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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:)
Global Seafoods North America, L.L.C.)
Kodiak, Alaska)
Respondent.)

Docket No. CWA-10-2005-0202

CONSENT AGREEMENT AND
FINAL ORDER

I. AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the U. S. Environmental Protection Agency ("EPA") by Section 309(g)(2)(B) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g)(2)(B). The Administrator has delegated the authority to issue the Final Order contained in Part V of this CAFO to the Regional Administrator of EPA Region 10 ("Complainant").

1.2. Pursuant to Section 309(g)(1) and (g)(2)(B) of the Act and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues and Global Seafoods North America, L.L.C., Inc. ("Respondent") hereby agrees to issuance of the Final Order contained in Part V of this CAFO.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2. Respondent owns and operates a seafood processing facility, Global Seafoods North America, L.L.C., located in Kodiak, Alaska ("the Facility").

2.3. On August 10, 2003, EPA conducted an NPDES inspection of the Facility.

2.4. The State of Alaska was given an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent for the violations that are the subject of this CAFO.

2.5. A concise statement of the factual basis for alleging violations of the Act, together with specific references to the provisions of the Act and implementing regulations Respondent is alleged to have violated, appears in Part III of this CAFO.

III. ALLEGATIONS

3.1. Section 402 of the Act, 33 U.S.C. § 1342, provides that EPA may issue NPDES permits for the discharge of any pollutant into waters of the United States upon such specific terms and conditions as EPA may prescribe.

3.2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except as authorized by an NPDES permit or other specified statutory sections.

3.3. At all times relevant to this action, Respondent owned and operated the Facility.

3.4. Respondent is a corporation and is a person within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

3.5. Respondent is authorized to discharge seafood processing waste into waters of the United States under general NPDES Permit No. AK-G52-8000, issued on March 31, 1998. The

1 facility received its authorization to discharge under the general permit on January 31, 2003, and
2 operates under the unique identifier AK-G52-8834 ("the Permit").

3 3.6. Respondent discharged processing wastewater from the butchering of seafood from
4 the Facility. Processing wastewater from the butchering of seafood is a "pollutant" which is
5 "discharged" within the meaning of Section 502(6) and (12) of the Act, 33 U.S.C. § 1362(6) and
6 (12).

7 3.7. Respondent discharged processing wastewater from the butchering of seafood to
8 Near Island Channel, which constitutes "navigable waters" and "waters of the United States"
9 within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

10 3.8. Section 3.1 of the Permit states that the permittee shall treat the waste stream from
11 the butchering of seafood through the use of fine mesh screening (1 mm) or equivalent technology
12 prior to discharge. Section 3.1 also states that seafood wastes shall not be pulverized, chopped,
13 ground, or otherwise altered prior to screening and discharge through a facility's outfall.

14 3.9. Section 3.1.4 of the Permit requires the permittee to record the number of
15 processing days and to record production (e.g., pounds of raw fish processed).

16 3.10. Section 3.1.4 of the Permit states that effluent monitoring shall be conducted for
17 Total Suspended Solids ("TSS"), Oil and Grease ("O&G"), Settleable Solids ("SS"), and pH.

18 3.11. Section 3.1.5. of the Permit requires that the permittee visually inspect, daily, the
19 water surface and shoreline for floating solids, garbage, grease, foam, and visible sheen and report
20 the observations in logs, in accordance with the Permit's requirements.

21 3.12. Section 4.1.5 of the Permit states that the Best Management Practices ("BMP")
22 Plan shall be reviewed by the facility manager and appropriate staff, and include a statement that
23 the review has been completed and that the BMP Plan fulfills the requirements set forth in the
24 Permit. The statement shall be certified by the dated signature of the facility manager.

1 3.13. Section 5.2.6 of the Permit states that a permittee shall submit to EPA and the
2 Alaska Department of Environmental Conservation ("ADEC") a Quality Assurance/Quality
3 Control ("QA/QC") Plan within 12 months from the issuance date of the Permit.

4 3.14. During the NPDES inspection at the Facility on August 10, 2003, the EPA
5 inspector observed waste totes that contained processing wastewater from the butchering of
6 seafood stacked on the dock. The totes had bloody liquid draining out onto and through the dock,
7 into Near Island Channel. The Facility failed to treat the processing wastewater from the
8 butchering of seafood prior to discharge through the use of fine mesh screening (1 mm) or
9 equivalent technology.

10 3.15. During the NPDES inspection, the EPA inspector observed that the Facility did not
11 record the number of processing days and did not record the Facility's raw production.

12 3.16. During the NPDES inspection, the EPA inspector observed that the Facility failed
13 to conduct monitoring of processing wastewater from the butchering of seafood for all parameters
14 (TSS, O&G, SS, pH), at least since January 2003. The sampling port was inaccessible because it
15 was clogged, apparently from lack of use.

16 3.17. During the NPDES inspection, the EPA inspector observed that the Facility did not
17 have sea surface and shoreline monitoring logs available.

18 3.18. During the NPDES inspection, the EPA inspector observed that the BMP Plan had
19 not been signed by the facility manager.

20 3.19. During the NPDES inspection, the EPA inspector observed that the Facility had
21 not submitted a QA/QC Plan to EPA or ADEC within 12 months of the date of the issuance of the
22 permit.

23 3.20. Respondent's failure to comply with its Permit as described above constitutes at
24 least six violations of Section 301 of the Act, 33 U.S.C. § 1311. Consequently, under
25 Section 309(g)(2)(B) of the Act, Respondent is liable for the administrative assessment of civil
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1 penalties in an amount not to exceed \$11,000 per day for each day during which a violation
2 continues, up to a maximum of \$137,500.

