

1 3.3 Admitted that the site contains surface water flow, but denied that this flow is
2 relatively permanent. Admitted that Craig Creek is a relatively permanent tributary to the
3 South Fork of Little Campbell Creek, which ultimately flows into Campbell Creek. Denied
4 in all other respects.
5

6 3.4 Denied.

7 3.5 Denied.

8 3.6 Denied.

9 3.7 Admitted that Respondent did not obtain a permit. Denied in all other respects.

10 3.8 Denied.

11 3.9 This allegation states a legal conclusion to which no response is required. To the
12 extent one may be required the allegation is denied.
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14 3.10 Denied.

15 3.11 Denied.

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18 **Count 1**

19 **Discharge of dredged or fill material into approximately one-half acre of wetlands**

20 3.12 Respondent incorporates his prior answers herein by reference.

21 3.13 Denied.

22 3.14 Denied.

23 3.15 Denied.

24
25 **Count 2**

26 **Discharges into Craig Creek**

1 3.16 Respondent incorporates his prior answers herein by reference.

2 3.17 Denied.

3 3.18 Denied.

4
5 **Count 3**

6 **Discharges into tributary originating from the south spring**

7 3.19 Respondent incorporates his prior answers herein by reference.

8 3.20 Denied.

9 3.21 Denied.

10
11 **Count 4**

12 **Discharges into tributary originating from the middle spring**

13 3.22 Respondent incorporates his prior answers herein by reference.

14 3.23 Denied.

15 3.24 Denied.

16
17 **Count 5**

18 **Discharges into tributary originating from the north spring**

19 3.25 Respondent incorporates his prior answers herein by reference.

20 3.26 Denied.

21 3.27 Denied.

22
23 **V. PENALTY**

24 4.1 This allegation states a legal conclusion to which no response is required. To the
25 extent one may be required the allegation is denied.

1 4.2 This allegation states a legal conclusion to which no response is required. To the
2 extent one may be required, the allegations are denied

3 4.2.1 Denied that this was a serious violation(s) that significantly undermined
4 the Act's regulatory scheme.

5 4.2.2 Admitted that the Respondents's ability to pay will influence the penalty,
6 and that information in this regard may be presented.

7 4.2.3 Admitted that no prior violations.

8 4.2.4 This allegation states a legal conclusion to which no response is required.
9 To the extent one may be required the allegation is denied.

10 4.2.5 Admitted that economic benefit was not Respondent's motive in taking
11 the actions he did.

12 4.2.6 This allegation states a legal conclusion to which no response is required.
13 To the extent one may be required the allegation is denied.

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18 **V. OPPORTUNITY TO REQUEST A HEARING**

19 5.1 **Respondent does hereby request a hearing** on the facts alleged and the
20 appropriateness of the penalty proposed herein.

21 5.2 Respondents Answer including The request for a hearing will be filed as indicated
22 in this allegation.

23
24 **VI. FAILURE TO FILE AN ANSWER**

25 6.1 This allegation states a legal conclusion to which no response is required.

1 6.2 This allegation states a legal conclusion to which no response is required.
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4 **VII. INFORMAL SETTLEMENT CONFERENCE**

5 7.1 Respondent hereby requests a settlement conference to discuss the facts of the
6 case, the proposed penalty, and the possibility of settling this matter.
7

8 7.2 This allegation states a legal conclusion to which no response is required.

9 7.3 This allegation states a legal conclusion to which no response is required.

10 **VIII. RESERVATIONS**

11 8.1 This allegation states a legal conclusion to which no response is required.
12

13 **AFFIRMATIVE DEFENSES**

14 1. Failure to state a claim upon which relief may be granted.

15 2. Lack of subject matter jurisdiction.

16 3. Impossibility to correct and mitigate any violation due to stop work order.

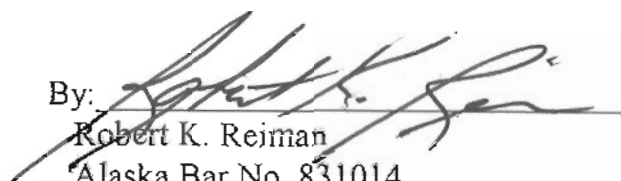
17 4. Good faith belief in legality of work done.

18 5. A permit would have been granted for the work performed if it had been requested.
19
20

21 6. Necessity, as the existence of beetle kill spruce and lack of adequate fire protection
22 in the area was the reason for the actions taken by Respondent.
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1 DATED this 27th day of August, 2008.

2 LAW OFFICES OF ROBERT K. REIMAN
3 Attorney for Respondent

4
5 By: 
6 Robert K. Reiman
7 Alaska Bar No. 831014