attorney, then at Fairbanks, notifying him of the case and asking "What is the law?". On November 2 and 3, 1937 the United States Commissioner wired Rivers twice more notifying him that Baker had filed similar complaints against Taylor (Chief Engineer of the Road Commission), Fornier (fireman on piledriver), Eckstrom (workman on the job), and Thompson (same), and stated that he was holding the warrants subject to Rivers' direction.

On November 2, 1937 Fred Spach told the United States Commissioner that he had been advised to swear out a warrant for Baker's arrest. On November 3 Edward A. Adams



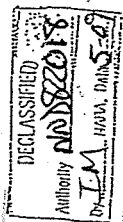
with the United States Commissioner at McGrath filed a complaint/charging that on October 30, 1937 Baker threatened to blow up the entire bridge crew if they did not get their outfit off the land. This complaint was also supported by an affidavit of Fred Spach. There is a record that Fred Spach flew from Ophir to McGrath on the morning of November 3, 1937. Baker claims this trip was for the purpose of filing the complaint there so as to get him away from Ophir. Baker denies making any threats of violence as charged. On November 4, 1937 Fred King, a special deputy marshal, arrested Baker at the Spot Association land and transported him and his belongings in two trucks to the Commissioner's Court at McGrath in Mt. McKinley Precinct. Baker states that Edward A. Adams was deputized and assisted in the arrest. They stopped at Ophir on the way to McGrath and Baker protested to the United States Commissioner there against being taken to Mt. McKinley rather than Innoko Precinct, where he lived and was arrested. Upon being unable to put up a \$2,000.00 bail bond at McGrath, he was committed to jail.

On the day of Baker's arrest Murry requested the court to dismiss the trespass charge against himself. The court entered the following order:

The above case coming up for decision and the complainant having been removed from this precinct under a warrant of arrest issued in the Mount McKinley Precinct it is ordered that the case is dismissed without prejudice.

On November 4, 1937 Rivers wired Ike Taylor:

WIRED SPACH NOVEMBER FIRST THAT LIABILITY IF ANY ALREADY INCURRED SO PUSH CONSTRUCTION TO FINISH AND HAVE BAKER ARRESTED IF HE PULLS ANY ROUGH STUFF HAVE TOLD COMMISSIONER AT OPHIR TO HOLD ALL WARRANTS I CONTEMPLATE DISMISSAL OF ALL THE CASES BAKER HAS STARTED

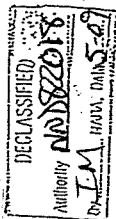


The Road Commission thereupon constructed the bridge which they had started. Baker spent ninety five days in jail, partly at Mt. McKinley and partly at Fairbanks. The docket on the Baker criminal case contains no disposition of the proceeding. However, Baker states that after Judge Pratt returned from "the outside" around the middle of January 1938, he saw Baker and they talked the matter over. Judge Pratt at first said that the matter was being held for the grandjury, but, after checking with the marshal's office, stated that Rivers had changed the action to a peace bond proceeding. Several days later when the case was brought on for a hearing, Judge Pratt, of his own motion, dismissed the case. While in jail Baker wrote to Ike Taylor protesting against the "road grabbing" and suggesting that the road should cross Ganes Creek at Paulson Bench "giving the property the benefit of a road and also keeping upon high ground down the left limit of Ganes especially on Spot Association swampy land occurs". To this Taylor replied that a small allotment had been made for the project and that the work would be done by Shanbeck and other interested miners. It is Baker's contention that Shanbeck wanted to buy the Spot Association land and through political pull had had this bridge and road reconstructed so as to ruin the property for mining and thus buy it at a low figure.

On December 10, 1937 Baker wrote Attorney General Cummings protesting against a "frame up" whereby he was put in jail so as to permit the illegal construction of the bridge.

On February 12, 1938 Baker, acting for Clark, brought a suit in equity against various officers and employees of the Alaska Road Commission to enjoin the construction of the bridge. On April 12, 1938 the respondents filed a demurrer and answer on the ground that section 1731 C.L.A. provides for a width of 60 feet for all roads and trails and that the new bridge was within thirty feet of the center line of the old bridge. On March 25, 1938 the Secretary of the Interior requested the Department of Justice to condemn the land over which the bridge lay by a Declaration of Taking. It was decided, however, at the suggestion of Ralph Rivers, to await the outcome of the injunction suit before starting condemnation proceedings.

