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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:)	DOCKET NO. CWA-10-2003-0007
)	
Thomas Waterer)	
and Waterkist Corp. dba Nautilus Foods)	ANSWER TO COMPLAINT,
Valdez, Alaska,)	REQUEST FOR HEARING, AND
)	REQUEST FOR INFORMAL
Respondents.)	SETTLEMENT CONFERENCE
_____)	

ANSWER TO COMPLAINT:

COMES NOW the Respondents, Thomas Waterer and Waterkist Corporation dba Nautilus Foods, and in Answer to the Petitioner's Complaint, admit and deny as follows:

1. In answer to Petitioner's paragraph 1, the Respondents admit that the Complaint is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency, as set forth in said paragraph, and that said Administrator delegated his authority to the Regional Administrator of EPA, Region 10.

2. In answer to Petitioner's paragraph 2, the Respondents admit that the action is brought pursuant to Section 390(g)(2)(B) of the Act, but deny that the

Answer to Complaint, Request for
Hearing, and Request for Informal
Settlement Conference

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Respondent, Thomas Waterer, does business as Nautilus Foods and/or deny that the Respondents, or either of them, engaged in an unlawful discharge of pollutants into navigable waters.

3. In answer to Petitioner's paragraph 3, the Respondents admit the same.

4. In answer to Petitioner's paragraph 4, the Respondents admit the same.

5. In answer to Petitioner's paragraph 5, the Respondents admit that M. Thomas Waterer is the president and founder of Waterkist Corporation, and deny that he is its General Manager and that he owns 100 percent of the stock.

6. In answer to Petitioner's paragraph 6, the Respondents admit that Waterkist Corporation operates the fish processing plant commonly known as Nautilus Foods located in Valdez.

7. In answer to Petitioner's paragraph 7, the Respondents deny the same. "Nautilus Foods" is the registered trade name of Waterkist Corporation, which is a duly licensed, insured and bonded corporation authorized to conduct business under the laws of the State of Alaska.

8. In answer to Petitioner's paragraph 8, the Respondents admit that the Respondent, Waterkist Corporation, used the real property that is the subject of the Complaint and/or controlled or performed the activities that occurred on the real property that is the subject of the Complaint, and deny all other allegations.

9. In answer to Petitioner's paragraph 9, the Respondents admit the same.
10. In answer to Petitioner's paragraph 10, the Respondents admit the same.
11. In answer to Petitioner's paragraph 11, the Respondents admit the same.
12. In answer to Petitioner's paragraph 12, the Respondents admit the same.
13. In answer to Petitioner's paragraph 13, the Respondents admit the same.
14. In answer to Petitioner's paragraph 14, the Respondents admit the same.
15. In answer to Petitioner's paragraph 15, the Respondents admit the same.
16. In answer to Petitioner's paragraph 16, the Respondents admit the same.
17. In answer to Petitioner's paragraph 17, the Respondents admit the same.
18. In answer to Petitioner's paragraph 18, the Respondents admit the same.
19. In answer to Petitioner's paragraph 19, the Respondents deny the same.

20. In answer to Petitioner's paragraph 20, the Respondents deny the same.
21. In answer to Petitioner's paragraph 21, the Respondents deny the same.
22. In answer to Petitioner's paragraph 22, the Respondents deny the same.
23. In answer to Petitioner's paragraph 23, the Respondents admit the same.
24. In answer to Petitioner's paragraph 24, the Respondents admit the same.
25. In answer to Petitioner's paragraph 25, the Respondents deny the same.
26. In answer to Petitioner's paragraph 26, the Respondents deny the same.
27. In answer to Petitioner's paragraph 27, the Respondents deny the same.
28. In answer to Petitioner's paragraph 28, the Respondents deny the same.
29. In answer to Petitioner's paragraph 29, the Respondents deny the same.
30. In answer to Petitioner's paragraph 30, the Respondents admit that in 1998, a Seafloor Survey was conducted by Enviro-Tech Diving, Inc. for the

facility. The Respondents further admit that they moved the outfall to deeper water. The Respondents deny the remaining allegations.

