

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	NPDES Docket Nos.
)	
1988 NPDES Permits for)	1088-05-05-402
Alaska Placer Miners)	1088-05-27-402
)	
1989 NPDES Permits for)	1089-07-29-402
Alaska Placer Miners)	
)	
1990 NPDES Permits for)	1090-07-17-402
Alaska Placer Miners)	
)	
1991 NPDES Permits for)	1091-08-19-402
Alaska Placer Miners)	

ORDER REGARDING MOTION TO LIMIT SCOPE
OF POST-HEARING REPLY BRIEFS

On August 8, 1994, the Trustees for Alaska and the Northern Alaska Environmental Center (collectively "Trustees") filed a motion to limit the scope of the EPA's and Miners' post-hearing reply briefs. The Miners did not file a post-hearing reply brief. Hence, Trustees' motion is DENIED as moot with respect to the Miners' reply brief. Neither the EPA nor the Miners filed an opposition to Trustees' motion to limit.

By letter served on the parties dated September 21, 1994, the Trustees request that EPA be ordered to re-file its post-hearing reply brief omitting section II. B (pp. 4-7), Issue 7, because the EPA did not address this matter in its initial brief.

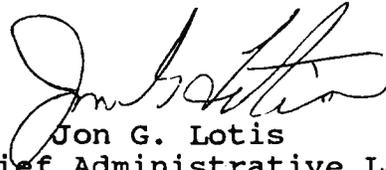
The Trustees are correct. They have been essentially sandbagged by EPA on this issue. In its "initial brief" says only this about Issue 7:

EPA asks that Trustees for Alaska Issue #7 be resolved on the pleadings and evidence of record. In particular, the EPA requests that the court consider (1) Cindi Godsey's Declaration (filed in February 1994), (2) EPA's Brief in Support of Summary Determination, and (3) EPA's Prehearing Brief on Trustees Issues 2 and 7, in support of the Agency's position in this matter.

I made it clear at the hearing that all positions and arguments were to be fully developed in the initial briefs so that the reply briefs could be limited exclusively to rebutting

material presented in the initial briefs. The EPA failed to follow this directive. The EPA reserved the development of its position and arguments with respect to Issue 7 for its reply brief.

Rather than strike the EPA's reply brief on Issue 7, the public interest is better served by allowing the Trustees an opportunity to respond to the EPA's reply brief as it relates to that issue. Accordingly, on or before October 28, 1994, may file its response to EPA's reply brief as it relates to Issue 7. The response shall not exceed 8 pages.



Jon G. Lotis
Acting Chief Administrative Law Judge

Dated: September 27, 1994
Washington, D.C.

IN THE MATTER OF: 1988 NPDES Permits for Alaska Placer Miners, NPDES Docket Nos. 1088-05-05-402 and 1088-05-27-402; 1989 NPDES Alaska Placer Miners, NPDES Docket No. 1089-07-29-402; 1990 NPDES Alaska Placer Miners, NPDES Docket No. 1090-07-17-402; and 1991 NPDES Alaska Placer Miners, NPDES Docket No. 1091-08-19-402

CERTIFICATE OF SERVICE

I certify that the foregoing Order Regarding Motion to Limit Scope of Post-Hearing Reply Briefs, dated September 27, 1994, was sent in the following manner to the addressees listed below:

Original by Regular Mail to:

Mary Shillcutt
Regional Hearing Clerk
U.S. Environmental Protection
Agency, Region X
1200 Sixth Avenue
Seattle, WA 98101

Copies by Regular Mail to:

Joseph W. Ryan, Esq.
Assistant Regional Counsel
U.S. Environmental Protection
Agency, Region X, M/S SO-155
1200 Sixth Avenue
Seattle, WA 98101

Miners Rights Action Group
Rosalie Rybachek
P. O. Box 55698
North Pole, Alaska 99705

Michael Wenig
Trustees of Alaska
725 Christensen Drive, Suite 4
Anchorage, Alaska 99501

Al Johnson
P. O. Box 101827
Anchorage, Alaska 99510

Kenneth Manning
P. O. Box 715
Girdwood, Alaska 99587-0715

Stanley Rybachek
P. O. Box 55698
North Pole, Alaska 99705

Donald Stein
105 Dunbar
Fairbanks, Alaska 99701

Richard Geraghty
405 Juneau
Fairbanks, Alaska 99701

Stanley & Edwin Gelvin
P. O. Box 18
Central, Alaska 99730

John Colver, Esq.
441 West Fifth Avenue, Suite 500
Anchorage, Alaska 99501-2309

Stacy Hyde-Eason

Stacy Hyde-Eason
Legal Technician, Office of
Administrative Law Judges
U.S. Environmental Protection
Agency
401 M Street, S.W.
Washington, D.C. 20460

Dated: September 27, 1994
Washington, D.C.