

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1989 NONPOINT SOURCE WATER QUALITY ASSESSMENT

LONG FORM

*** WATERBODY ***

Page 1 of 4

Name of Waterbody: SKAGWAY RIVER near Skagway AK

Location or Lat/Long: 59° 27' 15" 135° 19' 40"

Waterbody Type: River/Stream Lake Fresh Wetland Tidal Wetland Estuary Coastal Shoreline Groundwater

Waterbody Size: 18 Miles Acres/Hectares Acres/Hectares Square Miles Square Miles

ADEC USE ONLY
 304E N L M S
 WQL: 0 - N
 1 - PS
 2 - NPS
 3 - WQS
 4 - Con/Ent
 ID#: _____

Segment of Waterbody Addressed:
 From: _____
 To: _____
 Other Description: _____
 Size of Segment: _____

USGS Hydrologic Unit #: AK 190 10303-005

*** ASSESSMENT ***

Describe Source of Pollution and Documentation Provided: illegal fill on skagway river. Compliance order issued by EPA 6-8-1988

Type of Documentation (Attached If Possible): Water quality data Documented oil spill Enforcement action Photos with documentation Photos without documentation

Written report Field notes Overflight Observation Other

Assessment type: Monitored Evaluated

Violation of Water Quality Standards: Past Violation Documented Current Violation Documented Current Violation Suspected Future Violation Projected

Waterbody Status: Impaired - Past Impaired - Current Suspected Unimpaired

Comments: Possible problems from fuel depot located on bank of river.

Author of This Assessment: C. KENT Affiliation: ADEC Date: 89 08
 YY/MM

Meets Clean Water Act Goals:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Fishable | <input checked="" type="checkbox"/> Swimmable |
| <input type="checkbox"/> Not Fishable | <input type="checkbox"/> Not Swimmable |
| <input type="checkbox"/> Fishable Not Attainable | <input type="checkbox"/> Swimmable Not Attainable |

Impaired Uses:

FRESHWATER

- Drinking
- Agriculture
- Aquaculture
- Industry
- Recreation, Contact
- Recreation, Secondary
- Fish, Shellfish, Wildlife

MARINE

- Aquaculture
- Seafood Processing
- Industry
- Recreation, Contact
- Recreation, Secondary
- Fish, Shellfish, Wildlife
- Harvest of Fish, Shellfish

Support of Designated Uses:

- One or More Uses Not Supported (Impaired)
- One or More Uses Partially Supported (Partially Impaired)
- One or More Uses Suspected to Be Affected (Suspected)
- One or More Uses Projected to Become Affected (Projected)
- All Uses Fully Supported, sources present (Unimpaired)
- All Uses Fully Supported, no sources present (Unimpaired)

Trophic Status:

- Oligotrophic
- Mesotrophic
- Eutrophic
- Hypereutrophic
- Dystrophic
- Unknown

Trophic Trend

- Improving
- Stable
- Deteriorating

*** TOXICS ***

Monitored for Toxics: Yes No

Type of Toxics Monitoring:

- | | |
|---|--|
| <input type="checkbox"/> 1 Organics in water column | <input type="checkbox"/> 10 Metals in sediments |
| <input type="checkbox"/> 2 Organics in sediments | <input type="checkbox"/> 11 Metals in fish tissue |
| <input type="checkbox"/> 3 Organics in fish tissue | <input type="checkbox"/> 12 Metals in discharges |
| <input type="checkbox"/> 4 Organics in discharges | <input type="checkbox"/> 13 Other inorganics in water column |
| <input type="checkbox"/> 5 Pesticides in water column | <input type="checkbox"/> 99 Other inorganics in sediments |
| <input type="checkbox"/> 6 Pesticides in sediments | <input type="checkbox"/> 99 Other inorganics in fish tissue |
| <input type="checkbox"/> 7 Pesticides in fish tissue | <input type="checkbox"/> 14 Other inorganics in discharges |
| <input type="checkbox"/> 8 Pesticides in discharges | <input type="checkbox"/> 15 Toxicity testing of water column |
| <input type="checkbox"/> 9 Metals in water column | <input type="checkbox"/> 16 Toxicity testing of sediments |
| | <input type="checkbox"/> 17 Toxicity testing of discharges |

