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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA, AND STATE OF ALASKA Plaintiffs, v. UNISEA, INCORPORATED, Defendant.	Civil Action No.

CONSENT DECREE

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Plaintiffs United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), and the State of Alaska, on behalf of the Alaska Department of Environmental Conservation ("ADEC"), have filed a complaint in this action concurrently with this Consent Decree, alleging that Defendant, UNISEA, INCORPORATED (hereinafter "Unisea" or "Defendant"), violated Sections 301, 309, and 402 of the Clean Water Act, as amended ("CWA"), 33 U.S.C. §§ 1311, 1319, and 1342; Sections 103 and 109 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9603 and 9609; Sections 304 and 325 of the Emergency Planning and Community Right-To-Know Act, as amended (EPCRA), 42 U.S.C. §§ 11004 and 11045; and Alaska Statutes ("AS") 46.03.100, 46.03.710, 46.03.745, 46.03.822 and 46.09.010(a), and Title 18, Alaska Administrative Code ("AAC") 70.010, 75.300(a) and (e), 83.015(a), 83.155(f), and 83.405(b) .

The Complaint against Defendant alleges that the Defendant failed to notify the National Response Center, the Alaska Department of Environmental Conservation ("ADEC"), the Alaska State Emergency Response Commission ("SERC"), the Aleutian and Pribilof Islands Local Emergency Planning Committee ("LEPC"),and the Unalaska Department of Public Safety immediately upon becoming aware of a release of a hazardous substance (anhydrous ammonia) from its Dutch Harbor, Alaska facility into Iliuliuk Harbor on or about December 11, 2007 and December 22, 2007, and failed to provide a follow-up written notice to the Alaska SERC and the Aleutian and Pribilof Islands LEPC. In addition, the Complaint alleges that the Defendant released anhydrous ammonia, elevated pH, propylene glycol, and seafood processing waste and wastewater from outfalls at its Dutch Harbor facility beginning in approximately October of

2005, and continuing thereafter, in violation of the terms of NPDES permit #AK-002865-7 issued by EPA to Defendant on April 1, 2003, which did not allow discharges of these pollutants; and that Defendant failed to report certain of these violations to EPA or ADEC as required by its NPDES permit and applicable Alaska law.

The Complaint also alleges that the Defendant discharged smaller amounts of anhydrous ammonia in purge water and other pollutants from point sources to state waters beginning in approximately October of 2005, and continuing thereafter, without an Alaska Pollution Discharge Elimination System ("APDES") permit issued by the State.

More specifically, EPA's and ADEC's investigation has revealed the following facts:

Unisea is a Washington corporation with its principal place of business, a seafood processing facility, located on southeast Amaknak Island, in Unalaska, Alaska. Unalaska is located along the Aleutian Island chain, approximately 800 miles southwest of Anchorage. Dutch Harbor, the official name of the city's port, is the largest port in terms of fish landings in the United States.

Unisea's corporate offices are located at 15400 N.E. 90th Street, Redmond, Washington 98073-9719. Unisea also operates a secondary processing facility at the Redmond, Washington location. Unisea produces seafood products from Pollock, Pollock Roe, Pacific Cod, Black Cod, Snow Crab, King Crab, Halibut, Whitefish Meal, and Fish Oil. Unisea's corporate headquarters in Redmond provides a variety of support services for its operating units. Unisea's parent company, Nippon Suisan Kaisha, headquartered in Japan, claims Unisea among its largest subsidiaries.

At its Dutch Harbor facility, Unisea has two main processing plants, G1 and G2. At all times relevant to EPA's investigation, the G2 plant contained 12 ammonia refrigeration condensers, which were cooled with seawater via pumping through metal tubes within the body of the condenser unit. This non-contact cooling water then flowed through pipes into the receiving waters of Iliuliuk Harbor, through a pipe the facility designates Outfall 002. The G2 plant's condenser tubes were previously equipped with zinc-galvanized tubes, but were replaced between 1998 and 2003 because of corrosion and erosion problems. These replacement condenser tubes were made of thicker, non-galvanized steel.

