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BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:)	
Inlet Fish Producers, Inc.)	Docket No. CWA-10-2006-0250
Kenai, Alaska)	
)	
Respondent.)	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"), who in turn has redelegated this authority to the Regional Judicial Officer.

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,"

1 40 C.F.R. Part 22, EPA hereby issues and Inlet Fish Producers, Inc. ("Respondent") hereby agrees
2 to issuance of the Final Order contained in Part V of this CAFO.

3 II. PRELIMINARY STATEMENT

4 2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO
5 commences this proceeding, which will conclude when the Final Order contained in Part V of this
6 CAFO becomes effective.

7 2.2. Respondent operates a seafood processing facility in Kenai, Alaska.

8 2.3. On July 26, 2004, the Alaska Department of Environmental Conservation
9 ("ADEC") conducted a National Pollutant Discharge Elimination System ("NPDES") inspection
10 at the Facility.

11 2.4. The State of Alaska was given an opportunity to consult with EPA regarding the
12 assessment of an administrative penalty against Respondent for the violations that are the subject
13 of this CAFO.

14 2.5. A concise statement of the factual basis for alleging violations of the Act, together
15 with specific references to the provisions of the Act and implementing regulations Respondent is
16 alleged to have violated, appears in Part III of this CAFO.

17 III. ALLEGATIONS

18 3.1. Section 402 of the Act, 33 U.S.C. § 1342, provides that EPA may issue NPDES
19 permits for the discharge of any pollutant into waters of the United States upon such specific
20 terms and conditions as EPA may prescribe.

21 3.2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any
22 pollutant by any person except as authorized by an NPDES permit or other specified statutory
23 sections.

24 3.3. Respondent is a corporation and is a person within the meaning of Section 502(5)
25 of the Act, 33 U.S.C. § 1362(5).

1 3.11. Respondent's unauthorized discharge of pollutants into waters of the United States
2 constitutes a violation of Section 301 of the Act, 33 U.S.C. § 1311. Consequently, under
3 Section 309(g)(2)(B) of the Act, Respondent is liable for the administrative assessment of civil
4 penalties in an amount not to exceed \$11,000 per day for each day during which a violation
5 continues, up to a maximum of \$157,500.

6 IV. CONSENT AGREEMENT

7 4.1. Respondent admits the jurisdictional allegations contained in Part III of this CAFO.

8 4.2. Respondent neither admits nor denies the specific factual allegations contained in
9 Part III of this CAFO.

10 4.3. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), taking into account the
11 nature, circumstances, extent, and gravity of the alleged violations, Respondent's economic
12 benefit of noncompliance, and other relevant factors, EPA has determined and Respondent agrees
13 that an appropriate penalty to settle this action is THIRTY THOUSAND DOLLARS (\$30,000).

14 4.4. Respondent consents to the issuance of the Final Order recited herein, and to
15 payment of the penalty cited in Paragraph 4.3., by November 30, 2006.

16 4.5. Payment under this CAFO shall be made by cashier's check or certified check,
17 payable to the order of "U.S. Treasury" and shall be delivered to the following address:

18 U.S. Environmental Protection Agency
19 Region 10
20 P.O. Box 371099M
Pittsburgh, Pennsylvania 15251-6903

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

22 4.6. Respondent shall submit a photocopy of the check described above to:

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

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2 Office of Compliance and Enforcement
3 Attn: Margo Young
4 U.S. Environmental Protection Agency
5 Region 10
6 1200 Sixth Avenue, Mail Stop OCE-133
7 Seattle, Washington 98101

8 4.7. Should Respondent fail to pay the penalty assessed by this CAFO in full by its due
9 date, the entire unpaid balance of penalty and accrued interest shall become immediately due and
10 owing. Should such a failure to pay occur, Respondent may be subject to a civil action to collect
11 the assessed penalty under the Clean Water Act. In any collection action, the validity, amount,
12 and appropriateness of the penalty shall not be subject to review.

13 4.8. Should Respondent fail to pay any portion of the penalty assessed by this CAFO in
14 full by its due date, Respondent shall also be responsible for payment of the following amounts:

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

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

1 4.9. The penalty described in Paragraph 4.3. of this CAFO shall represent civil
2 penalties assessed by EPA and shall not be deductible for purposes of federal taxes.

3 4.10. The undersigned representative of Respondent certifies that he or she is fully
4 authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this
5 document.

6 4.11. Except as described in Paragraph 4.8. of this CAFO, each party shall bear its own
7 costs in bringing or defending this action.

8 4.12. Respondent expressly waives any rights to contest the allegations and to appeal the
9 Final Order contained herein.

10 4.13. The provisions of this CAFO shall bind Respondent and its officers, directors,
11 agents, servants, employees, successors, and assigns.

12

13 STIPULATED AND AGREED:

14 Inlet Fish Producers, Inc.

15

16 

Dated: JUNE 30, 2006

17 Signature

18 Print Name: VINCENT L GODDARD

19 Title: PRESIDENT

20

21 U.S. ENVIRONMENTAL PROTECTION AGENCY
22 REGION 10

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Dated: JULY 6, 2006

25 Cara Steiner-Riley
26 Assistant Regional Counsel

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V. FINAL ORDER

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

5.2. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the Clean Water Act for the particular violations alleged in Part III, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the Act and regulations and permits issued thereunder.

5.3. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), EPA has published public notice of its intent to assess an administrative penalty against Respondent and has invited public comment in accordance with 40 C.F.R. § 22.45. More than 40 days have elapsed since the issuance of this public notice, and EPA has received no comments concerning this matter.

5.4. This Final Order shall become effective upon filing.

SO ORDERED this 5th day of September, 2006.


Richard G. McAllister
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Inlet Fish Producers, Inc., DOCKET NO.: CWA-10-2006-0250** was filed with the Regional Hearing Clerk on September 6, 2006.

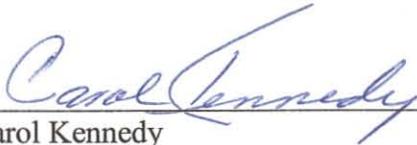
On September 6, 2006 the undersigned certifies that a true and correct copy of the document was delivered to:

Cara Steiner-Riley, Esquire
US Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 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 September 6, 2006, to:

Mr. Vincent L. Goddard, President
Inlet Fish Producers, Inc.
P.O. Box 114
Kenai, Alaska 99611

DATED this 6th day of September 2006.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10