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6 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
7 REGION 10

8 In the matter of )  
9 DOUG BLOSSOM ) Docket No. CWA-10-2002-0131  
10 Respondent. )  
\_\_\_\_\_ )

11 **MOTION FOR THE ISSUANCE OF SUBPOENAS**

12 COMES NOW the Respondent, by and through counsel, and  
13 moves for the issuance of subpoenas to command that the following  
14 witnesses appear at the hearing currently scheduled in this matter  
15 during the week of May 3, 2004, or at such other date and time  
16 agreed upon between counsel and said witnesses.

17 This motion is made pursuant to §309(g)(10) of the Clean  
18 Water Act, 33 USC 1319(g)(10), and 40 CFR 22.21(b). 40 CFR  
19 22.21(b) states in part:

20 (b) *Notice of Hearing.* . . The Presiding Officer  
21 may require the attendance of witnesses or the  
22 production of documentary evidence by subpoena, if  
23 authorized under the Act, upon a showing of the  
24 grounds and necessity therefor, and the materiality  
25 and relevancy of the evidence to be adduced.

26 The Respondent intends to call several witnesses who are  
27 currently employed by the State of Alaska. The state is requiring  
28 subpoenas for the attendance of its employees at this hearing in  
order to justify their time away from their jobs. Two witnesses,  
Jeff Graham, and Allan Moore, work outside the Kenai/Soldotna area

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1 and will be provided roundtrip travel to attend the hearing.  
2 Therefore, Respondent requests that the Presiding Officer issue the  
3 enclosed subpoenas for the attendance of Jeff Graham, Al Peterson,  
4 Allan Moore, and Jeff Fox.

5 **Summary of Testimony**

6 Jeff Graham is employed by the State of Alaska,  
7 Department of Natural Resources, in the Division of Forestry. Mr.  
8 Graham was the Resource Advisor for the Alaska Department of  
9 Forestry Forest Stewardship Program. He will testify that in June  
10 1998 he traveled to the Blossom property and drove around the  
11 property. He will testify of his observations of Mr. Blossom's on-  
12 going silviculture activities, including timber cutting and slash  
13 piles. After his inspection of the property, a Forestry  
14 Stewardship Plan was issued to Mr. Blossom which Mr. Graham signed.

15 Al Peterson works as the Natural Resources Advisor for  
16 the State Department of Forestry. He will testify that on February  
17 21, 2001, he wrote and issued a Forestry Stewardship Program that  
18 both he and Mr. Blossom signed in April 2001. He will testify that  
19 silviculture includes site preparation, planting of seedlings,  
20 growing, and harvesting trees, and that Mr. Blossom has been doing  
21 silviculture on his lands for years before 2001.

22 Allan Moore is the Head Construction Engineer for the  
23 State of Alaska Department of Transportation. He will testify  
24 about the construction of the culvert running under the Sterling  
25 Hwy. near Mr. Blossom's property.

26 Jeff Fox works for the State of Alaska, Department of  
27 Fish & Game. He will testify about the nature and biological

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1 health of fish resources in Corea Creek and Cook Inlet, the  
2 importance of the creek's contribution to the overall biological  
3 health and aquatic ecosystem of Cook Inlet fish resources. Mr. Fox  
4 will describe the tributary system surrounding Cook Inlet and the  
5 significance of Corea Creek to the overall system of tributaries  
6 and water quality of Cook Inlet for fish biological health.

7 These witnesses and their expected testimony were  
8 disclosed in Mr. Blossom's initial prehearing exchange. They are  
9 material witnesses in this matter and their testimony at Mr.  
10 Blossom's hearing is essential. Accordingly, I respectfully  
11 request that subpoenas be issued for their appearance to  
12 accommodate their employer.

13 This motion is further supported by the attached  
14 affidavit.

15 Respectfully submitted this 14<sup>th</sup> day of April, 2004.

16 ROBINSON & ASSOCIATES  
17 Attorneys for Doug Blossom

18 By: 

19 Eric Derleth for Arthur S. Robinson  
20 Alaska Bar No. 9609042

21 I HEREBY CERTIFY that the foregoing Motion For the Issuance of  
22 Subpoenas, and attachments, were served on the following persons on  
23 April 14, 2004, as indicated below:

24 Original and one copy by express mail and fax to:

25 Carol Kennedy, Regional Hearing Clerk  
26 U. S. Environmental Protection Agency, Region 10  
27 1200 Sixth Avenue, Mail Stop ORC-158  
28 Seattle, Washington 98101

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1 One copy via express mail and fax to:

2 The Honorable Susan L. Biro  
3 Chief Administrative Law Judge  
4 Office of Administrative Law Judges  
5 U. S. Environmental Protection Agency  
6 Mail Code 1900L  
7 1200 Pennsylvania Avenue N.W.  
8 Washington, D.C. 20460

9 One copy via express mail and fax to:

10 Jeffrey Kopf, Esq.  
11 U.S.E.P.A. Region 1 Mail Code SEL  
12 One Congress Street, Suite 1100  
13 Boston, MA 02114-2023

14 Mark A. Ryan, Esq.  
15 U.S.E.P.A. Idaho Office  
16 1435 N. Orchard Street  
17 Boise, ID 83706

18 By:   
19 For: Arthur S. Robinson