In late 2004 or 2005, Unisea Environmental Compliance Supervisor Jeremy Higgins noticed an ammonia odor emanating from either permitted Outfall 002 or the adjacent storm water outfall. Higgins discussed these ammonia discharges with his supervisor, Unisea Quality Assurance Manager Lisa Petro. Higgins then worked with Unisea Maintenance Engineering Director Art Ailment and Unisea Maintenance Supervisor Tim Shorts and determined the source of the ammonia odor at the storm drain outfall to be ammonia purging from the G2 refrigeration system into the storm water outflow at the facility.

Sometime before April 2006, Lisa Petro, Unisea Production Director Pete Maloney, Art Ailment, and Jeremy Higgins discussed re-routing the ammonia purgewater from the storm drain to Outfall 002 (non-contact cooling water). In mid-2006, Unisea Environmental Compliance Manager Eric Graham was assigned Unisea's environmental compliance responsibilities, but Petro maintained her quality assurance duties at Unisea. On or about May 2007, Petro was no longer employed by Unisea, and was replaced by Unisea Director of Quality Assurance and Environmental Programs Joe Frazier.

Unisea's stormwater system received industrial waste/process wastewater as a routine method of disposal (*e.g.*, the ammonia purgewater and sump pump discharges). This method of disposal is not authorized or permitted under the Clean Water Act. On February 28, 2007, Unisea submitted to EPA a "No Exposure Certification for Exclusion from NPDES Stormwater Permitting." This certification claims on the form's checklist that Unisea is exempt from stormwater permitting, when in fact Unisea knew that its stormwater discharges contained ammonia and other pollutants which would cause the facility not to be entitled to the requested exemption.

In May 2007, Joe Frazier returned to work at Unisea as its Director of Quality Assurance and Environmental Programs. His previous employment at Unisea was between 1988 and 2000. Sometime in the summer of 2007, Frazier was briefed by Pete Maloney, Eric Graham, and Art Ailment that Unisea's Dutch Harbor facility's Power House sump was discharging without a permit to a storm drain. On April 11, 2008, Frazier told EPA-CID that he realized the above-referenced discharges, including the ammonia purgewater, were not permitted and planned to consolidate waste streams and seek a permit for these discharges in Unisea's pending NPDES permit renewal application process. In July 2007, Frazier was advised by Ailment that the G2 refrigeration system was discharging ammonia purgewater to a storm drain without a permit and understood that the purgewater exhibited elevated pH levels.

In August or September 2007, Frazier and Maloney briefed Unisea President Terry Shaff about unpermitted discharges of ammonia purgewater to the storm sewer and discharges from the Power House sump pump. They explained how the unpermitted discharges were going to be re-routed to Outfall 002, but that such discharges would require permitting.

Sometime in the summer of 2007, in an effort to characterize waste streams in preparation of Unisea's pending NPDES re-application, Eric Graham directed Unisea Environmental Compliance Supervisor Amelia Adkins to characterize the Power House discharges, including sampling Unisea's ammonia purge water discharging into the bay thru an un-permitted storm water outfall. Adkins says that planning for this event was directed by Joe Frazier and Environmental Consultant Alan Ismond.

Between August 25, 2007 and September 7, 2007, Amelia Adkins and Unisea Environmental Technician Derek Higga collected samples and measured pH from the last storm drain prior to discharge in Iliuliuk Harbor. Samples and measurements show Unisea discharged pollutants to waters of the United States without a permit. Adkins measured pH up to 11 and 12 units, which violated EPA's water quality standard maximum of 9.0 units. Other pollutants measured and discharged include ammonia, biological oxygen demand (BOD), and total suspended solids (TSS).

On September 28, 2007, Unisea submitted its NPDES permit re-application to EPA. Notably, it requested to modify the permitted discharge from Outfall 002 (permitted only for non-contact cooling water). The re-application sought to discharge pollutants, including ammonia purge water.

Sometime in the fall of 2007, Unisea re-routed the ammonia purgewater from the storm drain to Outfall 002. Art Ailment informed EPA that Unisea made the decision to re-route the ammonia purgewater from the storm drain to Outfall 002 because Unisea was concerned about the fact that it was not allowed to discharge ammonia from any part of its storm water drainage system. The decision in the fall of 2007 to re-route Unisea's ammonia purgewater to Outfall 002

occurred in a meeting among Art Ailment, Joe Frazier, Pete Maloney, Eric Graham, and Amelia Adkins, according to Ailment.

