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STANLEY'S CLERK  
EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of: )  
)  
)  
)  
)  
ROBERT M. LOOMIS AND )  
NANCY LOOMIS )  
Haines, Alaska, )  
)  
)  
)  
Respondents. )

DOCKET NO. CWA 10-2011-0086

**COMPLAINANT'S REBUTTAL  
PREHEARING EXCHANGE**

Pursuant to the Presiding Officer's Prehearing Order dated August 18, 2011, and Section 22.19(a) of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Part 22 Rules"), the United States Environmental Protection Agency, Region 10 ("Complainant" or "EPA") hereby submits the following Rebuttal Prehearing Information Exchange, which supplements Complainant's Initial Prehearing Information Exchange filed on October 7, 2011.

**I. WITNESSES**

Complainant hereby supplements its initial list of expert witnesses, together with a brief narrative summary of the expected testimony:

**1. Scott Augustine** (expert witness). Mr. Augustine is the EPA Region 10 Geographic Information System (GIS) Coordinator working in the Office of Environmental Assessment in EPA's Seattle offices. Mr. Augustine's resume is attached as CX- 59. Mr. Augustine is identified as an expert on GIS-based analysis. Mr. Augustine is expected to testify about how a digitally ortho-rectified, high resolution, aerial image of the Loomis property was used in combination with the global positioning system (GPS) coordinates of the of the fill footprint perimeter that were collected by Richard Chappell, Habitat Biologist, Alaska Department of Fish and Game (ADFG) on August 2008 to facilitate analysis and mapping within a GIS. Mr. Augustine is expected to testify that within the GIS, using simple overlay analysis, the area of unauthorized fill on the Loomis property could be ascertained.

## **II. DOCUMENTS AND EXHIBITS**

Complainant hereby supplements its initial submission of documents and exhibits with the following documents, which accompany this Rebuttal Prehearing Exchange.

CX-59 Resume of Scott Augustine.

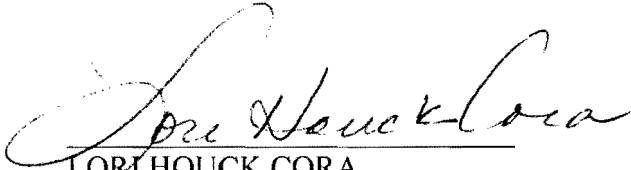
CX-60 GIS-based Area Calculations on Digital Aerial Ortho-rectified Image of Loomis Fill Pad.

CX-61 Haines Borough, Alaska Cover Letter from Steve Ritzinger to Mark Jen, dated September 24, 2009, enclosing a Planning and Zoning Permit Application submitted by Robert Loomis, signed by the Borough, July 19, 2006.

**III. RESERVATIONS**

Complainant reserves the right to call all witnesses named or called at hearing by Respondent and to introduce as evidence at hearing any exhibit identified in a prehearing information exchange submitted by Respondent. Complainant further reserves the right to submit the names of additional witnesses and to submit additional exhibits prior to the hearing of this matter, upon timely notice to the Presiding Officer and to Respondent.

RESPECTFULLY SUBMITTED this 18th day of November, 2011.



LORI HOUCK CORA  
Assistant Regional Counsel  
Region 10

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the attached COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE, with copies of exhibits, in In the Matter of Robert M. Loomis and Nancy Loomis, Docket No. CWA-10-2011-0086, was filed with the Regional Hearing Clerk on November 18, 2011.

On November 18, 2011, the undersigned certifies that an original and true and correct copy was hand delivered to:

Carol Kennedy  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Mail Stop ORC-158  
Seattle, Washington 98101

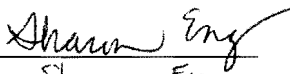
On November 18, 2011, the undersigned certifies that a true and correct copy was sent by EPA Pouch Mail to:

The Honorable Barbara A. Gunning  
EPA Office of Administrative Law Judges  
Mail Code 1900L  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460-2001

On November 18, 2011, the undersigned certifies that a true and correct copy was sent by UPS to:

Brian J. Stibitz, Esq.  
Reeves Amodio LLC  
500 L Street, Suite 300  
Anchorage, Alaska 99501-1990

DATED this 18<sup>th</sup> day of November 2011

Signature:   
Print Name: Sharon Eng  
EPA Region 10

# SCOTT AUGUSTINE

18414 NE 192nd Street  
Woodinville WA 98077

Daytime Phone: 206.553.1795  
Evening Phone: 425.485.3849  
Fax Number: 206.553.0119  
e-Mail Address: augustine.scott@epa.gov