31. In answer to Petitioner's paragraph 31, the Respondents deny the same.

32. In answer to Petitioner's paragraph 32, the Respondents deny the same.

33. In answer to Petitioner's paragraph 33, the Respondents deny the same.

34. In answer to Petitioner's paragraph 34, the Respondents deny the same.

35. In answer to Petitioner's paragraph 35, the Respondents deny the same.

36. In answer to Petitioner's paragraph 36, the Respondents deny the same.

37. In answer to Petitioner's paragraph 37, the Respondents deny the same.

38. In answer to Petitioner's paragraph 38, the Respondents deny the same.

39. In answer to Petitioner's paragraph 39, the Respondents deny the same.

40. The allegations set forth in Petitioner's paragraph 40 are not factual allegations, and therefore are not required to be admitted or denied.

41. In answer to Petitioner's paragraph 41, the Respondents admit that the EPA must determine a specific penalty by taking into account a number of factors, including but not limited to those enumerated in Petitioner's paragraph 41.

42. In answer to Petitioner's paragraph 42, the Respondents deny the same.

43. In answer to Petitioner's paragraph 43, the Respondents deny the same.

44. In answer to Petitioner's paragraph 44, the Respondents admit that a prior operator, Nautilus Marine, Inc., was cited for violations of the CWA. The Respondents deny that the Respondents were owners of Nautilus Marine, Inc., with the exception that the Respondent, Thomas Waterer, was a shareholder of Nautilus Marine, Inc. The Respondents deny the remaining allegations.

45. In answer to Petitioner's paragraph 45, the Respondents deny the same.

46. In answer to Petitioner's paragraph 46, the Respondents deny the same.

47. In answer to Petitioner's paragraph 47, the Respondents admit the same.

48. No responsive answer is required to Petitioner's paragraph 48.

49. No responsive answer is required to Petitioner's paragraph 49.

50. No responsive answer is required to Petitioner's paragraph 50.

51. In answer to Petitioner's paragraph 51, the Respondents admit the same.

52. In answer to Petitioner's paragraph 52, the Respondents admit the same.

53. No responsive answer is required to Petitioner's paragraph 53.

REQUEST FOR HEARING:

Pursuant to Part 22 of the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*, the Respondents request a hearing on the matters set forth in this Complaint and the appropriateness of the penalties proposed herein.

REQUEST FOR INFORMAL SETTLEMENT CONFERENCE:

Pending a hearing on this matter, the Respondents respectfully request an informal settlement conference to discuss the case, the proposed penalty, and the possibility of settling this matter.

PRAYER FOR RELIEF:

WHEREFORE, the Respondents having answered the Petitioner's Complaint, and having requested a formal hearing on the matters herein, and further requesting a settlement conference, request the following relief: That the Complaint be dismissed with prejudice and without cost

DATED this 20 day of February, 2003.

EDWARD P. WEIGELT, JR., INC., P.S.


Edward P. Weigelt, Jr., WSBA #12003
Attorney for Respondents

DECLARATION OF MAILING:

I, EDWARD P. WEIGELT, JR., certify under penalty of perjury under the laws of the State of Washington that on the 26 day of February, 2003, I deposited in the United States mail at Lynnwood, Washington, postage prepaid, by regular mail, a copy of the foregoing document, addressed to the following counsel of record:

Mark A. Ryan, Assistant Regional Counsel
Idaho Office
U.S. ENVIRONMENTAL PROTECTION AGENCY
1435 N. Orchard Street
Boise, ID 83706

and that I caused to be delivered by legal messenger the original and/or copies of the foregoing document as indicated, addressed to the following:

(Original + copy) Carol Kennedy, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Mail Stop ORC-158
Seattle, WA 98101

(copy) Randall F. Smith, Director
Office of Water
U.S. ENVIRONMENTAL PROTECTION AGENCY
1200 Sixth Avenue
Seattle, WA 98101

Signed at Lynnwood, Washington, this 26 day of February, 2003.



Edward P. Weigelt, Jr.