On December 11, 2007, during scheduled maintenance and cleaning of condenser #11, Unisea Refrigeration Technician Dave Keil located three leaking condenser tubes. Unisea Maintenance Supervisor Tim Shorts was advised of these leaks, and Shorts then told Ailment that an ammonia leak had occurred. An after-the-fact review of data by Unisea determined that this leak discharged approximately 8600 lbs of ammonia through Outfall 002, which is permitted only for discharge of non-contact cooling water. Later review of data by a contractor to Unisea determined that as early as 12/01/07 to at least 12/11/07, approximately 6437 pounds of ammonia were released from the facility, an average release rate of 585 pounds per day.

On or about December 11, 2007, Unisea made a decision to seal the leaking tubes by welding the ends of each leaking tube and eventually place condenser #11 back into service. During the process of plugging condenser #11's tubes, Dave Keil pressurized the condenser with anhydrous ammonia and planned to leave the condenser under charge through the night. At approximately 6:30 PM, employees at the Unisea Power House smelled leaking ammonia and called Refrigeration Technicians Laut Nguyen and Dave Keil, who returned to attend to the leak and determined that a fourth tube was leaking.

On or about December 13, 2007, Maintenance Planner Clancy Niblack returned from vacation and was advised by Ailment that condenser #11 had leaked anhydrous ammonia. Neither Unisea's Maintenance Engineering Director Art Ailment, nor Clancy Niblack, nor any other Unisea employee immediately disclosed this release to the authorities, including the U.S. Coast Guard, EPA, ADEC or the Unalaska Department of Public Safety. On December 28,

2007, two (2) 1700 pound tanks of anhydrous ammonia were injected into the refrigeration system before the start of Unisea's next processing season.

From December 21, 2007, to January 3, 2008, Ailment was on vacation, but still at the Unisea facility, tending to personal matters. On December 22, 2007, Dave Keil reviewed Unisea's ammonia HPR bull's eye log and determined that a significant loss of ammonia had again occurred. By testing samples of the non-contact cooling water, he found that a leak in Condenser #6 was responsible. The leak vibrated the catwalk on which the condensers rested and was audible. An after-the-fact review of data by Unisea determined that this leak from condenser #6 into Iliuliuk Harbor through Outfall 002 discharged approximately 8600 lbs of ammonia through Outfall 002, which is permitted only for discharge of non-contact cooling water. Later review of data by a contractor to Unisea determined that between 12/21/07 and 12/22/07, approximately 11,569 pounds of ammonia was released from the facility. Neither Unisea's Maintenance Engineering Director Art Ailment, nor Clancy Niblack, nor any other Unisea employee immediately disclosed this release to the authorities, including the U.S. Coast Guard, EPA, ADEC or the Unalaska Department of Public Safety. Dave Keil isolated and secured condenser #6 from the system, and then notified his acting immediate supervisor Eric Holuu and the acting Maintenance Director Clancy Niblack of the release. Niblack was nominally Unisea's Maintenance Planner, but was acting on Art Ailment's behalf while Ailment was on leave. Niblack phoned Ailment and advised him of the situation. Ailment walked to the Reefer Flat building and confirmed the release, concluding that the system nearly depleted its ammonia charge into the non-contact cooling water, which discharges into Iliuliuk Harbor. Ailment then directed Dave Keil to inject two 1700 pound tanks of anhydrous ammonia into the

refrigeration system before the end of the year. Eventually, nine or ten 1700 pound tanks were added to the system between December 28, 2007 and January 19, 2008.

Five weeks after the December 11, 2007 discharge of ammonia, and after Unisea's Dutch Harbor facility knew that over 17,000 pounds of ammonia had leaked into the water outside the facility, and a portion into the air at the facility, Art Ailment advised Safety and Security Manager Gregg Bishop about these releases. On January 17, 2008, Unisea held a bimonthly "Everyday Focus" meeting, and it was after this meeting that Art Ailment advised Gregg Bishop about the previous month's releases of anhydrous ammonia. The meeting was held in Dutch Harbor, but was internet linked with Unisea's headquarters in Redmond, Washington. Meeting attendees in Dutch Harbor included Art Ailment, President Terry Shaff, and others. During the meeting, Gregg Bishop mentioned that a company was recently fined for failing to report a chlorine release. Following the meeting, Ailment advised Bishop about Unisea's previous month's releases of anhydrous ammonia.

