

Honorable Robert S. Lasnik

Frederick Phillips
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044
(202) 305-0439
frederick.phillips@usdoj.gov
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	No. Civ. No. 11-1616RSL
)	
v.)	STIPULATED MOTION
)	TO AMEND
TRIDENT SEAFOODS CORPORATION)	CONSENT DECREE
)	
Defendant.)	Noted on Motion Calendar for
_____)	September 6, 2016

WHEREAS, the United States of America (“United States”) and Trident Seafoods Corporation (“Trident”) (collectively, “Parties”) are parties to an Amended Consent Decree entered by this Court on June 18, 2012 (Dkt. # 10);

WHEREAS, the Consent Decree requires, among other things, that Trident construct and operate a fish meal plant at its seafood processing plant in North Naknek, Alaska, capable of handling at least 30 million pounds of seafood processing waste annually. (see Dkt. # 10, Attachment B, paras. 1, 2);

WHEREAS, the Consent Decree requires that, after operating the fish meal plant for one-year, Trident cease discharges of seafood processing waste and seafood processing waste residue, with the exception of stickwater, from the North Naknek facility (see Dkt. # 10, Attachment B, para. 5);

WHEREAS, after delays in obtaining local construction authorization that were beyond Trident's control, the fish meal plant was completed and began operating on May 7, 2015;

WHEREAS, the Alaska Seafood Processors General NPDES Permit otherwise applicable to Trident's North Naknek facility requires only that seafood wastes be ground to no more than ½ inch in size prior to discharge;

WHEREAS, since the fish meal plant required by the 2012 CD began operating at the North Naknek facility, fish is first processed at the processing plant and the waste passes through a 0.5 millimeter screen. Seafood waste greater than 0.5 millimeters is pumped through piping from the processing plant uphill to the fish meal plant. Waste smaller than 0.5 mm in size passes through the screen and is discharged through the outfall to the Naknek River.

WHEREAS, given the small size and suspended nature of the particles, and the velocity and tidal fluctuation of the Naknek River, these solids are not expected to accumulate;

WHEREAS, the Parties agree that a 0.5 millimeter screen is a practical treatment technology for seafood processing waste and waste residues at the North Naknek seafood processing plant and is the smallest screen size currently used in the industry;

WHEREAS, in requiring that Trident cease all discharges of seafood processing waste and seafood processing waste residues from the North Naknek facility (except stickwater, which is not relevant here), the Parties to the 2012 Consent Decree inadvertently failed to consider the solids particles passing through the 0.5 millimeter screen;

WHEREAS, had the Parties considered this issue, the 2012 Consent Decree would have made allowance for the discharge of particles smaller than 0.5 mm in size;

WHEREAS, complying with the 2012 Consent Decree's discharge prohibition at the North Naknek facility may not be feasible without ceasing facility operations, a result not contemplated nor desired by the Parties;

WHEREAS, EPA's Clean Water Act Compliance Officer responsible for overseeing Trident's compliance with the Clean Water Act and the 2012 Consent Decree proffers a declaration in support of this proposed amendment to the 2012 Consent Decree (Declaration of Tara Martich, Exhibit 1 hereto);

WHEREAS, the 2012 Consent Decree, at paragraph 96, provides that "The Court retains jurisdiction . . . to take any action necessary or appropriate for the . . . modification of this Decree"; and

WHEREAS, the 2012 Consent Decree, at paragraph 97, provides that material terms of the decree may be modified only by written agreement of the Parties and approval by the Court;

NOW THEREFORE, with the consent of the Parties, **IT IS HEREBY ADJUDGED, ORDERED, and DECREED** as follows:

1. Except as expressly modified herein, all provisions of the Consent Decree entered by the Court on June 18, 2012 (Dkt. # 10) shall remain unchanged and in full force and effect.
2. The only proposed change to the Consent Decree is to Attachment B, para. 5, which is changed by the addition of the underlined language and deletion of the crossed-out language below:

In the event Trident continues to discharge seafood processing waste or seafood processing waste residues from its North Naknek Facility, Trident shall cease such discharge, with the exception of stickwater and seafood processing waste/waste residues

that have passed through a 0.5 millimeter screen, not later than the effective date of this Amendment. ~~from this Facility by June 1, 2015.~~

3. The effective date of this Amendment shall be the date upon which this Amendment is entered by the Court, as recorded on the Court's docket.