Fish and Shellfish Contamination:

- 0 None detected
- 1 Contaminated fish
- 2 Fishing advisory
- 3 Fishing ban
- 4 Fish abnormalities
- 5 Shellfish restrictions due to pathogens
- 6 Fish kill

Pollutants: (H = High, M = Medium, S = Slight)

- | | | |
|---|--|---|
| <input type="checkbox"/> 0 Cause Unknown | | |
| <input type="checkbox"/> 1 Unknown toxicity | | |
| <input type="checkbox"/> 2 Pesticides | Type _____ | |
| <input type="checkbox"/> 3 Priority organics | Type _____ | |
| <input type="checkbox"/> 4 Nonpriority organics | Type _____ | |
| <input type="checkbox"/> 5 Metals | Type _____ | |
| <input type="checkbox"/> 6 Ammonia | | |
| <input type="checkbox"/> 7 Chlorine | <input type="checkbox"/> 12 Organic enrichment | <input type="checkbox"/> 18 Radiation |
| <input type="checkbox"/> 8 Other inorganics | <input type="checkbox"/> 13 Salinity/TDS/Chlorides | <input checked="" type="checkbox"/> 19 Oil and Grease |
| <input type="checkbox"/> 9 Nutrients | <input type="checkbox"/> 14 Thermal modifications | <input type="checkbox"/> 20 Taste and Odor |
| <input type="checkbox"/> 10 pH | <input type="checkbox"/> 15 Flow alteration | <input type="checkbox"/> 21 Suspended solids |
| <input type="checkbox"/> 11 Siltation | <input type="checkbox"/> 16 Habitat alteration | <input type="checkbox"/> 22 Noxious aquatic plants |
| | <input type="checkbox"/> 17 Pathogens | <input checked="" type="checkbox"/> 23 Filling and draining |

Sources of Pollutants: (H = High, M = Medium, S = Slight)

Point Sources

- 1 Industrial
- 2 Municipal
- 3 Municipal pretreatment
- 4 Combined sewers
- 5 Storm sewers
- 6 Other dischargers

Resource extraction/exploration

- 51 Surface mining
- 52 Subsurface mining
- 53 Placer mining
- 54 Dredge mining
- 55 Petroleum activities
- 56 Mill tailings
- 57 Mine tailings

Nonpoint Sources

- 9 Unspecified

Land Disposal (Permitted Activities)

- 61 Sludge
- 62 Wastewater
- 63 Landfills
- 64 Industrial land treatment
- 65 Onsite wastewater systems
- 66 Hazardous waste
- 67 Septage disposal

Agriculture

- 11 Non-irrigated crop production
- 12 Irrigated crop production
- 13 Specialty crop production
- 14 Pasture land
- 15 Range land
- 16 Feedlots
- 17 Aquaculture
- 18 Animal holding areas
- 19 Manure lagoons

Hydrologic Modification

- 71 Channelization
- 72 Dredging
- 73 Dam construction
- 74 Flow regulation/modification
- 75 Bridge construction
- 76 Removal of riparian vegetation
- 77 Streambank modification
- 78 Draining/filling of wetlands

Silviculture

- 21 Harvest, restoration
- 22 Forest management
- 23 Road construction/maintenance

Construction

- 31 Highway/road/bridge
- 32 Land development

Other

- 81 Atmospheric deposition
- 82 Waste storage/storage tank leaks
- 83 Highway maintenance and runoff
- 84 Spills
- 85 In-place contaminants
- 86 Natural
- 87 Recreational activities
- 88 Upstream impoundment
- 89 Salt storage sites
- 99 Septic tank seepage

Urban Runoff

- 41 Storm sewers
- 42 Combined sewers
- 43 Surface runoff

Source Unknown

- 90 Source Unknown

DESCRIBE POLLUTANTS AND POLLUTANT SOURCES. THE BASIS FOR THE DETERMINATION THAT A WATERBODY IS IMPAIRED MUST BE EXPLAINED IN THIS SECTION. DESCRIBE THE NATURE OF THE VIOLATION OF WATER QUALITY STANDARDS, INCLUDING DATA OR OTHER DOCUMENTATION IN RELATION TO STANDARDS. ALSO DESCRIBE WHETHER THE VIOLATION IS CONSIDERED PAST OR CURRENT, AND OTHER RELEVANT INFORMATION.