## RECENT WORK EXPERIENCE

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*2/97 - present : U.S. Environmental Protection Agency – Region 10 – Seattle, WA*

- Title: GIS Coordinator
- Duties and Accomplishments:
  - 1) Coordinate geospatial activities with EPA headquarters offices, other EPA regional offices, other federal agencies, tribal entities, and state and local authorities.
  - 2) Coordinate geospatial activities in the Region 10 office, including infrastructure, software, data licensing and management, and training
  - 3) Conduct large and small scale geographic analysis for enforcement, emergency response, and environmental assessment.
  - 4) Manage Region 10 spatial data library
  - 5) EPA lead for emergency response GIS
  - 6) Member EPA GIS Steering Committee; former chair, EPA GIS Workgroup

*2/93 - 9/96 : State of California. Department of Parks and Recreation – San Diego, CA*

- Title: Geographic Information System Analyst
- Duties and Accomplishments:
  - 1) Develop natural, cultural, and facility databases.
  - 2) Perform graphic and numeric analysis of GIS databases.
  - 3) Specify, purchase, use, and maintain GPS equipment for in-field development of natural, cultural, and facility spatial databases.
  - 4) Develop training program for staff in use of GPS equipment and database development. Conduct training classes using this program.
  - 5) Coordinate inter- and intra-agency GIS use and database development and develop and supervise contracts and inter-agency agreements for GIS database development.
  - 6) Chair of agency's geospatial standards workgroup.

## EDUCATION

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San Diego State University  
San Diego, CA

*MA work in Geography*

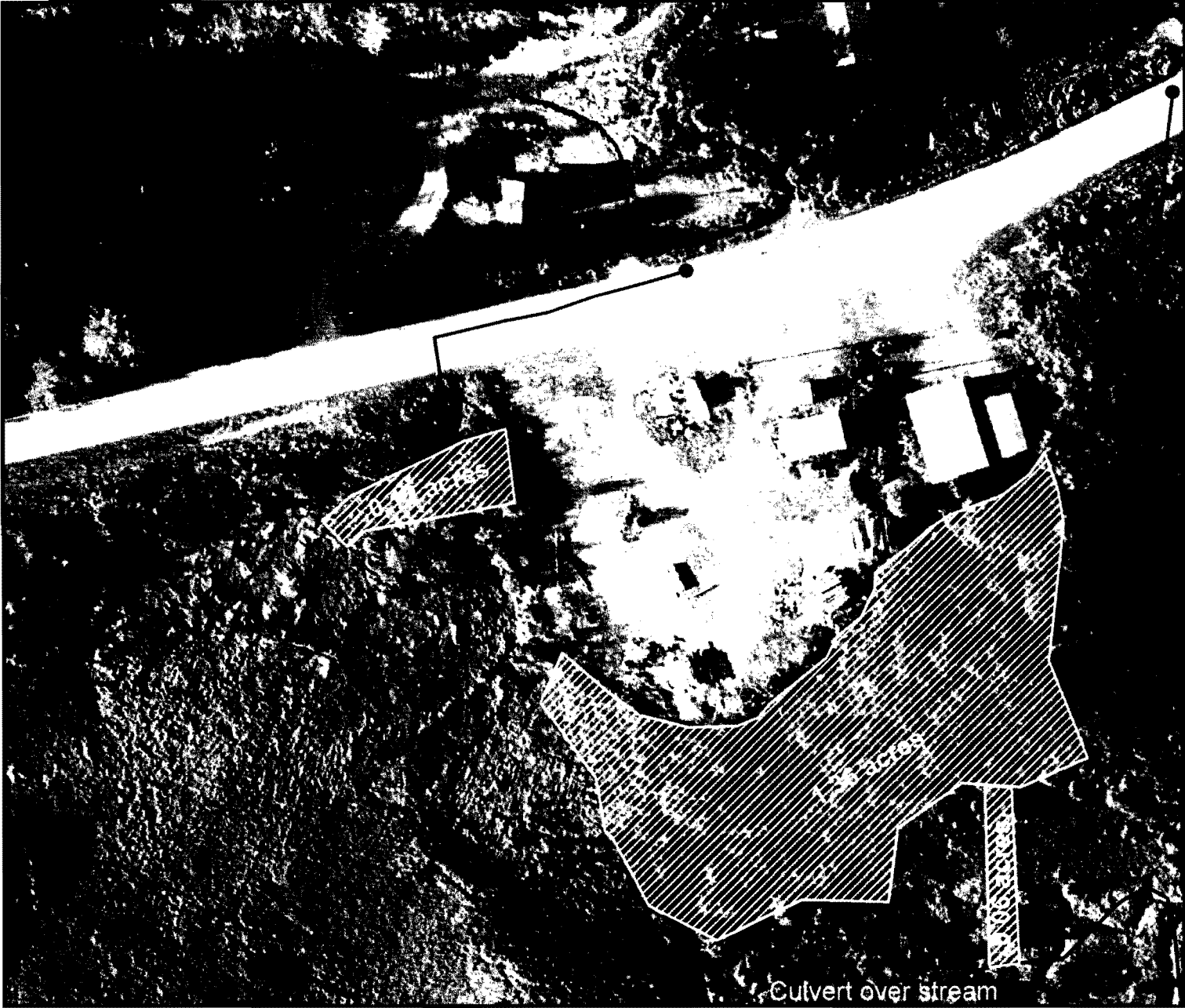
Portland State University  
Portland, OR

