

1 1.3 Respondent owns, possesses, and/or controls property in the Fairbanks North Star
2 Borough, Alaska known as Lot 13 of the Ballaine Lake Subdivision, Section 31, Township 1 North,
3 Range 1 West, Fairbanks Meridian. Lot 13 is approximately 0.19 acres in size and is hereinafter
4 referred to as the "Site."

5 1.4 The Site is comprised in its entirety of open water and wetlands meeting the three
6 criteria for jurisdictional wetlands in the 1987 "Federal Manual for Identifying and Delineating
7 Jurisdictional Wetlands." The Site's open water and wetlands complex are hydrologically connected
8 and adjacent to an unnamed creek which is a tributary of Noyes Slough. Noyes Slough is a
9 navigable-in-fact waterbody and contributes its flow through the Chena, Tanana, and Yukon Rivers
10 to the Bering Sea. The Bering Sea is subject to the ebb and flow of the tide.

11 1.5 The Site's open water and wetlands are "waters of the United States" within the
12 meaning of 33 C.F.R. § 328.3(a) and 40 C.F.R. § 232.2 and therefore are "navigable waters" within
13 the meaning of CWA Section 502(7), 33 U.S.C. 1362(7).

14 1.6 Beginning in the summer of 1999 and continuing to the present day, Respondent has,
15 at various times and at various locations within the Site, directed the operation of certain
16 earthmoving equipment which was used to discharge gravel, dirt, sand, sod, and other materials into
17 approximately 0.13 acres of jurisdictional open water and wetlands at the Site.

18 1.7 As of the effective date of this ORDER, the gravel, dirt, sand, sod, and other materials
19 referenced in Paragraph 1.6 above remain in place.

20 1.8 The gravel, dirt, sand, sod, and other materials referenced in Paragraph 1.6 above
21 constitute "fill material" and/or "dredged material" within the meaning of 40 C.F.R. § 232.2 and
22 "pollutant[s]" within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6), and 40 C.F.R.
23 § 232.2.

24 1.9 Each piece of earthmoving equipment referenced in Paragraph 1.6 above is a "point
25 source" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

1 2.5 Respondent shall inform EPA in writing of his intent to comply with this ORDER
2 within five days of receipt of this ORDER.

3 2.6 Respondent shall provide verbal notification to the contact listed in Paragraph 2.10
4 below no less than seven days prior to commencement of any removal and restoration activities.
5 Respondent shall also provide verbal notification to the contact listed in Paragraph 2.10 below upon
6 completion of the work required by this ORDER.

7 2.7 Respondent shall provide and/or obtain access to the Site and any off-property areas
8 to which access is necessary to implement this ORDER and shall provide access to all records and
9 documentation related to the conditions at the Site and the removal and restoration activities
10 conducted pursuant to this ORDER. Such access shall be provided to EPA employees and
11 representatives. These individuals shall be permitted to move freely at the Site and appropriate off-
12 property areas in order to conduct actions which EPA determines to be necessary.

13 2.8 Failure to timely and appropriately implement to EPA's satisfaction any element of
14 the Restoration Work Plan shall be deemed a violation of this ORDER.

15 2.9 EPA encourages Respondent to engage in informal discussions on the terms and
16 requirements of this ORDER upon receipt. Such discussions should address any allegations herein
17 which Respondent believes are inaccurate or requirements which may not be attainable and the
18 reasons therefor. Alternatives to attain the objectives of this ORDER may be proposed. If
19 acceptable to EPA, such proposals may be incorporated into amendments to this ORDER, at the
20 discretion of EPA.

21 2.10 All submissions required by this ORDER shall be sent to:

22 Steven Roy, § 404 Enforcement Coordinator
23 U.S. Environmental Protection Agency
24 Region 10, ECO-083
25 1200 Sixth Avenue
26 Seattle, Washington 98101
27 Phone: 206-553-6221
28 Fax: 206-553-1775

26 2.11 This ORDER shall become effective on the date it is signed.

1 **III. SANCTIONS**

2 3.1 Notice is hereby given that violation of, or failure to comply with, the foregoing
3 ORDER may subject Respondent to: (1) civil penalties of up to \$27,500 per day of violation
4 pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19; or (2)
5 administrative penalties of up to \$11,000 per day for each violation, pursuant to Section 309(g) of
6 the Act, 33 U.S.C. § 1319(g), and 40 C.F.R. Part 19.

7 3.2 Nothing in this ORDER shall be construed to relieve Respondent of any applicable
8 requirements of federal, state, or local law. EPA reserves the right to take enforcement action as
9 authorized by law for any violation of this ORDER, and for any future or past violation of any permit
10 issued pursuant to the Act or of any other applicable legal requirements, including, but not limited to,
11 the violations identified in Part I of this ORDER.