On June 21, 1938 District Judge Pratt found against the defendants and issued an injunction. Judge Pratt filed an



opinion in which he stated that the statute relied upon (section 1731 C.L.A.) applied only to roads and trails laid out by the Territorial Road Commission and that the only right that existed was a prescriptive right of way 18 feet wide over the old roadway and old bridge. On August 10, 1938 it was decided by the Department of Justice with the concurrence of the Secretary of the Interior, that no appeal would be taken from this injunction.

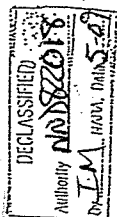
In the meantime, on June 28, 1938, the United States Attorney, Rivers, had started condemnation proceedings and had filed a declaration of taking for a fee to the land supposed to be needed for the bridge. Although the map accompanying the declaration showed the land in the shape of a crescent lying next to the old bridge, the description was incorrect by nearly 90 degrees so that as described the land taken lay parallel to the river and at right angles to the old bridge. \$100.00 was deposited with the clerk of court as the estimated value of the land.

On August 11, 1938 Baker filed an amended answer praying that the case be dismissed for lack of authority in the Secretary of the Interior and for lack of an appropriation to pay for the property.

On August 23, 1938 the court denied a Government motion for possession of the property on the ground that a fee was not necessary and that only a right of way was needed and therefore authorized.

On August 25, 1938 the Department sent to Rivers a letter authorizing the institution of condemnation proceedings.

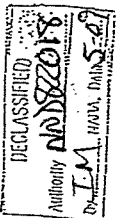
On September 10, 1938, after a hearing, a commission reported that they were unable to assess the value of the condemned property "as the portion of the defendant's property adjacent thereto cannot be worked and the bridge and road kept in good condition. The best known pay, on



the claim, is at the end of said bridge, and in the ground above and below said bridge. We strongly recommend that the bridge be placed about three hundred feet down stream from the present site, where there is a ridge of ground higher than the surrounding marsh leading thereto. The present road leading to the said bridge is detrimental to the mining of the bench and the mining of the bench is detrimental to the road; increasing the cost of keeping said piece of road in good condition". On October 4, 1938 Judge Pratt found that the Commissioners had not discharged their duties and ordered them to continue consideration of the matter. On October 19, 1938 the Commissioners reported that they could not agree upon compensation. A second set of commissioners was appointed which on March 10, 1939 rendered an award of \$11,000.00.

On May 2, 1939 Rivers wired the Department that the declaration of taking had not been "invoked" in this case as it was too risky to bind the Government irrevocably to pay an award. On May 25, 1939 the Government appealed from the Commissioners' award to a trial de novo before a jury. Rivers, under authorization of the Department of the Interior, made a compromise offer of \$2,000.00 to Baker, which was refused. On July 18, 1939 the Government moved to withdraw the declaration of taking. No action appears to have been taken on this motion, but correspondence indicates that it is the Department's attitude that since the court refused to sanction the declaration, it is a nullity.

On August 15, 1939 the Assistant United States Attorney and counsel for the defendant signed a stipulation correcting the description of the area to be condemned. On September 28, 1939 the court entered judgment of condemnation on the jury's verdict awarding \$250.00 for an easement in the land, "to vest immediately". The judgment contained the corrected description of the land taken. Prior to the entry of judgment \$150.00 additional was deposited with the clerk of court. A motion for a new trial based on errors of law and inadequacy of damages was overruled on September 30, 1939. This judgment is now on appeal to the Circuit Court of Appeals for the Ninth Circuit. On July 18, 1940 the Department of the





Interior sent a request for condemnation of a right of way over the property with the description corrected to conform with the judgment.