On January 17, 2008, approximately 37 days after the December 11th release, and 26 days following the December 22nd release, Gregg Bishop after having been advised by Ailment of the release, notified the National Response Center that approximately 17,200 pounds of anhydrous ammonia were released by Unisea on December 22, 2007, from Condenser #6. The amount released on December 22nd was revised by Bishop in a supplemental report to the NRC on January 24, 2008. As described previously, an after-the-fact review of data by Unisea determined that only approximately 11,569 pounds of ammonia were released on December 22nd.

On January 24, 2008, Gregg Bishop made a second notification to the NRC, advising that Unisea actually experienced two (2) releases of ammonia during December 2007. The January

24th report advised that Unisea released an approximate total of 17,200 pounds of ammonia between December 11, 2007 (Condenser #11 leak) and December 22, 2007 (Condenser #6 leak). This notification was made approximately 44 days following the release of ammonia on December 11, 2007.

Unisea did not timely notify ADEC of the two ammonia releases. ADEC first learned of the releases from the Alaska State Trooper on January 17, 2010.

On February 11, 2008, EPA's Criminal Investigation Division & ADEC conducted a consensual search and seizure at Unisea and interviewed employees. EPA collected three (3) metallurgical specimens from the G2 condenser tubes, various records, and made photographs. EPA traced ammonia purge water to the recently installed settling tank (also used for dilution) prior to discharge to Power House sump. Litmus paper indicates this purge water had an approximate pH of 11.0 and the odor of ammonia. Unisea's redirection of ammonia purge water through this settling tank ultimately leads to Outfall 002.

On February 28, 2008, in response to an information request from EPA as part of Unisea's NPDES permit re-application, Joe Frazier submitted analytical results for discharges made through Outfalls 001, 003, and 004 during ten days of sampling between January 22, 2008 and February 18, 2008. Analytical results for this period show unpermitted discharges of ammonia through Outfalls 001, 003, and 004.

Defendant does not admit any liability to the United States or the State of Alaska arising out of the transactions or occurrences alleged in the Complaint.

The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action and the Parties, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Sections 301, 309, and 402 of the CWA, 33 U.S.C. §§ 1311, 1319, and 1342, and Sections 103 and 109 of CERCLA, 42 U.S.C. §§ 9603 and 9609, Sections 304(a), (b) and (c) of EPCRA, 42 U.S.C. §§ 11004(a) and (b). This Court has jurisdiction over the State of Alaska's claims pursuant to AS Title 46 and Title 18 AAC under the supplemental jurisdiction doctrine. Venue lies in this District pursuant to 33 U.S.C. § 1319(b), 42 U.S.C. § 9609(c), and 42 U.S.C. § 11045(a), 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1395(a), because the violations alleged in the Complaint are alleged to have occurred in, and Defendant conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree and any such action and over Defendant and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Section 309 of the CWA, 33 U.S.C.

§ 1319, Section 109 of CERCLA, 42 U.S.C. § 9609, Section 325 of EPCRA, 42 U.S.C. § 11045, and AS 46.03.760, 46.03.765 and 46.03.822.

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States, the State of Alaska, and upon Defendant and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of the Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Decree are implemented. At least thirty (30) Days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA Region 10, the United States Attorney for the District of Alaska, the United States Department of Justice and the State of Alaska, in accordance with Section XIV of this Decree (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

5. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

7. Terms used in this Consent Decree that are defined in the CWA, CERCLA, or EPCRA or in regulations promulgated pursuant to those Acts shall have the meanings assigned to them in the Acts or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. "ADEC" means the Alaska Department of Environmental Conservation;

b. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq.;

c. "Complaint" shall mean the complaints filed by the United States and the State of Alaska in this action;

d. "Consent Decree" or "Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXIV);

e. "CWA" means the Clean Water Act, as amended, 33 U.S.C. §§ 1251 et seq.;

f. "Day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day

would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day;

g. "Defendant" shall mean Unisea, Incorporated;

h. "DOJ" shall mean the United States Department of Justice;

i. "EPA" shall mean the United States Environmental Protection Agency and any of its successor departments or agencies;

j. "EPCRA" means the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001 et seq.;

k. "Effective Date" shall have the definition provided in Section XV;

l. "Facility" shall mean Defendant's seafood processing facility (including all related property, equipment, outfalls, discharge pipes, and facilities) located on southeast Amaknak Island, in Unalaska, Alaska, with a general mailing address of 88 Salmon Way, Dutch Harbor, Alaska 99692;

m. "Hazardous waste constituent" shall have the meaning given that term in 40 C.F.R. § 260.10;

n. "Hazardous substance" shall have the meaning given that term in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and in AS 46.03.826(5) and 18 AAC 75.990(48);

o. "Paragraph" shall mean a portion of this Decree identified by an arabic numeral;

p. "Parties" shall mean the United States, the State of Alaska, and Defendant;

q. "Pollutant" shall have the meaning given that term under Section 502(6) of the CWA, 33 U.S.C. § 1362(6) and in 18 AAC 83.990(49);

r. "Section" shall mean a portion of this Decree identified by a roman numeral;

s. "State" shall mean the State of Alaska;

t. "United States" shall mean the United States of America, acting on behalf of EPA; and

u. "Work" shall mean all activities Defendant is required to perform under this Consent Decree.

IV. CIVIL PENALTY AND ASSESSMENT

8. Within 30 Days after the Effective Date of this Consent Decree, Defendant shall pay the sum total of $1,909,375.00 as a civil penalty, together with interest accruing from the date payment is due as specified herein, at the rate specified in 28 U.S.C. § 1961 as of the date of lodging. Of the $1,909,375.00 civil penalty amount, $133,250.00 is a civil penalty pursuant to Section 109 of CERCLA, $975,000.00 is a civil penalty pursuant to Section 325 of EPCRA, $297,000.00 is a civil penalty pursuant to Section 309 of the CWA, and $504,125.00 is a civil assessment pursuant to AS 46.03.760(a) and (e).

9. Defendant shall pay $1,272,000.00 of the civil penalty due by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice in accordance with written instructions to be provided to Defendant, following lodging of the Consent Decree, by the Financial Litigation Unit of the U.S. Attorney's Office for the District of Alaska, Federal Building & U.S. Courthouse, 222 W. 7th Avenue, #9, Room 253, Anchorage, Alaska 99513-

7567, telephone 907-271-5071. At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Unisea, Incorporated*, and shall reference the civil action number and DOJ case number assigned to this case, to the United States in accordance with Section XIV of this Decree (Notices); by email to acctsreceivable.CINWD@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

10. Defendant shall pay to the EPA $133,250.00 by FedWire EFT to the U.S. Department of Justice in accordance with written instructions to be provided to Defendant, following lodging of the Consent Decree, referencing the civil action number and DOJ case number assigned to this case. Payment shall be made in accordance with instructions provided to Defendant by the Financial Litigation Unit of the U.S. Attorney's Office in the District of Alaska following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day. At the time of payment, Defendant shall send notice that payment has been made to EPA and DOJ in accordance with Section XIV (Notices) of this Decree and to the U.S. Environmental Protection Agency, Cincinnati Finance Center, MS-NWD, Cincinnati, Ohio 45268. The total amount to be paid pursuant to this Paragraph shall be deposited in the EPA Hazardous Substance Superfund.

11. Defendant shall pay to the State of Alaska a civil assessment of $504,125.00 in accordance with written wiring instructions to be provided to Defendant, following lodging of the Consent Decree, by the State of Alaska. At the time of payment,

Defendant shall send a copy of the transaction record, together with a transmittal letter, which shall state that the payment is for the civil assessment owed to the State of Alaska pursuant to the Consent Decree in *United States v. Unisea, Incorporated*, and shall reference the civil action number DOJ case number assigned to this case, to the State of Alaska in accordance with Section XIV of this Decree (Notices); by email to dor.trs.cashmgmt@alaska.gov; and by mail to Office of Special Prosecutions, 310 K Street, Suite 308, Anchorage, AK 99501, Attn: Daniel L. Cheyette.