4. Each undersigned representative of Trident, the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, and the U.S. Environmental Protection Agency certifies that he or she is fully authorized to enter into the terms and conditions of this Amendment and to execute and legally bind the Party he or she represents to this Amendment.

5. This Amendment shall be lodged with this Court for a period of at least 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if comments are received regarding this Amendment that disclose facts or considerations indicating that this Amendment is inappropriate, improper, or inadequate. Trident consents to entry of this Amendment as proposed without further notice and agrees not to withdraw from or oppose entry of this Amendment by the Court or to challenge any provision of this Amendment, unless the United States has notified Trident in writing that the United States no longer supports entry of the Amendment.

6. This Amendment to the Consent Decree constitutes the final, complete and exclusive agreement and understanding among the Parties with respect to this Amendment to the Consent Decree, and this Amendment supersedes all prior agreements and understandings, whether oral or written, concerning the Amendment embodied herein.

7. This Agreement may be executed in counterparts, and its validity shall not be challenged on that basis.

SO ORDERED.

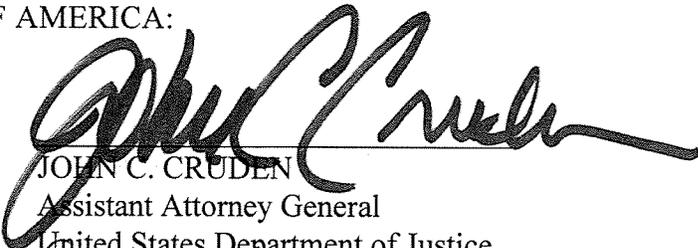
Dated and entered this ___ day of _____, 2016.

UNITED STATES DISTRICT JUDGE
Western District of Washington

The undersigned party hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States v. Trident Seafoods Corporation*:

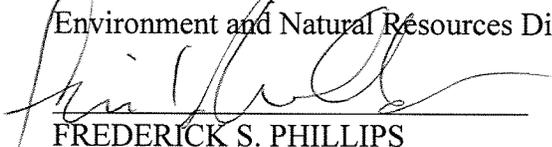
FOR THE UNITED STATES OF AMERICA:

Date: _____



JOHN C. CRUDEN
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

Date: 8-11-16



FREDERICK S. PHILLIPS
Senior Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, D.C. 20044
Frederick.phillips@usdoj.gov

ANNETTE L. HAYES
Acting United States Attorney
Western District of Washington

BRIAN KIPNIS
Assistant United States Attorney
700 Stewart St., Suite 5220
Seattle, Washington 98101
Telephone: 206-553-4426

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: _____

ALLYN L. STERN
Regional Counsel
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

The undersigned party hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States v. Trident Seafoods Corporation*:

FOR THE UNITED STATES OF AMERICA:

Date: _____

JOHN C. CRUDEN
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

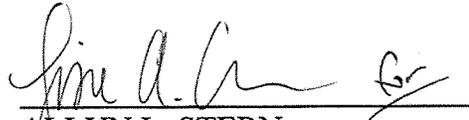
Date: _____

FREDERICK S. PHILLIPS
Senior Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
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Washington, D.C. 20044
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Telephone: 206-553-4426

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: 8/29/16



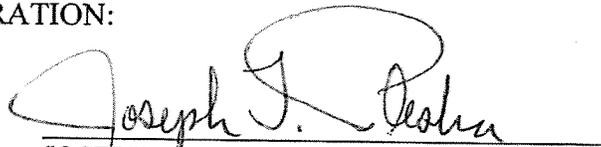
ALLYN L. STERN

Regional Counsel
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

The undersigned party hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this Amendment to Consent Decree in the matter of *United States v. Trident Seafoods Corporation*:

FOR TRIDENT SEAFOODS CORPORATION:

Date: 3/4/16

A handwritten signature in black ink, appearing to read "Joseph J. Plesha", written over a horizontal line.

JOSEPH THOMAS PLESHA
Chief Legal Officer
Trident Seafoods Corporation
5303 Shilshole Ave. NW
Seattle, Washington 98107