*BS in Geography – 1990  
BS in Geology – 1989*

## OTHER QUALIFICATIONS

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- Completed numerous Microsoft certified SQL Server Administration courses
- Have authored or co-authored 20+ papers, posters, and presentations on the use of geospatial tools and conducting geospatial analysis.



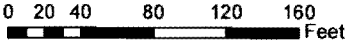
# Attachment 1. Loomis Property Haines, Alaska

Fill Areas (1.54 acres)

- ADFG GPS point - culvert
- × ADFG GPS points - footprint
- Fish Streams points
- Fish Stream Lines

Image Source: Aero-Metric, August 11, 1989

NOT TO BE COPIED OR DISTRIBUTED  
WITHOUT PERMISSION



REGION 10 Lomisfig1.mxd SJA 01/06/2010

Culvert over stream

SEP-24-2009(THU) 13:58

HAINES BOROUGH

(FAX)907 766 2716

P 001/003



HAINES BOROUGH, ALASKA  
P.O. BOX 1209  
HAINES, AK 99827  
(907) 766-2231 FAX (907) 766-2716

September 24, 2009

To: Mark Jen  
From: Haines Borough as requested by Bob Loomis

Included is a land use permit to place fill on property.

Sincerely,

Steve Ritzinger  
Haines Borough Planning and Zoning Technician  
Phone: (907)766-2231 Ext 23  
Fax: (907) 766-2716  
[sritzinger@haines.ak.us](mailto:sritzinger@haines.ak.us)

**HAINES BOROUGH  
PLANNING AND ZONING PERMIT APPLICATION**

Page 2

SITE PLAN

Draw your site plan, to scale, on a separate sheet of paper. The site plan must include the following:

1. Drawing showing dimensions of lot on which activity/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, incl. widths.
3. Existing buildings/structures on the property, their location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction--including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off-street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If commercial structure include all signs planned, with a drawing showing the proposed size, lettering and dimensions, its location on the property, as well as dimensions of building wall on which or adjacent to which each sign will be placed. Maximum of 4 signs per business allowed. (See example.)
8. If variance or conditional use application, provide the names and addresses of all property owners within 200 ft. of your property (see Assessor's office)
9. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that a survey of the property be performed prior to submittal of the land use permit application and site plan. Setback requirements vary by district -- check with Borough planning staff for setback requirements in your area. Ordinance enforcement as adopted by the Haines Borough Assembly is administered by the Haines Borough Planning Commission. Any violation of permit procedures or of the ordinances enforced by the Commission has both civil and criminal penalties provided by law.

\*\*\*\*\* OFFICE USE ONLY BELOW THIS LINE \*\*\*\*\*

DECISION

This application meets all applicable Borough policies and a permit is issued, conditional on the substantial completion of construction within two years and the following special requirements: \_\_\_\_\_

  
 \_\_\_\_\_  
 BOROUGH MANAGER OR PLANNING COMMISSION CHAIR

\_\_\_\_\_  
 7-19-06  
 DATE

NON-REFUNDABLE PROCESSING FEES

- \$25 - Sign      \$50 - Land Use      \$50 - Change of Use
- \$150 - Development/Conditional/Variance
- \$50 - Lot Line Vacation/Adjustment Plat      \$75 Short Plat
- \$200 - Rezoning/Subdivision
- \$250 - Fee for beginning work prior to permit being issued