3 IV. CONSENT AGREEMENT

4 4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

5 4.2. Respondent neither admits nor denies the specific factual allegations contained in
6 Part III of this CAFO.

7 4.3. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), taking into account the
8 nature, circumstances, extent, and gravity of the alleged violations, Respondent's economic
9 benefit of noncompliance, and other relevant factors, EPA has determined and Respondent agrees
10 that an appropriate penalty to settle this action is eighty-five thousand dollars (\$85,000).

11 4.4. Respondent consents to the issuance of the Final Order recited herein, and to
12 payment of the penalty cited in Paragraph 4.3, plus all applicable interest on such penalty, in
13 accordance with the payment schedule described in subparagraphs a through c below.

14 a. Within thirty (30) days of the effective date of the Final Order, Respondent shall
15 pay an initial installment payment of \$5,000.00.

16 b. On or within one year of the effective date of the Final Order, Respondent shall
17 pay a second installment payment of \$40,000.00, plus interest at 1% (\$800.00), for a total of
18 \$40,800.00.

19 c. On or within two years of the effective date of the Final Order, Respondent shall
20 pay the final installment payment of \$40,000.00, plus interest at 1% (\$400.00), for a total of
21 \$40,400.00.

22 4.5. Payment under this CAFO shall be made by cashier's check or certified check,
23 payable to the order of "U.S. Treasurer" and shall be delivered to the following address:

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Mellon Client Services Center
EPA Region 10
500 Ross Street
P.O. Box 360903
Pittsburgh, Pennsylvania 15251-6903

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

4.6. Respondent shall submit a photocopy of the check described above to:

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

Office of Water
Attn: Athena Ralstin
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, Mail Stop OCE-133
Seattle, Washington 98101

4.7. Should Respondent fail to pay any installment payment plus interest in full by its due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. Should such a failure to pay occur, Respondent may be subject to a civil action to collect the assessed penalty under the Clean Water Act. In any collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

4.8. Should Respondent fail to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall also be responsible for payment of the following amounts:

a. Interest. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein, provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within thirty (30) days of the effective date of the Final Order contained herein.

1 b. Attorneys Fees, Collection Costs, Nonpayment Penalty. Pursuant to
 2 Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), should Respondent fail to pay on a timely
 3 basis the amount of the penalty assessed by the Final Order contained herein, Respondent shall
 4 pay (in addition to any assessed penalty and interest) attorneys fees and costs for collection
 5 proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay
 6 persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the
 7 aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the
 8 beginning of such quarter.

9 4.9. The penalty described in Paragraph 4.3 of this CAFO shall represent civil penalties
 10 assessed by EPA and shall not be deductible for purposes of federal taxes.

11 4.10. The undersigned representative of Respondent certifies that he or she is fully
 12 authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this
 13 document.

14 4.11. Except as described in Paragraph 4.8 of this CAFO, each party shall bear its own
 15 costs in bringing or defending this action.

16 4.12. Respondent expressly waives any rights to contest the allegations and to appeal the
 17 Final Order contained herein.

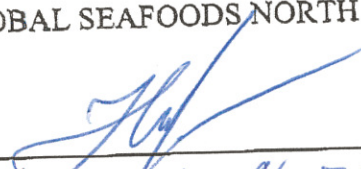
18 4.13. The provisions of this CAFO shall bind Respondent and its officers, directors,
 19 agents, servants, employees, successors, and assigns.

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1 STIPULATED AND AGREED:

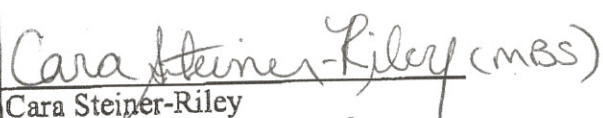
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GLOBAL SEAFOODS NORTH AMERICA, L.L.C.


Signature _____
Print Name: Dale Maitenas
Title: President

Dated: 11 July 2005

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10


Cara Steiner-Riley
Assistant Regional Counsel

Dated: 7/13/05

1 V. FINAL ORDER


2 5.1. The terms of the foregoing Consent Agreement are hereby ratified and
3 incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the
4 terms of settlement contained in the Consent Agreement.

5 5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties
6 pursuant to the Clean Water Act for the particular violations alleged in Part III, above. In
7 accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the
8 United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for
9 any violations of law. This CAFO 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 5.3. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), EPA has
13 published public notice of its intent to assess an administrative penalty against Respondent and
14 has invited public comment in accordance with 40 C.F.R. § 22.45. More than 40 days have
15 elapsed since the issuance of this public notice, and EPA has received no comments concerning
16 this matter.

17 5.4. This Final Order shall become effective upon filing.

18 SO ORDERED this 30th day of August, 2005.

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21 *for* 
22 L. Michael Bogert
23 Regional Administrator
24 U.S. Environmental Protection Agency
25 Region 10
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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Global Seafoods North America, L.L.C., DOCKET NO.: CWA-10-2005-0202** was filed with the Regional Hearing Clerk on August 30, 2005.

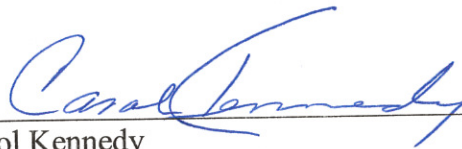
On August 30, 2005 the undersigned certifies that a true and correct copy of the document was delivered to:

Cara Steiner-Riley, Esquire
US Environmental Protection Agency
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on August 31, 2005, to:

Oleg Nikitenko
Global Seafoods North America, L.L.C.
11100 NE 8th Street, Suite 310
Bellevue, WA 98004

DATED this 30th day of August 2005.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10