12. Defendant shall not deduct any penalties or assessments paid under this Decree pursuant to this Section or Section VIII (Stipulated Penalties) in calculating its federal, state or local income tax.

V. COMPLIANCE REQUIREMENTS

13. Subject to the resolution of claims provided in Paragraph 64, Defendant shall comply with the terms and conditions of its NPDES permit, as well as with all other applicable requirements of all federal and state environmental laws and regulations, including but not limited to the CWA, CERCLA, EPCRA, Title 46 of the Alaska Statutes and Title 18 of the Alaska Administrative Code with respect to the Facility.

Benthic Impact Survey

14. Within thirty (30) Days of entry of this Consent Decree, Defendant shall submit a list of proposed contractors to EPA to prepare a Study Design and Quality Assurance Project Plan (QAPP) . The Study Design and QAPP shall list out the milestones for conducting and completing the Benthic Impact Survey. The Study Design, QAPP, and the Benthic Impact Survey shall address, at a minimum, the elements as laid out in Appendix B to this Decree. The

Benthic Impact Survey shall survey all seafood processing waste that was deposited on the seafloor at Unisea's Dutch Harbor discharge location. The schedule requirements in this Paragraph may be extended as provided in Section IX (Force Majeure) for, among other events, weather conditions.

Waste Remediation Plan

15. EPA shall review and assess the Benthic Impact Survey and EPA shall thereafter notify Defendant in writing whether Defendant will be required to remove all, some percentage by volume, or none of the seafood processing waste located on the seafloor at Unisea's Dutch Harbor discharge locations. If EPA requests Defendant remove some or all of the seafood processing waste, Defendant shall submit a draft Waste Remediation Plan to EPA no later than one hundred and twenty (120) Days from the date Defendant receives written notification from EPA to prepare such a plan. EPA shall review and send comment on the draft plan to Defendant, and within thirty (30) Days after receipt of EPA's written comments on the draft Waste Remediation Plan, Defendant shall submit a final Waste Remediation Plan to EPA for final review and approval that incorporates all of EPA's written comments. Within fifteen (15) Days of receipt of EPA's written approval of the final Waste Remediation Plan, Defendant shall commence work in accordance with the EPA-approved final Waste Remediation Plan. EPA will provide Defendant with an estimate of the duration of their review activities in this Section and Appendix B to assist Defendant with the Scheduling of its activities to comply with the requirements of this Section. The seafood waste pile debris shall be dewatered and sent to Unisea's discharge location 004 or disposed of as an at-sea disposal site per Section I.D. of

Unisea's NPDES permit. The removal of the seafood waste pile debris, monitoring, and final report shall address, at a minimum, the following elements:

A. Bottom survey:

i. Pre-dredge dive survey will be conducted to establish the pile perimeter and buoys to be placed for surface reference as needed.

ii. Dive surveys will be conducted periodically during the dredge operation to monitor the effectiveness of the pile removal and to ensure that minimal damage occurs to the seabed. Visibility may be limited which could limit dives to certain tidal periods.

iii. A complete post-dredge dive survey will be conducted to record degree of pile removal and state of seabed.

iv. A report will be submitted to EPA containing the results of the above surveys and monitoring.

B. Dewatering the dredge spoils:

i. Screening with reinforcing steel will be installed on the clamshell scoop to prevent loss of material over the top.

ii. Containment tarps will be laid on deck of receiving vessels to prevent any unintended overboard spillage of material.

iii. A fence of reinforced expanded steel mesh backed with fabric silt fence material will be installed on one or two sides of the material pen area to allow for dewatering of material. The silt fence will prevent any but the finest suspended solids from escaping overboard.

iv. Operator will conduct on-site visual survey of water surface during dredging and record observations in a log.

v. Care by the operator will be taken to observe the spoils obtained in the dredge bucket each time and measures will be taken to minimize damage to the seabed when digging beneath the actual waste pile.

vi. When practical, video recording, of the material on the boat, on a daily basis will show a visual sampling of the composition of the dredged material.

