



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

75 Hawthorne Street
San Francisco, CA 94105

May 20, 2020

VIA ELECTRONIC FILING AND EMAIL

Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, DC 20460-0001
Clerk_EAB@epa.gov

Scott R. Dismukes, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
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RE: Starkist Samoa Co., NPDES Permit No. AS0000019, EAB NPDES Appeal No.20-04,
Notice of Partial Withdrawal and Notice of Effective Date of Applicable (uncontested and
severable) Permit Conditions

Dear Ms. Durr and Mr. Dismukes,

Pursuant to 40 C.F.R. § 124.19(j), Region 9 of the U.S. Environmental Protection Agency (EPA) is hereby withdrawing certain provisions of the National Pollutant Discharge Elimination System (NPDES) Permit No. AS0000019 (Permit) issued to Starkist Samoa Company (Starkist) for the Starkist Samoa Tuna Cannery (Facility) on February 26, 2020.

On April 27, 2020, Starkist (Petitioner) timely filed a petition (Petition) seeking review by the Environmental Appeals Board (EAB) of three conditions in the Permit. Specifically, Petitioner seeks review of: 1) the dissolved oxygen receiving water limit (DO Requirement), 2) receiving water monitoring requirements at coral reefs stations, and 3) an annual Priority Pollutant Scan (PPS).

Partial Withdrawal of Permit

Under regulations governing the EAB appeal process, at any time prior to thirty (30) days after filing the response to a petition, EPA may withdraw a permit or portions of a permit and prepare a new draft permit addressing the portions so withdrawn. *See* 40 C.F.R. § 124.19(j). EPA's initial

review of the Petition suggests that further consideration of the three Permit provisions appealed by Petitioner may be appropriate. Since Region 9 has not filed a response to the Petition, the Region's withdrawal is timely.

EPA is withdrawing the following specifically identified provisions of the Permit: (1) Part 1.A.3.h (DO Requirement), (2) Part 1.E.1.g including the associated map of the coral reef stations and the asterisk (*) footnote only to the Part I.E.1 Table that references sampling depth requirements for the coral reef monitoring stations, and 3) Part 1.B Table 1 PPS requirements row only (collectively, Partial Withdrawal). EPA will modify the withdrawn provisions, as appropriate, and conduct public notice and comment consistent with 40 C.F.R. §§ 124.6 and 124.19(j). Until EPA issues a new final permit, the corresponding provisions from the previous permit issued to this Facility will apply as follows: 1) Part 1.B.9 of the 2008 permit will apply in place of the withdrawn DO Requirement; 2) there will be no requirement for receiving water monitoring at the coral reef stations, as there is no comparable provision in the 2008 permit; and 3) Part II.B.1 of the 2008 permit will apply in place of the withdrawn annual PPS requirement.

Notice of Effective Date of Applicable (Uncontested and Severable) Permit Terms

The Permit provisions for the DO Requirement at Part 1.A.3.h, coral reef monitoring at Part 1.E.1.g (including the associated map and footnote to the Part I.E.1 Table), and the annual PPS requirement at Part 1.B, Table 1 PPS requirements row only, are withdrawn and no longer part of the Permit (pursuant to the Partial Withdrawal). EPA has determined that all of the remaining portions of the Permit are uncontested and severable from the contested, and now withdrawn portions, and thus, are fully effective thirty (30) days after the date of this Notice, pursuant to 40 C.F.R. §§ 124.16(a)(2) and 124.60(b)(1).

If you have any questions regarding this notification, please contact Sara Goldsmith, Assistant Regional Counsel, at (415) 972-3931.

Sincerely,

Tomás Torres
Director, Water Division

cc: Fa'amao O. Asalele, Jr., Director, American Samoa Environmental Protection Agency (*via email faamao.asalele@epa.as.gov*)