

#4.3

MEMORANDUM

State of Alaska DEPARTMENT OF LAW

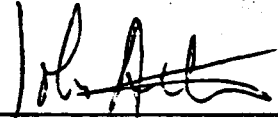
TO: Richard Odsather
Chief, Right-of-Way
DOT/PF, Northern Region

DATE: September 30, 1988

FILE NO:

TELEPHONE NO: 452-1568

SUBJECT: Parrish Appeal,
Parcels 13, 14, & 15



E. John Athens, Jr.
Assistant Attorney General

Attached for your reading pleasure is a copy of the just released Alaska Supreme Court opinion in the Parrish case. This is a very favorable decision to the state. The state won on all of the important issues: There is no right of direct access to a section line easement; a landowner is normally entitled only to nominal damages where the state condemns a fee simple interest in a section line easement; a landowner's expert may not testify as to damages caused to future subdivision plans where the planning commission has not even considered or approved those plans; even if a taking would cause a landowner to have to dedicate access for his future development, this dedication is not compensable; a landowner must be left with reasonable access and this does not have to be comparable to the access before the taking.

The only question the Supreme Court said the Superior Court will have to re-determine is whether the 50 foot wide easement on the southern boundary is reasonable for an industrial subdivision. I consider this a minor question which essentially boils down to whether the easement should be 50 or 60 feet in width. If it turns out to be 60 feet, then the state will have to pay for a 10 foot strip of land. I am trying to arrange a meeting with the borough now to see how their subdivision people would view the matter.

Please give me a call if you have any questions. I will keep you advised as to developments.

EJA/jah
Attachment
cc: Lynn Harnisch