C. Monitoring the dumping of material at approved site:

i. Calculate by best estimate the volume of each load of material to be dumped.

ii. Record the date, time of day, and start and stop positions of dump site for each load dumped.

iii. Boat must be traveling at minimum 3 knots when dumping.

iv. Sea life or activity will be monitored and recorded at time of dumping.

v. Weather conditions will be recorded at time of dumping.

vi. Visual surface observations will be recorded at time of dumping.

vii. All of the above will be logged in for compilation in final report. The field work required under the final Remediation Plan shall be completed by Unisea within two hundred and seventy (270) Days from the commencement of the field work. The final report shall be submitted to EPA within sixty (60) Days from the completion of the field work. The schedule requirements in this Paragraph may be extended as provided in Section IX (Force Majeure)

for, among other events, weather conditions.

16. Approval of Deliverables. After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Decree, EPA shall in writing: a) approve the submission; b) approve the submission upon specified conditions; c) approve part of the submission and disapprove the remainder; or d) disapprove the submission.

17. If the submission is approved pursuant to Paragraph 16.a, Defendant shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part, pursuant to Paragraph 16.b or .c, Defendant shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Defendant's right to dispute only the specified conditions or the disapproved portions, under Section X of this Decree (Dispute Resolution).

18. If the submission is disapproved in whole or in part pursuant to Paragraph 16.c or .d, Defendant shall, within forty-five (45) Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Defendant shall proceed in accordance with the preceding Paragraph.

19. Any stipulated penalties applicable to the original submission, as provided in Section VIII (Stipulated Penalties) of this Decree, shall accrue during the forty-five (45) Day period or other specified period, but shall not be payable unless the resubmission is untimely or

is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Defendant's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

20. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Defendant to correct any deficiencies, in accordance with the preceding Paragraphs, or may itself/themselves correct any deficiencies, subject to Defendant's right to invoke Dispute Resolution and the right of EPA to seek stipulated penalties as provided in the preceding Paragraphs.

21. Permits. Where any compliance obligation under this Section requires Defendant to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section IX of this Consent Decree (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. ENVIRONMENTAL MANAGEMENT SYSTEM ANALYSIS

22. EPA has received a copy of the Defendant's April 2009 report entitled "Unisea EMS Audit Report, Dutch Harbor, Alaska Facility" (hereinafter "ERM Audit") prepared by ERM-West, a Unisea contractor. EPA is in the process of analyzing findings, conclusions, and recommendations contained in the ERM Audit. If EPA determines that a supplemental

Environmental Management System Analysis is appropriate, EPA shall notify Unisea in writing, and within thirty (30) Days Unisea shall submit to EPA for review and approval its Request for Proposals ("RFP") for performance of a supplemental Environmental Management Systems Analysis to complement or supplant the work already completed in the ERM Audit. The RFP shall set specifications such that a potential Management Consultant can accurately develop a Workplan designed to meet the requirements of the Environmental Management Systems Analysis Protocol as set forth in Appendix A, and conform to the procedures set forth in this Consent Decree. EPA's approval of the RFP shall not relieve Defendant of its responsibility to meet the objectives and criteria set forth in Appendix A.

23. Within thirty (30) Days after receiving EPA's approval of the RFP, the Defendant shall submit to EPA for review and approval the name of the potential Management Consultant that the Defendant proposes to hire to develop, and complete the actions set forth in, a Workplan designed to meet the requirements of the Environmental Systems Analysis Protocol as set forth in Appendix A. Along with the submission of the name of the potential Management Consultant pursuant to this Paragraph, the Defendant will disclose to EPA: (a) any prior or anticipated relationship between the potential Management Consultant and the Defendant, including any ownership of stock by the Management Consultant in the Defendant, any previous or anticipated contractual relationships; and (b) the expertise, experience, and competence of the Management Consultant to perform the work being contracted for.