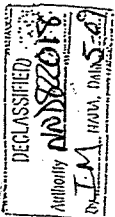
On June 11, 1940 an amended bill in equity was filed against Baker by the United States to restrain his threatening to interfere with the bridge. It may be that this was continuation of the "peace bond proceeding" which developed out of the original criminal action started in 1937. The case came on for trial on July 2, 1940. The only evidence for the Government was the two criminal affidavits made out by Spach and Adams in 1937. No one appeared for the Government. After long and involved testimony by Baker, Judge Pratt dismissed the bill on the finding that Baker had never made any of the alleged threats.

On October 31, 1939 Baker, acting for Clark as usual, brought suit against Spach, Taylor, Wigman, McDonald, and Rivers, all persons having to do with his arrest in 1937. Three counts are set out, alleging conspiracy, false arrest, malicious prosecution, and use of false warrants. The damages claimed are from \$10,000.00 to \$11,000.00. I am informed by the Claims Division that a demurrer has been sustained to this declaration and that the plaintiff has been granted until a date in December, 1940 to file an amended declaration.

Baker has also filed a claim with the Alaska Road Commission for \$600.00 for gravel taken from his tailing dump to build the road. No action appears to have been taken on this claim.

Rivers and Baker have been carrying on a heated letter warfare in the Fairbanks Shopping News in which both sides have made highly acrimonious statements.

Baker now states that the land condemned will not permit the use of the bridge inasmuch as the north end of the condemned tract does not meet up with the old roadway. He also states that the approaches to the bridge are under water each Spring and will have to be rebuilt each year. He states that he is willing to let the new bridge stand, grant a 30-foot right



of way to it on high ground which will not interfere with his mining, furnish the gravel for the new road, and call off all suits for \$3,500.00. The old road was rebuilt and raised in 1938 and, according to Baker, is in fine condition. Baker states that his tailings from the bench above the road will run over it and ruin it. He states that he is determined to continue working this bench land.

In a letter dated July 7, 1939, to Mr. Ernest Gruening, Director of Territories and Island Possessions of the Department of the Interior, Ike Taylor states that "it was a serious error in judgment on the part of Spach to insist on building the bridge in its present location in view of these protests". Spach has been removed from responsible charge of work because of bad judgment in several instances and has been assigned to the Anchorage area. Adams' services with the Road Commission have been terminated.

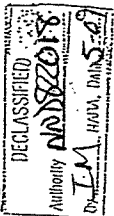
In a letter to Ike Taylor, Spach states that the choice of location on the southeast rather than northwest (downriver) side of the old bridge was due to the fact that it would tend to flatten out the curve of the river and also that having the old bridge up stream from the new would constitute a flood hazard until it was dismantled.

Baker's attorney, Mr. Winters, has recently been retained as attorney for Mr. Rivers' wife. Baker is suspicious of him and feels that he intentionally threw away the condemnation proceedings before the jury. There is nothing in the record to show that he has been anything less than diligent in caring for Baker's interests. The amount of litigation conducted for Baker by Winters would seem to indicate that the suspicions are not founded in fact.

Respectfully,

*Francis Hoague*

FRANCIS HOAGUE.



ADDRESS REPLY TO  
"THE ATTORNEY GENERAL"  
AND REFER TO  
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

VLW - FH

33-2-39

June 11, 1941

INTERIOR DEPT.  
RECEIVED

JUN 11 1941

SECRETARY'S  
MAIL CENTER  
TOLLING

Honorable Oscar L. Chapman  
Assistant Secretary  
Department of the Interior  
Washington, D. C.

*Noted  
RF.*

Dear Mr. Chapman:

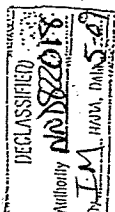
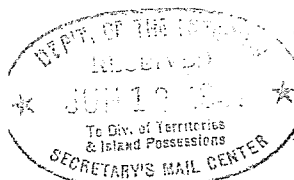
Reference is made to your letter of June 5, 1941 regarding the case of United States v. 0.20 of an Acre in Innoho Precinct, Alaska.

Enclosed please find copies of the following papers:

1. Stipulation filed in the Circuit Court of Alaska for the Ninth Circuit;
2. Stipulation filed in the United States District Court for the Territory of Alaska, Fourth Judicial Division; and
3. Deed of Charles L. Baker to the United States.

