

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

IN THE MATTER OF:)	Docket No. RCRA-10-2022-0179
)	
)	
OBI Seafoods, LLC)	
)	
Respondent)	EXPEDITED SETTLEMENT
)	AGREEMENT AND
)	FINAL ORDER
Ocean Beauty Seafoods, Inc)	
621 Shelikof Street)	
Kodiak, Alaska)	
)	
EPA ID Number: AKD063376974)	
)	
Facility)	
_____)	

EXPEDITED SETTLEMENT AGREEMENT

1. The U.S. Environmental Protection Agency (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928, and 40 C.F.R. § 22.13(b).
2. The State of Alaska has not been authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926 to carry out a hazardous waste program in lieu of the Federal program. Pursuant to Section 3008(a) of RCRA, the EPA may enforce the federal hazardous waste program in the State of Alaska.
3. OBI Seafoods, LLC (“Respondent”) is the owner or operator of the Ocean Beauty Seafoods Inc., facility at 621 Shelikof Street in Kodiak, Alaska, EPA RCRA ID No. AKD063376974 (“Facility”). The EPA alleges that Respondent violated the following requirements of the RCRA.
 - a. Failure to label used oil container with the words “Used Oil”

The regulation at 40 C.F.R. § 279.22(c)(1), requires that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.”

At the time of EPA’s May 7, 2021 inspection, the inspector observed a 55-gallon container used to accumulate used oil at the Oil Storage Can. This container was not labeled with the words, “Used Oil” in violation of 40 C.F.R. § 279.22(c)(1).

- b. Storage of Hazardous Waste without a Permit or Interim Status - Failure to ensure delivery to an allowable offsite treatment, storage, and disposal facility

Section 3005 of RCRA, 42 U.S.C. § 6925 and 40 C.F.R. § 270.1(c), require that any person who treats, stores or disposes of hazardous waste must have a permit or interim status. However, under 40 C.F.R. § 262.14, a very small quantity generator may accumulate hazardous waste on-site without a permit or interim status provided that it meets certain conditions.

The regulation at 40 C.F.R. § 262.14(a)(5)(viii), allows very small quantity generators to accumulate hazardous waste on-site without a permit provided that among other things, the generator ensures delivery of its hazardous waste to one of the allowable off-site treatment, storage, and disposal facility.

At the time of EPA's May 7, 2021 inspection, the Facility shipped Videoject makeup fluid ink waste, a D001 hazardous waste, to OBI Seafoods, LLC, 19405 68 Drive Northeast, Arlington, Washington facility. The 800 lbs of hazardous waste ink was delivered to the Arlington facility on November 3, 2020, with an October 26, 2020, Bill of Lading. The Arlington facility was not a Large Quantity Generator of Hazardous Waste during this time period and not one of the allowable destinations for very Small Quantity Generators to transport their hazardous waste.

The Facility failed to ensure delivery of its hazardous waste to one of the allowable off-site treatment, storage, and disposal facility, in violation of 40 C.F.R. § 262.14(a)(5)(viii). The Facility failed to comply with the condition necessary to exempt the Facility from obtaining a RCRA permit for storage of hazardous waste.

4. In determining the amount of penalty to be assessed, EPA has taken into account the factors specified in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3). After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$2,500. The attached Penalty Calculation Worksheet is incorporated by reference.
5. In signing this Agreement, Respondent: (1) admits that Respondent is subject to RCRA and its implementing regulations; (2) admits that EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein, (3) neither admits nor denies the factual allegations contained herein; (4) consents to the assessment of this penalty; (5) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (6) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (7) consents to electronic service of the filed ESA.
6. Within 30 days of the effective date of this Agreement, Respondent shall pay a civil penalty of \$2,500 for the RCRA violations identified in this Agreement. Payments under this Agreement may be made by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza

SL-MO-C2-GL
St. Louis, Missouri 63101

Respondent must note on the check the title and docket number of this action.

7. Concurrent with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10
R10_RHC@epa.gov

Xiangyu Chu
U.S. Environmental Protection Agency
Region 10
Chu.xiangyu@epa.gov

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and Final Order and to execute and legally bind Respondent to it.
9. EPA reserves all of its rights to take enforcement action for any other past, present, or future violations by Respondent of RCRA, any other federal statute or regulation, or this Agreement.
10. Each party shall bear its own costs and fees, if any.
11. This Agreement and Final Order shall constitute full settlement of the civil claims alleged herein.
12. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this Agreement shall be claimed by Respondent as a deduction for federal, state or local income tax purposes.
13. This Agreement is binding on the parties signing below and, in accordance with 40 C.F.R. § 22.31(b), is effective upon filing of the Final Order with the Regional Hearing Clerk for the EPA, Region 10.

IT IS SO AGREED,

RESPONDENT:

Name (print): _____

Title (print): _____

Signature: Tony Ross

Date: April 21, 2022

EPA REGION 10:

Edward J. Kowalski, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10

Date: _____

FINAL ORDER

I hereby ratify the Expedited Settlement Agreement and incorporate it by reference. This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall be effective immediately upon filing with the Regional Hearing Clerk for the EPA, Region 10. Such filing will conclude this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED,

Richard Mednick, Regional Judicial Officer
U.S. Environmental Protection Agency, Region 10

Date: _____

Certificate of Service

The undersigned certifies that the original of the attached EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: OBI Seafoods, LLC, Docket No.: RCRA-10-2022-0179, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered via electronic mail to:

Xiangyu Chu
U.S. Environmental Protection Agency
Region 10
Chu.xiangyu@epa.gov

Tony Ross
OBI Seafoods, LLC
1100 W Ewing Street
Seattle, Washington 98119

DATED this _____ day of _____, 2022.

Regional Hearing Clerk
EPA Region 10