

HB

911

Call
Doug Erickson
LA P.O.

ERNEST Z. REHBOCK

ATTORNEY AT LAW

308 "G" STREET, SUITE 220

ANCHORAGE, ALASKA

PHONE: 277-5732 or 279-8132

DATED: December 30, 1975.

Dr. Helen Beirne
State Representative
Pouch 4BB
Anchorage, Alaska

RE: Cornell's Case:

My dear Dr. Beirne,

You kindly confirmed to the writer of the letter that you would if properly informed give consideration to a private bill whereby to compensate the Cornells for their loss in their effort to settle and develop about 50 acres in Alaska for Trade and Manufacturing Site.

This is a sad story because as a result of a final decision on appeal of the Ninth Circuit, the Cornells cannot acquire this land under federal auspices.

The land would form an enclave within a wider area selected by the State of Alaska and as I undersatand was earmarked for recreational park area. It lies in the foothilles of Mount McKinley and south of the Mount McKinley Park Region. It seems to be an area unexcelled by scenic beauty and by potentials for recreational developments. The Director of Divisions Park and Recreation can undoubtedly more competently fill you in on the nature and potential of this area.

All I can do is to attempt to advise you by some basic material of the many efforts undertaker by the Cornells to acquire the land and considerable efforts and sacrifices made.

I believe for information the following items should be and are herein submitted for your kind attention:

(1) Copy of a letter I addressed to Honorable J. Hammond, Governor of Alaska on behalf of the Cornells. Subsequent to this letter Mr. Cayhill of the Division of Parks and Recreation gave me his time to present to him the situation in detail.

(2) An affidavit made by former Governor Miller, a long time friend of the Cornells as an item of personalized information on the integrity of the Cornell's efforts.

(3) A copy of the complaint for review of an adverse final administrative decision that I filed in the United States District Court in 1972. Unfortunately the United States District Court felt bound by the policy of the Department of Interior whereby a

T & M Manufacturing Site will be granted in patent only where during the five years of development proof of a successful commercial enterprise can be furnished. The circumstances that such commercial success did not accompany the investment effort and time were set forth in the complaint and sketched in the above mentioned letter.

(4) A copy of the appeal brief which I filed in the Ninth Circuit because the Statement of the case is believed to give you a brief summary of the events. Unfortunately the Ninth Circuit for technical reasons and without setting forth basic grounds, refused to reverse a final administrative decision.

Under the foregoing the Cornells as bona fide settlers in public land, have suffered a great loss. The State of Alaska is not legally in a position in the absence an act of legislature, to allow a franchise or grant the land. Mr. Cyhill will also be able to fill you in on this. The State of Alaska would be I believe sympathetic to an act of the legislature whereby the Cornells could be compensated for loss. The Cornells are willing and able to personally if so advised to communicate with you and to appear before committees to testify on their behalf and fill you in and explain the labor and many sacrifices whereby they attempted to obtain title.

The situation is one of great hardship and extremely inequitable. It cannot be the sense of the legislature that the State would derive uncompensated benefits from the efforts of these settlers. Remedial legislation for compensation seems to be called for in the interest of justice.

Please address me if I can be of any further assistance.

Any effort which can be made on the behalf of the Cornells will be very much appreciated.

Yours sincerely


Ernest Z. Renbock

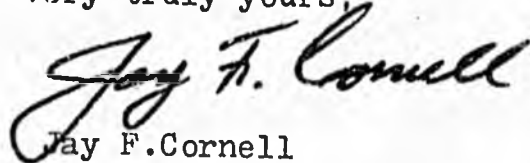
Mr. George Utermohle
Legislative Affairs Agency
Pouch "Y"
Juneau, Alaska 99811

April 4, 1976

Dear Mr. Utermohle:

My attorney Ernest E. Rehbock has requested me to send you the enclosed Statement of expenses and loss suffered. Please advise me should you need additional data.

Very truly yours,



Jay F. Cornell
P.O. Box 61045
Sacramento, CA 95860

cc: Representative Helen Beirne
Ernest Z. Rehbock

Statement of expenses and loss of
Jay F.Cornell and Vicki A.Cornell

Re: Trade and Manufacturing
claim within State Lands

(1) From March 1964, to September 1974 approximately 4,200 hours of physical labor and effort were put into improving 40 acres of land. At \$5.00 per hour, labor cost is \$21,000.00.