Illegal Fill Activity, Compliance order issued by EPA
on 6-8-88. SEE Attached.

Multiple horizontal lines for additional handwritten input.

Point Sources:

NPDES Permit Number: _____
NPDES Permit Name: _____
Causes Nonattainment: Yes No
Pollutant: _____

NPDES Permit Number: _____
NPDES Permit Name: _____
Causes Nonattainment: Yes No
Pollutant: _____

Nonpoint Sources:

Nonpoint Source Name: _____
Nonpoint Source Type: _____
Nonpoint Source Description: _____

Nonpoint Source Name: _____
Nonpoint Source Type: _____
Nonpoint Source Description: _____

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

OFFICE OF
MANAGEMENT & BUDGET

SEP 30 1988



JUN 08 1988

GOVERNMENTAL
COORDINATION

REPLY TO
ATTN OF: WD-138

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David Hunz
Hunz and Hunz Enterprises
P.O. Box 185
Skagway, Alaska 99840

Re: In the Matter of the Findings of Fact and Compliance Order
Docket No. 1088-05-15-309/404

Dear Mr. Hunz:

The Environmental Protection Agency (EPA) is committed to taking appropriate enforcement actions to assure a quick return to and continuation of compliance whenever violations of the Clean Water Act are discovered. Based upon available information, we find that you have violated Section 301 of the Clean Water Act, 33 U.S.C. § 1311, by discharging dredged and fill material into waters of the United States. The enclosed Findings of Fact and Compliance Order is issued to you pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319.

The Order requires certain actions within a specified time period. The dredged and fill material placed for dike construction in and adjacent to the Skagway River must be removed to the level of the adjacent riverbed so as to substantially restore the river to its condition prior to your dredge and fill activities. To assist in proper implementation of this Order, we may require that an inspector approved by EPA be on site during the restoration.

Compliance with the provisions of the Order is expected within the maximum time period established in the Order. Your cooperation and prompt attention will be appreciated. Since it is the policy of EPA to achieve full compliance with the Clean Water Act as rapidly as possible, this office is prepared to assist you in any way it can. Questions regarding the technical aspects of the Order should be directed to Richard Sumner, at (907)271-5083. Legal questions concerning this Order or the Clean Water Act in general may be directed to Adrienne Allen, Assistant Regional Counsel, at (206)442-8694.

Sincerely,

Handwritten signature of Robert S. Burd.
Robert S. Burd
Director, Water Division

Enclosure

cc: Regulatory Functions Branch

cc: D.M. (Continued check)
D.L. (Costs)
R.B. (R.B.)

OFFICE OF
MANAGEMENT & BUDGET

SEP 30 1983

GOVERNMENTAL
COORDINATION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

In the Matter of:)
Mr. David Hunz, dba) Docket No. 1088-05-15-309/404
Hunz and Hunz Enterprises,) FINDINGS OF FACT AND
Respondent.) COMPLIANCE ORDER

Pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and the authority thereunder of the Administrator of the U.S. Environmental Protection Agency (EPA), which authority has been duly delegated to the EPA Regional Administrator, Region 10, the following FINDINGS OF FACT are made and COMPLIANCE ORDER is issued.

1. David M. Hunz, Respondent, owns or controls property at Section 1, T. 28 S., R. 59 E., C.R.M., north of the Skagway River Bridge, along the west bank of the Skagway River. Respondent is a person within the meaning of Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5).

2. On January 26, 1988, the Alaska District of the U.S. Army Corps of Engineers (Corps) inspected Respondent's property described in paragraph 1. During the inspection it was discovered that dredged and fill

1 material, consisting of gravel and sand, had been discharged into the
2 Skagway River to construct two dikes. The dikes, immediately north of the
3 Skagway River Bridge along the west bank of the river, are approximately
4 1000 feet and 200 feet in length, and 12 feet high. Furthermore, fill
5 material consisting of sand and gravel had been placed in the river
6 immediately north of the bridge to create an upland area pad of
7 approximately one acre.