Fees paid \$ \_\_\_\_\_ Receipt No. 2952

  
 \_\_\_\_\_  
 Fees Received By

\_\_\_\_\_  
 7-19-06  
 Date Received



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HAINES BOROUGH

(FAX) 907 166 2716

P 003/003

**HAINES BOROUGH**  
**PLANNING AND ZONING PERMIT APPLICATION**

SIGN \$25     LAND USE \$50     CHANGE OF USE \$50  
 DEVELOPMENT/VARIANCE/CONDITIONAL USE \$150     LOT LINE VACATION/ADJUSTMENT PLAT \$50  
 SHORT PLAT \$75     REZONING/SUBDIVISION \$200

Location of project: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision/Tract/Survey ASLS 88-21 TR6

Street Address \_\_\_\_\_ Property tax ID number C-444-02-0610

- |   |   |
|---|---|
| <input type="checkbox"/> Residential Building | <input type="checkbox"/> Commercial Building                      |
| <input type="checkbox"/> Single Family        | Type of Business _____  |
| <input type="checkbox"/> Duplex               | If eating or drinking establishment,                              |
| <input type="checkbox"/> Multi-Family         | give maximum seating capacity _____                               |
| (# of Units _____)                            | <input type="checkbox"/> Sign(s) How many? _____ (Attach Drawing) |
|   | <input type="checkbox"/> Fire Marshal Plan Approval (Required)    |

If Change of Use: Existing/Proposed Property Use \_\_\_\_\_

IF Subdivision: New Subdivision Name (must be unique) \_\_\_\_\_

Estimated Project Value \$ DONATED fill from new School  
(To nearest \$1,000)

Development: (Explain) fill

**PERMIT REQUIREMENTS:**

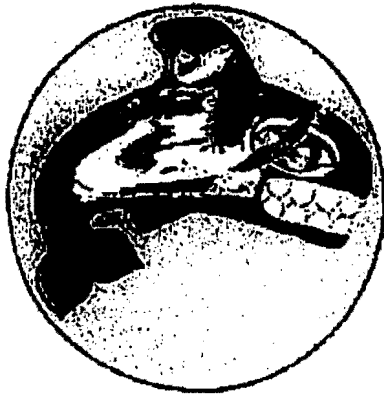
- Connect to Public Water and Sewer if available [completed application required]
- Provide State approval of on-site water and/or septic system if public utilities not available - permit will not be issued without this approval
- Provide proof of legal and physical road access to property
- Provide plan for drainage, driveway(s), culvert size and placement
- Provide public access to recreational waters where required
- Provide adequate off-street parking as required
- Abide by existing height restrictions and setback requirements
- Abide by existing minimum lot size requirement
- In Highland Estates, underground utilities required where available
- If application for commercial use, written approval from State Fire Marshal's office required before Borough permit will be issued
- If permit is for a sign adjacent to a State Highway, set back a minimum of 60' from center line of the highway or applicant must notify local DOT
- If located in Historic District, permit processed by Planning Commission

I hereby request a variance from density, setback, parking or height limitations and have submitted a variance request form, attached hereto.

The information I have given in this application is true and accurate. I have been informed of the above-listed permit requirements and agree to abide by them, all Borough Codes, and all State and Federal regulations, including those regarding wetlands and tidelands.

Robert Loomis  
 Signature of Property Owner (Required)  
Robert Loomis  
 Printed Name of Property Owner  
2501 279 Rocking Chair Rd  
 Mailing Address Kilgore, TX 75662  
7-19-06      903-984-9430  
 Date Submitted      Phone No.

\_\_\_\_\_  
 Applicant or Contractor's Signature  
 \_\_\_\_\_  
 Firm Name  
 \_\_\_\_\_  
 Mailing Address  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Phone No.



HAINES BOROUG, ALASKA

P.O. BOX 1209

HAINES, AK 99827

(907) 766-2231 X23 \* FAX (907) 766-2716

shansen@haines.ak.us

July 25, 2006

**COPY**

Bob Loomis  
279 Rocking Chair Rd.  
Kilgore, TX 75662

Re: Land Use Permit #6-40  
ASLS 88-21 Tract G

Dear Mr. Loomis:

Your land use permit application to add fill is approved as per the attached site plan.

Land use permits are valid for two years from the date of approval. If development is not substantially complete after two years from the permit approval date you will need to apply for another permit.

Feel free to contact me with any questions.

Sincerely,

Scott Hansen  
Planning and Zoning Tech II  
HAINES BOROUG

SEP-24-2009(THU) 13:59

HAINES BOROUG

(FAX)907 166 2716

P. 003/003  
Loomis