The two stipulations have been filed with the respective courts. The Circuit Court of Appeals for the Ninth Circuit has issued a mandate remanding the case to the District Court for the Territory of Alaska, Fourth Judicial Division, "so that the said district court may take such action as it may deem appropriate with respect to the stipulation \*\*\* filed in said district court". The United States Attorney for the Fourth Judicial Division of the District of Alaska writes us that he awaits word from Mr. Baker before he requests the entry of the amended judgment.

It was not possible to include in the amended judgment the area described in the letter of April 2, 1941 from the Acting Chief Engineer of the Alaska Road Commission to the United States Attorney at Fairbanks. We have, however, sent Mr. Baker a proposed deed, a copy of which is enclosed, and re-



- 2 -

requested him to sign it if he feels that it is desirable. It was pointed out that it was to his interest, as well as ours, to have the ditches maintained along the side of the road. We have not learned Mr. Baker's attitude with regard to this matter.

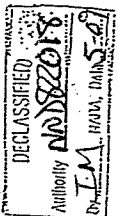
We will notify you as soon as we learn of the entry of the amended judgment. The United States Attorney at Fairbanks has been instructed to expedite the matter.

Respectfully,  
For the Attorney General,

*Norman M. Littell*

NORMAN M. LITTELL  
Assistant Attorney General

Enclosure  
No. 473564



IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE FOURTH JUDICIAL DIVISION OF ALASKA

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 ) vs. )  
 )  
 ) 0.20 ACRES OF LAND SITUATE IN )  
 ) THE INNOKO PRECINCT, FOURTH )  
 ) JUDICIAL DISTRICT, TERRITORY )  
 ) OF ALASKA, and )  
 )  
 ) ROBERT A. CLARK, JR., )  
 )  
 ) Defendants. )

No. 4176

AMENDED JUDGMENT OF CONDEMNATION

It appearing to this Court that on the 28th day of September, 1939, a Judgment of Condemnation was entered in this cause by the undersigned United States District Judge, granting an easement for a right of way over the major portion of the following described land to the United States of America, and awarding two hundred fifty dollars (\$250.00) to the above named defendant, from which award said defendant appealed to the United States Circuit Court of Appeals for the Ninth Circuit;

And it further appearing that upon the 15th day of May, 1941, said appeal Court entered an order remanding said cause to this Court for amendment of said Judgment of Condemnation in accordance with a stipulation between the parties on file herein;

And it further appearing that in said stipulation the parties agree, among other things, that a mistake was made in the survey upon which the aforementioned Judgment of Condemnation was based, and agree that the description as hereinafter set forth corrects said mistake;

And it further appearing that upon the 17th day of June, 1941, the parties hereto entered into another stipulation on file herein in which, among other things, they agreed that defendant should be given a total award of two thousand dollars (\$2,000.00), in consideration of the property rights hereinafter granted to the land in question as hereinafter described;

And this matter having been brought on by the plaintiff, appearing by and through Ralph J. Rivers, United States Attorney, and the defendant appearing by and through J. C. Winter, as counsel; and the Court being fully advised in the premises;

DECLASSIFIED  
Authority: *ND 52018*  
Date: *12/11/01*

It is, therefore, ORDERED, ADJUDGED, and DECREED as follows:

1. That the plaintiff is entitled to, and is hereby granted, an easement to vest immediately for a public right of way over and upon that certain piece or parcel of land owned by Robert A. Clark, Jr., said piece or parcel of land being a part of the Spot Association Mining Claim, situate on Ganes Creek in the Imoko Precinct, Fourth Judicial Division, Territory of Alaska, and more specifically described as follows:

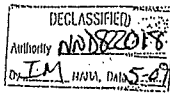
Beginning at a point bearing North 78 degrees 44 minutes West at a distance of 50 feet from another point which bears North 2 feet from the center of the North end of the steel cap supporting the West end of the Steel bridge over Ganes Creek situated on the Ophir-Takotna Road, thence running South 82 degrees 05 minutes East 370.03 feet, thence South 9 degrees West a distance of 9 feet, thence North 88 degrees 45 minutes West 200 feet, thence North 81 degrees West 120 feet, thence North 71 degrees West 200 feet, thence South 78 degrees 44 minutes East 145.3 feet to the point of beginning; the intent of the description as written above is to provide land necessary for the location of the steel bridge and for approaches to the steel bridge from the present Ophir-Takotna Road on both sides of Ganes Creek;

And the plaintiff is further entitled to and is hereby granted the fee title to so much of the above described area as is now occupied by the structure of the steel bridge thereon.