(2) Improvements includes the clearing of a 200'X1,000' area of birch and spruce trees by hand to be used as an airstrip, clearing of foot trails, and the building of picnic tables and restroom facility in a campground setting.

(3) Expenses for improvements which include equipment, materials, and air and water freight total \$3,000.00.

(4) Legal expenses incurred to acquire claim were \$6,000.00.

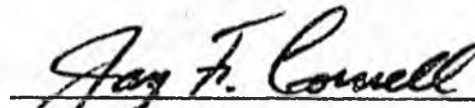
(5) Current market value of land. 40 acres @ \$2,000.00 per acre.

A general statement of actual loss suffered is:

Labor-----	\$21,000.00
Improvements-----	3,000.00
Legal expenses-----	6,000.00
Land value-----	<u>80,000.00</u>
Total loss	\$110,000.00

I, Jay F.Cornell hereby attest that the above is a true accounting of the actual expenses and loss suffered by not being able to receive our valid claim for a Trade and Manufacturing site on land now owned by the State of Alaska.

Signed:


Jay F. Cornell

DATED: September 2, 1975.

Honorable Jay F. Hammond
Governor of the State of Alaska
Pouch "A"
Juneau, Alaska 99801

RE: Trade & Manufacturing Site of
Jay F. Cornell & Vicki Cornell:

My dear Mr. Governor,

The writer of this letter is an attorney in private practice. Among my clients there have been for many years Jay F. Cornell & Vicki Cornell who have a problem of long standing regarding their effort to acquire certain land for trade and manufacturing site in the State of Alaska.

Being an attorney and therefore professionally attuned to submit controversies to the Court or to such departments as are in immediate administrative control, I am addressing you and your office only with great hesitancy and only because I firmly believe that your appropriate representation to proper authority may prevent grave injustice to these citizens of Alaska;

May I very briefly summarize: Jay F. Cornell and Vicki Cornell have been residents of Alaska of long standing. Around the early 1960s they acquired by their industry and purchased from the United States government five acres as a so-called homesite. On this homesite they built a fine home. This homesite lies in the Mount McKinley area and in an area which now has been tentatively approved for land acquisition from the United States by the State of Alaska; and which the Cornells presented to me is believed to be part of a future park and as such among the lands under the division of lands; parks and recreation.

The ownership of that tract was insufficient for business purpose. Therefore around 1965 Jay F. Cornell developed plans for a trade and manufacturing site. This plan which in my belief was fully and very rationally developed and considered camping facilities for sportsmen, tourists and other traffic; and for facilities to provide travelers with food, lodging and sanitary facilities.

The Cornells did not have much cash capital, but invested a tremendous amount of labor under extremely difficult conditions so to develop and build foot-paths, a camping site, a sanitary facility and many installations designed to accomodate the public.

At that time there was a construction program afoot to build a highway through the area. The plans called for a location of the highway alongside the project. However, for circumstances not under the control of the Cornells and of which the writer of this

atter are somewhat unfamiliar, there was a stoppage and interruption of that program. Under these circumstances Cornell realized that in order to have access to the area he would have to build a landing field for small aircraft. Cornell and his wife under hardship and with the greatest physical effort build such a landing field for small planes. Everything looked perfect, but for lack of highway traffic there was no cash income of a presentable amount from the incipient venture.

When Cornell applied for final approval and title to land of about 40 to 50 acres as trade and manufacturing site for tourist accommodation he received negative replies from the Bureau of Land Management in that he had been unable to make a showing of sufficient cash income and therefore the venture was deemed to be speculative or not of a sufficient commercial nature, to be deemed an "ongoing business".

At this point Cornell went through various steps of appeals from the first administrative decision in the Bureau of Land Management.

Around or about 1971 Cornell engaged my services as attorney for a final appeal to the Board of Land Appeals in the office of the Secretary of Interior. The office of the Secretary of Interior refused a hearing for which I had made myself available and declined a review of the decisions below.

I brought on behalf of Cornell an action in the United States District Court, District of Alaska. The Court felt it was bound by administrative regulations of the BLM of long standing, whereby a trade and manufacturing site would only be patented if profit by the actual operations could be shown. As I pointed out, circumstances beyond Cornell's control had prevented him from operating this site on a successful financial basis at that time.

