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

In the matter of:	)	DOCKET NO. CWA-10-2001-0089
NorQuest Seafoods, Inc.	)	
Ketchikan, Alaska,	)	CONSENT AGREEMENT AND
	)	CONSENT ORDER
Respondent.	)	

**I. AUTHORITY**

1.1. This Consent Agreement and Consent Order ("CACO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g). The Administrator has delegated the authority for the Consent Agreement to the Regional Administrator of EPA, Region 10, which has be redelegated to the Manager of the Region 10 NPDES Compliance Unit. The Administrator has delegated the authority for the Consent Order to the Regional Administrator of EPA, Region 10.

1.2. Pursuant to Sections 309(g)(1) and (g)(2)(A) of the Act and in accordance with the proposed "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 63 Fed. Reg. 9464-94 (February 25, 1998) ("CROP rules"), EPA hereby issues, and Norquest Seafoods, Inc. ("Respondent") hereby agrees to issuance of the Consent Order contained in Part IV of this CACO.

1 **II. PRELIMINARY STATEMENT**

2 2.1. On February 26, 2001, EPA initiated this proceeding against Respondent pursuant to  
3 Section 309(g) of the Act, 33 U.S.C. § 1319(g), by issuing an Administrative Complaint  
4 (“Complaint”).

5 2.2. The Complaint alleged that Respondent’s violations of the Act had subjected  
6 Respondent to civil penalties. The Complaint proposed that Respondent be assessed an administra-  
7 tive civil penalty in an amount not to exceed \$55,000.00.

8 2.3. The complete factual and jurisdictional basis for proposing the assessment of a civil  
9 penalty in this amount is set forth in the Complaint and is incorporated herein by reference.

10 2.4. The State of Alaska was given an opportunity to consult with EPA regarding the  
11 assessment of an administrative penalty against Respondent.

12 2.5. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), EPA issued  
13 a public notice to inform the public of its intent to assess an administrative penalty against  
14 Respondent and to invite public comment. EPA received no public comments regarding this  
15 proposal to assess a civil penalty.

16 **III. CONSENT AGREEMENT**

17 Complainant and Respondent hereby stipulate as follows:

18 3.1. Respondent admits the jurisdictional allegations contained in the Complaint.

19 3.2. Respondent enters this Consent Agreement without admitting liability or the facts  
20 alleged by EPA to establish violations of the Act, and further does so to compromise and settle the  
21 Complaint without further proceedings in this matter.

22 3.3. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), the nature, circumstances,  
23 extent, and gravity of the alleged violations, Respondent’s economic benefit of noncompliance and  
24 ability to pay the proposed penalty, and other relevant factors, EPA has determined and Respondent  
25 agrees that an appropriate penalty to settle this action is in the amount of TWENTY FIVE  
26 THOUSAND DOLLARS (\$25,000.00).

1 3.4. Respondent consents to the issuance of the Consent Order recited herein and to  
2 payment of the penalty cited in the foregoing paragraph within thirty (30) days of the effective date  
3 of the Final Order.

4 3.5. Payments under this CACO shall be made by cashier's check or certified check,  
5 payable to the order of "Treasurer, United States of America" and shall be delivered to the following  
6 address:

7 Mellon Bank  
8 EPA Region 10  
9 P.O. Box 360903M  
10 Pittsburgh, Pennsylvania 15251.

11 Respondent shall note on the check the title and docket number of this case.

12 3.6. Respondent shall submit a photocopy of the checks described above to:

13 Regional Hearing Clerk  
14 U.S. Environmental Protection Agency  
15 Region 10  
16 1200 Sixth Avenue, Mail Stop ORC-158  
17 Seattle, Washington 98101.

18 3.7. Should Respondent fail to pay the penalty assessed by Paragraph 3.3 of this CACO  
19 (the "assessed penalty") in full by its due date, the entire unpaid balance of assessed penalty and  
20 accrued interest shall become immediately due and owing. Should such a failure to pay occur,  
21 Respondent may be subject to an administrative action to collect payment under the federal Debt  
22 Collection Act of 1982, as amended, or to a civil action to collect the assessed penalty under the  
23 Clean Water Act. In any collection action, the validity, amount and appropriateness of the assessed  
24 penalty shall not be subject to review.