2. It is further ORDERED that plaintiff may use any part of said condemned right of way for a public road and bridge and approaches thereto, and may take from said right of way such earth, gravel, stones, trees and timber as may be necessary to carry out such use.

3. It is further ordered that the defendant, Robert A. Clark, Jr., his heirs, successors, and assigns, shall not be deprived of any right he may have by law to mine and extract precious minerals from the right of way herein condemned, provided he does such mining in such manner as not to interfere with the use of said area for a public road and bridge as aforesaid, and, provided further, that Robert A. Clark, Jr., his representatives, successors and assigns, shall have the right to move, at their own expense, the road on the left limit of Ganes Creek as it becomes necessary for the mining operations of the Spot Association Claim, provided, however, that at all times a suitable road through the premises to the bridge shall be kept open.

4. It is further ORDERED that the verdict of the jury herein awarding two hundred fifty dollars (\$250.00) to the defendant, Robert A. Clark, Jr. be, and the same is hereby, confirmed, and the Clerk of the Court is hereby



to distribute said money to said Robert A. Clark, Jr., by paying same over to said J. C. Winter, as attorney for said defendant, in addition to which,

5. It is further ORDERED that defendant be, and he is hereby, granted judgment against the plaintiff in the sum of one thousand seven hundred fifty dollars (\$1,750.00).

6. It is further ORDERED that the parties hereto shall stand their own respective costs.

Dated this 18th day of July, 1941.

Harry E. Pratt  
District Judge

DECLASSIFIED  
Authority ND 82018  
Date EM 11/11/01 DA 5-07

IN THE DISTRICT COURT FOR THE TERRITORY OF ALASKA, FOURTH JUDICIAL DIVISION

ROBERT A. CLARK, JR.,  
Plaintiff,  
vs.  
IKE P. TAYLOR and FRED SPACH,  
Defendants.

No. 4129 Civil

ORDER DISSOLVING INJUNCTION

In this cause the motion of the plaintiff by and through Charles L. Baker, his attorney in fact, for an order to dissolve the permanent injunction decreed in favor of said plaintiff in the judgment entered herein on the 21st day of June, 1938, came on regularly this 18th day of July, 1941, to be heard, the defendants appearing by their attorney, Harry O. Arend, but making no objection to the granting of said motion; and

It appearing to the Court that said motion was based upon a stipulation on file in Cause No. 4176 of this Court entitled "United States of America, Plaintiff, vs. Robert A. Clark, Jr., et al., Defendants," and the Court being fully advised in the premises;

It is, therefore, ORDERED that said motion to dissolve said permanent injunction be, and the same is hereby, granted, and said permanent injunction is hereby dissolved.

DONE in Open Court this 18th day of July, 1941.

Harry E. Pratt  
District Judge



CRD

EXG

33-2-39

July 23, 1941

Honorable Oscar L. Chapman  
Assistant Secretary  
Department of the Interior  
Washington, D. C.

Dear Mr. Chapman:

Re: United States v. 0.20 Acres of Land  
Innoko Precinct, Alaska

Enclosed herewith is a copy of the amended judgment of condemnation entered in the above case on July 18, 1941, and a copy of an order entered that same day dissolving the injunction in the case entitled Robert A. Clark, Jr. v. Ike P. Taylor and Fred Spach.

Mr. Baker and Mr. Clark have now performed their part of the compromise agreement and accordingly we are now in a position to release the check for \$1,750.00 which is now in the hands of your Department. It is suggested that this check be sent by registered mail directly to Mr. Charles L. Baker, Ophir, Alaska.

Respectfully,  
For the Attorney General,

NORMAN K. LITTELL,  
Assistant Attorney General.

Enclosure  
No. 473208

DECLASSIFIED  
Authority NND 882018  
DATE 11/11/00 BY SP5/STP