8 3. The dredge and fill activity described in paragraph 2 was
9 confirmed by aerial photographs. The photographs show that construction of
10 the dikes and placement of the fill pad occurred between June 2, 1982 and
11 June 29, 1985.

12 4. Furthermore, additional dredged and fill material was
13 discharged into the Skagway River to maintain the dikes between June 29,
14 1985 and September 7, 1985.

15 5. On December 1, 1987, an Alaska Fish and Wildlife Protection
16 officer cited a bulldozer operator, employed by Respondent, for discharging
17 dredged and fill material consisting of sand and gravel into the Skagway
18 River on the property described in paragraph 1.

19 6. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a),
20 prohibits the discharge of any pollutants into waters of the United States
21 unless authorized by a permit issued by the Corps pursuant to Section 404 of
22 the Clean Water Act, 33 U.S.C. § 1344, or a permit issued by EPA under
23 Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

24 7. The dredged and fill material discharged by Respondent,
25 consisting of sand and gravel, is a pollutant within the meaning of Section
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1 502(6) of the Clean Water Act, 33 U.S.C. § 1362(6) and the constitutes
2 discharge of a pollutant within the meaning of Section 502(12), 33 U.S.C.
3 § 1362(12).

4 8. The Skagway River, to which the discharges described in
5 paragraphs 2, 3, 4, and 5 were made, is a water of the United States within
6 the meaning of Section 502(7) of the Clean Water Act, 33 U.S.C. § 1362(7).

7 9. Respondent was not issued a permit by the Army Corps, under
8 Section 404 of the Clean Water Act, 33 U.S.C. § 1344, authorizing the
9 discharges described in paragraphs 2, 3, 4, and 5.

10 10. Therefore, Respondent has violated Section 301(a) of the
11 Clean Water Act, 33 U.S.C. § 1311(a) by discharging dredged and fill
12 material into the Skagway River without authorization by a permit issued by
13 the Army Corps.

14 11. On February 12, 1988, the Army Corps issued a Cease and
15 Desist Order to Respondent regarding the discharges described in paragraphs
16 2, 3, 4, and 5.

17 12. On February 23, 1988, the City of Skagway expressed concern
18 that the above-described dredge and fill activity poses a flood hazard to
19 the local community and recommended the Corps of Engineers direct removal of
20 the dikes within the Skagway River.

21 13. On March 8, 1988, and April 29, 1988, the Alaska Department
22 of Fish and Game expressed their concern that the above-described dredge and
23 fill operations pose an environmental risk to local anadromous fish
24 populations.

25 14. On April 14, 1988, the Army Corps ordered Respondent to
26 remove by May 16, 1988, the unauthorized material used in constructing the
27 dikes, described in paragraph 2, and to apply for an after-the-fact permit
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1 for all other fill activities since 1982. Respondent has not complied with
2 this order.

3 15. The instream discharges in the Skagway River adversely
4 affected fishery habitat and water quality, and significantly disrupted the
5 aquatic resources of the river. Furthermore, Respondent's discharge of
6 dredged and fill material into the Skagway River, for purposes of stream
7 channelization, changed the hydrological regime of the waterway; this
8 disruption has generated local community concern over the threat of flooding
9 and erosion.

10 16. It is reasonable, relative to the violations described above,
11 to ameliorate the harm done by directing the Respondent to repair disturbed
12 aquatic resources within the unauthorized work area. Restoration in the
13 manner directed below is expected to produce substantial environmental
14 benefits, cause minimal environmental damage during the restoration
15 operation, and is considered to be achievable as a technical and practical
16 matter.