12
13 Dated this 15 day of April, 2003

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15 
16 MICHELLE PIRZADEH, Acting Director
Office of Ecosystems and Communities

ATTACHMENT 1

RESTORATION WORK PLAN

*RESTORATION WORK PLAN
FOR THE
STANLEY PIENIAZEK PROPERTY*

Lot 13 of the Ballaine Lake Subdivision
Section 31, Township 1 North, Range 1 West, Fairbanks Meridian
Fairbanks, Alaska

Stanley Pieniazek
P.O. Box 81756
Fairbanks, Alaska 99708-1756

EPA DOCKET NO. CWA-10-2003-0056

I. INTRODUCTION

Stanley Pieniazek ("Respondent") is directed to implement this Restoration Work Plan for the above-described property ("the Site") as required in Section II of the Compliance Order ("Order"). The purpose of this restoration is to maintain and restore the natural condition of wetlands (including hydrological connections) and to minimize erosion and sedimentation.

II. RESTORATION WORK PLAN

To mitigate the impacts associated with the unauthorized discharge of dredged and fill material into waters of the United States, including wetlands, Respondent shall:

(1) in accordance with Attachment 2 (Fill Removal and Footprint Specifications) remove all dredged and fill material (including soil, sand, gravel, sod, and sidecast materials) at the Site with the exception of:

- (a) the existing culverted driveway (30' long x 12' wide x 3' high);
- (b) the existing cabin pad (20' x 25' x 3'); and
- (c) the materials associated with excavation and backfill of a trench for a septic line (approximately 30' long x 2' wide x 4' deep).

(2) reestablish the grade at the Site to the previous elevations of the surrounding landscape. To the maximum extent practicable, the wetlands shall be restored to the original ground elevations/contours.

(3) revegetate the disturbed areas of the Site using plant species that occur adjacent to the areas of disturbance. If no suitable planting materials are available onsite, Respondent must obtain them from an appropriate offsite source from the same geographic and climatic area as the Site.

(4) conduct follow-up monitoring and inspections to demonstrate the effectiveness of the wetlands restoration work. Monitoring shall focus on the reestablishment of vegetation of the area and shall occur at least twice per year, by June 15 and again by September 15. Monitoring shall include photographs to document the percent vegetation regeneration using photo points along a fixed transect. A performance standard of 75% revegetation cover at the end of the 2005 growing season will constitute success. Corrective actions must be implemented as soon as practicable once it appears that the wetlands restoration work may not meet the success criteria at the end of the 2005 growing season. Such corrective actions may include, for example, additional manual planting and/or reseeding of native vegetation from the local climatic and geographic area.

The earthmoving equipment used to conduct the removal, regrading, and restoration activities described above must represent the least environmentally damaging method (e.g., minimize compaction and damage to vegetation). Respondent must employ best management practices ("BMPs") during the removal, regrading, and restoration work to minimize sedimentation of receiving waters. BMPs may include, for example, silt fences, and/or hay bales.

Respondent must initiate the removal, regrading, and restoration activities described above no later than June 15, 2003. The work required by Nos. 1-3 above must be completed no later than 45 days after initiation of the work. The monitoring and corrective actions described in No. 4 above shall continue for at least three years after completion of the work.

III. REPORTING REQUIREMENTS

No later than October 15th on each of the next three years (2003, 2004, 2005), Respondent shall submit to EPA for review and approval an Annual Monitoring Report prepared to document through photography and narrative description the: (a) densities and percent revegetation; and (b) types of vegetation (species) established. Each Annual Monitoring Report shall include a narrative description of any additional work and/or activities that have been implemented as a contingency for failure to meet the established performance standards after the three years of monitoring.

IV. SUBMISSION AND NOTIFICATION

All submissions and notifications to the EPA required under this Compliance Order and Work Plan shall be addressed to:

Steven Roy, § 404 Enforcement Coordinator
U.S. Environmental Protection Agency
Region 10, ECO-083
1200 Sixth Avenue
Seattle, WA 98101

In addition, correspondence to the EPA may be made to the person identified above by:

telephone: (206) 553-6221
facsimile: (206) 553-1775
electronic mail: roy.steve@epa.gov

ATTACHMENT 2

SITE MAP

FILL REMOVAL AND FOOTPRINT SPECIFICATIONS
FOR THE
STANLEY PIENIAZEK PROPERTY

Lot 13 of the Ballaine Lake Subdivision
Section 31, Township 1 North, Range 1 West, Fairbanks Meridian
Fairbanks, Alaska

Not to
Scale

 — Fill to be
Removed

 — Fill to be
Retained

