



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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Released

OFFICE OF GENERAL COUNSEL

B-118678

The Honorable James W. Moorman  
Assistant Attorney General  
Land and Natural Resources Division  
Department of Justice  
Washington, D.C. 20530

JUN 1 1978

Attention: Neil T. Proto  
Appellate Section

Dear Mr. Moorman:

This refers to your letter of May 15, 1978, (your reference NTF 90-1-18-1177), asking for our recommendation concerning the desirability of an appeal from the decision of the United States District Court for the District of Alaska in the cases of Kenai Peninsula Borough v. Andrus, and State of Alaska v. Andrus et al., in which the Department appeared on behalf of this Office.

As you know, the position of the State of Alaska in this litigation was that our decision (Disposition of Receipts from Leases of Oil and Gas Rights Within the National Wildlife Refuge System, 55 Comp. Gen. 117 (1975); aff'd on reconsideration, B-118678, June 23, 1976) was wrong and, in addition, that we lacked jurisdiction to render a decision in this matter. The decision by the District Court agrees with the State on the merits, without reaching the question of our jurisdiction.

In asking that you represent us in this matter, our primary concern was with the attack on our jurisdiction. The Court did not rule adversely to us on that issue. However, we find nothing in the Court's opinion which would cause us to change our view on the merits of the case and of course we have an interest in having our decision sustained on appeal, since substantial benefits to the United States are involved. The District Court's interpretation means that 90 percent of income from mineral leases on reserved wildlife refuge lands in Alaska goes to the State with 10 percent going to the United States. Under the interpretation adopted by the Department of the Interior and agreed to by this Office, 75 percent of that income would have been available to the United States. 16 U.S.C. § 715a.

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We understand that the Department of the Interior has recommended that you appeal from the District Court's decision. For the reasons stated above, we also recommend an appeal.

Sincerely yours,

MILTON SOCOLAR

For

Paul G. Dembling  
General Counsel