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19 ORDER

20 Based upon the foregoing Findings of Fact, and pursuant to the
21 Clean Water Act 33 U.S.C. § 1319, it is hereby ORDERED as follows:

22 1. Upon receipt of this Order Respondent shall cease all
23 discharge of rock, soil, or other pollutants into waters of the United
24 States except in compliance with a permit issued by the U.S. Army Corps of
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1 Engineers under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, or a
2 permit issued by EPA under Section 402 of the Clean Water Act, 33 U.S.C.
3 § 1342, as appropriate.

4 2. No later than July 15, 1988, Respondent shall completely
5 remove all dredged and fill material placed below the ordinary high water
6 elevation in the Skagway River used to construct the dikes described in
7 paragraph 2 of the Findings. The material shall be placed in an upland site
8 in such a manner as to prevent it from reentering the stream or adjacent
9 wetland.

10 3. Respondent shall submit to the Corps of Engineers by July 1,
11 1988, an after-the-fact permit application for all filling activities in the
12 Skagway River since 1982, but not including the dikes which are the subject
13 of this restoration order. The work required in this Order is identical to
14 that required by the Army Corps in their restoration order of April 14, 1988.

15 4. Respondent shall, within fourteen (14) days of the effective
16 date of the Order, provide to EPA:

17 1) A statement of Respondent's intent to comply with this
18 Order.

19 2) A plan and schedule under which Respondent commits to
20 remove unauthorized dredged and fill material used to
21 construct the dikes, described in paragraph 2, from the
22 Skagway River.

23 5. Respondent shall notify EPA at least forty-eight (48) hours
24 prior to beginning the restoration action, so that an EPA approved inspector
25 can be on site should EPA determine this is necessary.
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1 6. Respondent shall within five (5) days of completion of the
2 work ordered in paragraph 2 submit a statement verifying that the work has
3 been completed.

4 7. Submittals required by this Order shall be submitted to:

5 U.S. Environmental Protection Agency
6 Federal Building, Room E-551
7 701 C Street, Box 19
8 Anchorage, Alaska 99513
9 Attn: Richard Sumner
10 (907)271-5083

11 8. Any noncompliance with the terms of this Order shall be
12 reported to EPA, Region 10, by telephone, within twenty-four (24) hours from
13 discovery of the violation. A written report of the violation shall be
14 submitted within five (5) days.

15 9. Nothing in this Order shall preclude EPA from (a) obtaining
16 any judicial relief which it deems appropriate; (b) requiring further and
17 additional activities as may be authorized by law; or (c) amending or
18 modifying this Order as circumstances may, in EPA's judgment, warrant from
19 time to time.

20 10. Nothing in this Order shall be construed to relieve
21 Respondent of any obligations under an applicable federal, state, or local
22 law. Respondent must expeditiously apply for necessary permits and
23 approvals. Delays in completing the restoration required by the Order shall
24 not be authorized if they arise from Respondent's failure to make timely and
25 complete applications for permits and approvals necessary for such work.
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OPPORTUNITY TO CONFER

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1. Nothing in this Order shall preclude Respondent from requesting a conference with EPA to discuss any terms of the Order which Respondent considers unwarranted or any requirements which Respondent considers unachievable. Any amendments or modifications to this Order shall be at the discretion of EPA. Any such requests shall include at least the following:

- a. A clear and concise presentation of the reasons for modification or waiver of the requirement at issue.
- b. Evidence of Respondent's efforts, if any, to comply with the requirement.
- c. A detailed presentation of any alternatives to the requirement which Respondent believes are appropriate.
- d. The request shall be sent to the EPA contact listed in paragraph 4 of the Order.

EFFECTIVE DATE

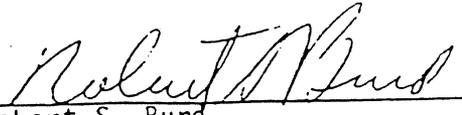
This Order shall become effective on the date it is issued, as indicated below.

SANCTIONS

Notice is hereby given that violations of or failure to comply with any of the provisions of the foregoing Order shall subject Respondent to civil penalties pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d).

1 Nothing in this Order shall be construed to relieve Respondent of
2 any obligations under any applicable federal, state, or local law.

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4 Dated this 8th day of June, 1988.

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7 Robert S. Burd
8 Director, Water Division
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