It was hoped that an appeal to the Ninth Circuit Court of Appeals could change this decision. However, the appeal was dismissed with a minimum of grounds given.

For some time under the former administration, I attempted to persuade the division of lands, Director of Parks and Recreation that there are sufficient legal and equitable grounds that the State should permit Cornell at a minimal rental or some other equitable terms to acquire a lease of portion or of all of the area. It is obvious that if this area is integrated into a park system of the State of Alaska and use of the area can be had by way of leases from the State, other parties could be enriched by the work and labor of the Cornells. The highway has long been opened and the business potential is excellent. The landing field has of course suffered but can be reconditioned. There are roads and foot-paths and various other improvements so that with a minimum of additional effort the entire site can be commercially rehabilitated. At present the homesite of five acres forms an enclave and the highway can technically be reached

only by claiming easements of necessity.

Needless to say that both Cornell and I myself received chilly or no responses of the Division of Parks.

We have a situation where Jay Cornell whose health has severely suffered is temporarily resting and residing in the lower 48. Vicki is working very hard at a job in Valdez. Both of them hope and live for the day where their past dedicated efforts in improving Alaska land could be compensated by a mode of acquisition which is financially bearable and non-competitive or that compensation be had for the definite advantage or enrichment of other parties,

A mere literal reading of title 39 of the Alaska Statutes did not show to me any possibility that such compensation could be administratively or in the Courts enforced but as attorney for the Cornells I cannot believe that legislators and administrators would allow injustice and I believe there was injustice albeit based on a technicality of the law, could be perpetuated.

For this reason and all other reasonable roads to seek for the Cornells some measure of compensation or ability to benefit by their labors being closed, I address your office not without reluctance. I earnestly believe that there is room for legislative improvements which your office could sponsor or even for administrative action to provide some form of appropriate ruling to acquire area or to be otherwise compensated for losses whereby Alaska as the present actual owner of the land largely benefits.

I have not in this letter elaborated in great detail. If your very busy schedule would permit, I would be happy to present myself to your office at any time you would schedule and Vicki Cornell would be available also to fill you in as to her experiences. Further approaches and openings to the Park Division would appear to be fruitless unless proper directives or a specter of new legislation could be opened.

On behalf of the clients, I would very deeply appreciate your response in particular as it seems stand to reason that there may be other parties similar situated who have suffered greatly under the restrictive land policies of the Bureau of Land Management.

Respectfully yours

Ernest, Z. Rehbock

DATED: September 2, 1975.

Honorable Jay F. Hammond
Governor of the State of Alaska
Pouch "A"
Juneau, Alaska 99801

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Respectfully yours

Ernest, Z. Rehbock

4/21

Guy, Attached is a draft of suggested changes to HB 911. I don't know where it really came from. Rep. Beirne requested it, apparently to remedy one person's problem in the interior. A memo was sent to her from Evikson of our Research Division.

HCR 129 was requested by Ted Smith.

HB 888 is self-explanatory and HB 882 should be in your hands already with additional language re the APA and a review procedure for cases of adverse determinations.

Joel

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

JAY S. HAMMOND, GOVERNOR

323 E. 4TH AVENUE
ANCHORAGE 99501



April 22, 1976

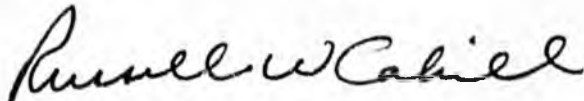
Honorable Nels Anderson, Chairman
Resources Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Nels:

Helen Beirne asked me to comment on House Bill 911 an act relating to compensation for improvements on certain federal land subsequently patented to the state.

I believe there may be three properties within the State Park System at the present time which would qualify under the three criteria listed in HB 911. The primary one of course is the one claimed by Jay Cornell within the Denali State Park. I believe this Legislation would enable us to pay a fair price for structures and improvements which are usable for the public without getting involved in the question of the value of the real property which the state claims as its own. Although this bill would only effect a few properties, I think it shows that the state is looking out for the "little guy" and as such I give the Legislation my full support. Thank you for the opportunity to comment on HB 911.

Sincerely yours,



Russell W. Cahill, Director
Alaska State Parks

cc: Representative Helen D. Beirne
Commissioner Guy Martin

RWC:gn