25 3.8. Should Respondent fail to pay the assessed penalty in full by its due date, Respondent  
26 shall also be responsible for payment of the following amounts:

27 a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the  
28 rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the  
effective date of the Consent Order contained herein, provided, however, that no interest shall



1 be payable on any portion of the assessed penalty that is paid within thirty (30) days of the  
2 effective date of the Consent Order contained herein.

3 b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling  
4 charge of \$15 shall be paid if any portion of the assessed penalty is more than thirty (30) days  
5 past due.

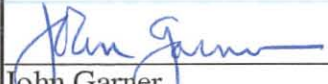
6 c. Attorney Fees, Collection Costs, Nonpayment Penalty. Pursuant to Section  
7 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), should fail to pay on a timely basis the amount  
8 of the assessed penalty, shall pay (in addition to the assessed penalty, interest, and monthly  
9 handling charges) attorney fees, costs for collection proceedings, and a quarterly nonpayment  
10 penalty for each quarter during which such failure to pay persists. Such nonpayment penalty  
11 shall be in an amount equal to twenty percent (20%) of the aggregate amount of the assessed  
12 penalty and nonpayment penalties which are unpaid as of the beginning of such quarter.

13 3.9. The penalty described above represents a civil penalty assessed by EPA and shall not  
14 be deductible for purposes of federal taxes.

15 3.10. Except as described in Paragraph 3.8 above, each party shall bear its own costs and  
16 attorneys fees in bringing or defending this action.

17 3.11. Respondent expressly waives its right under applicable law to a hearing on the civil  
18 penalty assessed herein and to an further administrative or judicial review of the Consent Order  
19 contained herein.

20 STIPULATED AND AGREED this 3<sup>rd</sup> day of June, 2001:  
21

22  
23   
24 John Garner  
25 Vice President  
26 Norquest Seafoods, Inc.

1 STIPULATED AND AGREED this 6<sup>th</sup> day of July, 2001

2 U.S. ENVTL. PROTECTION AGENCY  
3 REGION 10

4 

5 LeRoy S. Loisel  
6 Manager, NPDES Compliance Unit  
7 U.S. Environmental Protection Agency  
8 Region 10  
9 1200 6th Avenue  
10 Seattle, Washington 98101

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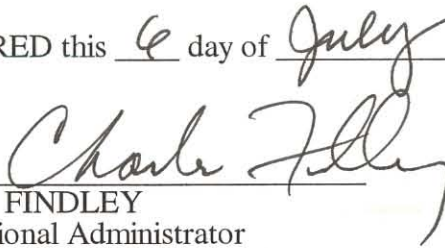
1 **IV. ORDER**

2 4.1. The terms of the foregoing Consent Agreement are hereby approved and incorporated  
3 by reference into this Consent Order. Respondent is hereby ordered to comply with the foregoing  
4 terms of settlement.

5 4.2. This CACO constitutes a settlement by EPA of all claims for civil penalties pursuant  
6 to the Clean Water Act for the particular violations alleged in the Complaint. In accordance with  
7 Section 22.31(a) of the CROP rules, nothing in this CACO shall affect the right of EPA or the  
8 United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any  
9 violations of law. This CACO does not waive, extinguish or otherwise affect Respondent's  
10 obligations to comply with all applicable provisions of the Act and regulations and permits issued  
11 thereunder.

12 4.3. This Consent Order shall become effective upon filing.

13  
14 SO ORDERED this 6 day of July, 2001:

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16 

17 CHARLES FINDLEY  
18 Acting Regional Administrator  
19 U.S. Environmental Protection Agency  
20 Region 10  
21 1200 Sixth Avenue  
22 Seattle, Washington 98101

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**CERTIFICATE OF SERVICE**

I certify that the foregoing "Consent Agreement and Consent Order" was sent to the following persons, in the manner specified, on the date below:

Original, hand-delivered:

Mary Shillcutt, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Mail Stop ORC-158  
Seattle, Washington 98101

Copy, by certified mail, return receipt requested:

John Garner  
Vice President  
Norquest Seafoods, Inc.  
5254 Shilshole Ave. N.W.  
Seattle, Washington 98107.

Dated: July 9, 2001

Melissa L. Whitaker  
Melissa Whitaker  
U.S. EPA Region 10