

# MEMORANDUM

# State of Alaska

TO: Mr. Harold Cameron  
 Right of Way Agent  
 2309 Peger Rd.  
 Fairbanks, Alaska 99701

DATE: July 24, 1978

FILE NO:

TELEPHONE NO:

FROM: Mr. Gary Vancil  
 Assistant Attorney General  
 604 Barnette St.  
 Fairbanks, Alaska 99701

SUBJECT: State Pipeline Lands

This Opinion may be of interest to you if you ever need to know how much land the State owns in the neighborhood of the pipeline. The Pipeline Right of Way Lease between the State and Alyeska provides most of that information in paragraphs I(d)(ii), and I(e), and 15. This decision tends to affirm my view that the real estate in the pipeline corridor is essentially State land ... perhaps all State land. And it may well be that many Alyeska "right" obtained from the Federal government may be State property under Lease as well.

vdj/GWV

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X-copy to Dick CHITTY 7/27/78

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

STATE OF ALASKA,

Plaintiff,

vs.

13.165 acres, more or less;  
14.606 acres, more or less;  
ARCO PIPELINE COMPANY; SOHIO PIPE-  
LINE COMPANY; EXXON PIPELINE  
COMPANY; AMERADA HESS CORPORATION;  
MOBILE ALASKA PIPELINE COMPANY;  
BP PIPELINES, INC.; PHILLIPS  
PETROLEUM COMPANY; UNION ALASKA  
PIPELINE COMPANY; ATLANTIC PIPE-  
LINE COMPANY; HUMBLE PIPELINE  
COMPANY, PREDECESSOR IN INTEREST TO  
EXXON PIPELINE COMPANY; MOBILE PIPE-  
LINE COMPANY; UNION OIL COMPANY OF  
CALIFORNIA; ALASKA STATE RIFLE AND  
PISTOL ASSOCIATION, INC.; ALASKA  
GOLD COMPANY; UV INDUSTRIES, INC.,  
SUCCESSOR IN INTEREST TO UNITED  
STATES SMELTING REFINING AND MINING  
COMPANY; GOLDEN VALLEY ELECTRIC  
ASSOCIATION; ALL UNKNOWN OWNERS,

Defendants.

FILED in the Trial Courts  
State of Alaska, Fourth District

JUL 19 1978

OLGA T. SILGÉR, Clerk, Trial Courts

By *[Signature]* Deputy

No. 76-1145

DECISION

This matter comes before the Court upon the State's motion to dismiss the "pipeline company owners" of the Alyeska Pipeline from the above entitled matter and cause on the grounds that the companies are not owners of the land upon which the State highway crossed the pipeline corridor.

Although Plaintiff's motion is entitled "Motion to Dismiss" the Court will treat the motion as one for summary judgment since both parties have resorted to substantial extraneous matters in presenting their various positions.

The Court has heard the arguments of counsel and has read and reviewed the briefs that were filed by the respective par-

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ties, and is convinced that the right-of-way leasing act, Title 38, Chapter 35, of the Alaska Statutes and the lease for the Trans-Alaska Pipeline entered into between the owner companies and the State of Alaska compel this Court to find as a matter of law that the owner companies are not fee owners of the land in question. It may very well be that the defendants acquired "title" to the subject property by negotiated sale, but it is not denied and cannot be denied that the subject property is within the pipeline corridor and that had the negotiations for the sale of the property not been successful, the club of condemnation was available to the defendants and would have been resorted to in order to acquire the property so the pipeline could be completed.

The right-of-way leasing act and the lease in question provides that the land so acquired is held for the benefit of the State and that it's acquired by the companies as agent for the State.

Consequently, this Court rules as a matter of law that the only interest of the company in the pipeline is that of a leasehold interest. Such a holding, however, does not compel dismissal of the defendants from the condemnation proceedings. Defendants take the position that the highway constructed on the pipeline corridor on the subject land interfered with their leasehold. The Court cannot say that there is no substantial issue as to this question, and the parties are entitled to litigate whether or not there is an actual interference or taking by the State so as to impair the lease rights of the owners.

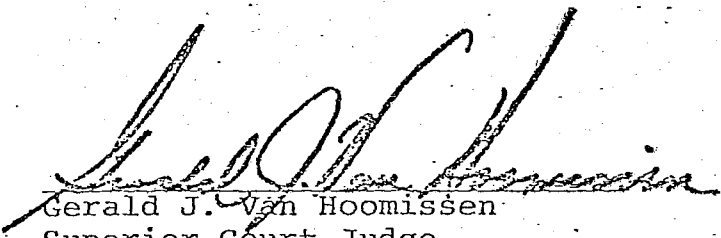
The Court therefore finds that the only issues remaining to be tried in the above entitled matter between the State of Alaska

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and the oil companies are the following:

1. Whether or not there has in fact been a taking, i.e., interference with the leasehold of the defendants; and
2. If there has, what just compensation for said interference are the defendants entitled to?

DATED at Fairbanks, Alaska, this 17 day of July, 1978.

  
Gerald J. Van Hoomissen  
Superior Court Judge