

MEMORANDUM

State of Alaska

*File #10.2*

TO: District Highway Engineer  
Anchorage Juneau  
Fairbanks Valdez

DATE: February 2, 1968

FILE NO: 23-2900

ATTN: District Right of Way Agent

SUBJECT: Land Acquisition for  
Grayling Airport

FROM: Jack T. Bodine *JTB*  
Asst. R/W Director  
Juneau

Attached is a memorandum from the Attorney General reiterating his policy on soliciting waivers of native protests to clear B.L.M. grants of right of way.

Attachments: As stated

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MEMORANDUM

State of Alaska

*File*

TO:

Director, Division of Aviation  
Department of Public Works

January 27, 1968

Through: Honorable George McClanahan, Commissioner

DATE :

FROM:

Edgar Paul Boyko  
Attorney General

*E. Boyko*

SUBJECT:

Land Acquisition for  
Grayling Airport

Mrs. Dorothy Awes Haaland, Assistant Attorney General, has brought to my attention a memorandum addressed to her dated January 3, 1968 from Margery McCormick, Land Acquisition Officer, Division of Aviation, on the above-referenced subject.

As I have repeatedly advised various Departments of the State government, this Department considers it contrary to law and policy for any agency of the State to solicit, directly or indirectly, or to participate in the solicitation of waivers or withdrawals, in whole or in part, of native protests in order to clear title to lands and property for public improvements.

The proper procedure, whenever an agency of the State government is advised by a Federal agency that title to Federal lands cannot be obtained or that Federal funds cannot be made available for a State public project because of the pendency of native claims, is for the agency in question to submit a short statement of the facts to the Attorney General, for his personal attention or that of the Deputy Attorney General, who, in turn, will seek a request from the Office of the Governor to the Secretary of the Interior under the so-called "ad hoc" adjudication procedures established by the Secretary of the Interior with respect to the general land freeze imposed by him in derogation of his legal duties.

In other words, whenever a native protest blocks a State highway, public works or other project there should be no-repeat, no-negotiation, dealings or other contact, directly or indirectly, with native groups looking toward a waiver of their protests, but the matter is to be directly communicated through the Governor and Attorney General to the Secretary of the Interior.

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Memorandum to Director, Division of Aviation  
January 27, 1968

The reason for this is that failure of the Department of Interior to adjudicate promptly these protests is an arbitrary, illegal, and purely political action to which the State should never be a party, nor should we be allowed to take the Secretary of Interior off the hook in those cases where unproven native claims are improperly blocking State projects. Rather, the responsibility should fall where the problem originates in the first place.

I am advising the heads of all State Departments once again, by copy of this memorandum, of these important legal and political considerations and hope that they will impress upon their staffs the need of adhering closely to these procedures, which if ignored, could prejudice the State's position in legal actions now pending.

I wish to take this occasion to express my appreciation to Miss McCormick, Land Acquisition Officer for the Division of Aviation, for her alertness in spotting this problem in a given case and bringing it to our attention.

EPB:mmm

cc: Governor Walter J. Hickel

Commissioners, all State Departments