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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of)
David D'Amato)
Respondent)
vs.)
EPA)

docket no. cwa 10-2010-0

HEARINGS CLERK
EPA -- REGION 10

Respondents initial pre-hearing exchange

I. Witnesses

1. Dan O'Phelan, Mr. O'Phelan is a licensed attorney in AK, HI, and NY. He will be discussing ownership and development responsibilities and obligations on Hunter Heights Tract 2 (subject property). Specifically Mr. O'Phelan will be discussing the transfer of development obligations to Brutus Weaver for a period of 2 years commencing on 08-03-2004.
2. Joe White, COE, will testify on permitting requirements under the CWA.
3. Phyllis Henderson, was an engineer for Chugiach Electric that performed wetland waterway analysis for CEA. She will testify as to what she observed on Hunter Heights Tract 2 in 2004 (prior to the NOV issued by the CWA).
4. Jeff Grahm or Stan Vlahovitch. Both are State of Alaska Stewardship Foresters, that visited the site in 2002 and 2003; they will testify as to what they saw on the sight and what recommendations were made.
5. Pete Kinneen, is the Alaska distributir of Silt Sock, (an epa "best practice" technology). He will testify as to what he saw on the site and what recommendations were made on the site.

6. Aerometric (a representative thereof), will testify about the size and locations of features on the site.
7. William Ennis, Bear Valley LRSA, will testify about glaciation, and the ditch maintenance that was undertaken adjacent to Little Rabbit Creek by the BRLRSA during 2004-2005.
8. Ken Gain is the Owner of Equivest INC, (the lien holder on the property) will testify about the losses sustained on the site since 2005.
9. Terry Beal is a Real Estate Agent in Anchorage, he will testify as to the inability of respondent to mitigate losses sustained on the site based on the EPA COE action on the site.
10. Unknown name EPA, the individual at the EPA who in the press release of July 2010, used the phrase “destroying wetlands and streams”.
11. Cherie Northern, Anchorage Waterways Council, will testify to improvements in water quality in Little Rabbit Creek based on activities undertaken on the site by respondent.
12. An unknown biologist, who will testify about stream size and soil displacement.
13. Between 2-5 individual who have seen the site prior to the COE NOV will testify to the size of the ditches on the site.
14. All witness called by the EPA shall be crossed by the Respondent.
15. Any other witness currently unknown but determined to be in possession of facts germane to this proceeding.

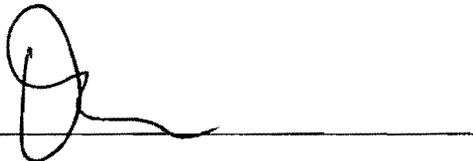
II. All documents offered by the EPA will be utilized by the Respondent. Additional documents will be offered by respondent as discovered.

III. Respondent concurs with location for hearing.

IV. Respondent continues to deny the characterizations regarding assessment of a penalty, with the exception of item B (ability to pay). Respondent restates that he has had no prior history of violations of the CWA.

V. Respondent reserves the same rights to call more witnesses and produce new evidence prior to the hearing in this matter.

By:

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a horizontal line extending to the right.

David D'Amato