24. Within ninety (90) Days of EPA's approval of the potential Management Consultant, Defendant shall submit to EPA for review and approval a proposed Workplan, prepared by the Management Consultant in conjunction with the Defendant, for the supplemental

Environmental Management Systems Analysis. The proposed Workplan shall specify the Management Consultant's plan for implementing the supplemental Environmental Management Systems Analysis as outlined in the RFP, and shall be designed to meet the objectives and criteria set forth in Sections I and II.A. of Appendix A. The Workplan shall also incorporate, to the extent specified in writing by EPA, the analysis, conclusions, and recommendations contained in the ERM Audit. The Workplan shall include a schedule for completion of all tasks set forth in the Workplan.

25. Within one hundred and twenty (120) Days after EPA's approval of the Workplan, the Management Consultant shall submit to Defendant its supplemental Environmental Management Systems Report, and the Defendant, within one hundred and thirty (130) Days after EPA's approval of the Workplan, submit to EPA for review and approval the recommendations section of such Report (the "Recommendations Section"), under the procedure outlined in Section III of Appendix A. The Management Consultant shall prepare the supplemental Environmental Management Systems Report according to the schedule set forth in the Workplan. The supplemental Environmental Management Systems Report shall address, and the Recommendations Section shall reflect, the objectives and criteria set forth in Sections I and II.A. of Appendix A. The supplemental Environmental Management Systems Report shall also incorporate, to the extent specified in writing by EPA, the analysis, conclusions, and recommendations contained in the ERM Audit.

26. Within ninety (90) Days after EPA approves the Recommendations Section of the supplemental Environmental Management Systems Report or within sixty (60) Days after EPA approves the Conclusions and Recommendations Section of the ERM Audit, as

applicable, Defendant shall submit to EPA for review and approval an Environmental Management Systems Improvement Plan describing what actions Defendant has taken or will take to address each of the recommendations of the ERM Audit and/or the supplemental Environmental Management Systems Report and achieve the objectives of Appendix A, and a schedule for completion of all such actions. EPA will provide Defendant with an estimate of the duration of its review activities in this Section to assist Defendant with the scheduling of its activities to comply with the requirements of this Section.

27. The Defendant shall complete the actions in the approved Environmental Management Systems Improvement Plan according to the schedule submitted and approved with that plan.

VII. REPORTING REQUIREMENTS

28. Defendant shall submit the following reports to EPA and ADEC:

a. Within thirty (30) Days after the end of each calendar-year quarter (i.e., by April 30th, July 30th, October 30th, and January 30th) after lodging of this Consent Decree, until termination of this Decree pursuant to Section XVIII, Defendant shall submit in writing a quarterly report for the preceding quarter that shall include the progress in completion of the benthic survey, the removal (if deemed necessary by EPA) of the seafood processing waste piles, and the completion of the Environmental Management Systems Analysis; completion of milestones; problems encountered or anticipated, together with implemented or proposed solutions; status of permit applications; operation and maintenance; reports to state agencies; and a summary of costs incurred since the previous report.

b. The report shall also include a description of any non-compliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If Defendant violates, or has reason to believe that it may violate, any requirement of this Consent Decree, Defendant shall notify the United States and the State of Alaska of such violation and its likely duration, in writing, within ten (10) Days of the Day Defendant first becomes aware of the violation, with an explanation of the violations likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within thirty (30) Days of the Day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section IX of this Consent Decree (Force Majeure).

29. Whenever any violation of this Consent Decree or of any applicable permits or any other event affecting Defendant's performance under this Decree, or the performance of its Facility, may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA and ADEC orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

30. All reports shall be submitted to the persons designated in Section XIV of this Consent Decree (Notices).

31. Each report submitted by Defendant under this Section shall be signed by an official of the submitting party and include the following certification:

> I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

32. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the CWA, CERCLA, or EPCRA or their implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

33. Any information provided pursuant to this Consent Decree may be used by the United States or the State of Alaska in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VIII. STIPULATED PENALTIES

34. Defendant shall be liable for stipulated penalties to the United States and the State of Alaska for violations of this Consent Decree as specified below, unless excused

under Section IX (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

35. Late Payment of Civil Penalty and/or Assessment

If Defendant fails to pay the civil penalty or assessment required to be paid under Section IV of this Decree (Civil Penalty) to the United States or to the State of Alaska when due, Defendant shall pay a stipulated penalty to the United States or to the State of Alaska, as applicable, of $ 1,000.00 per Day for each Day that the payment is late.

36. Compliance Milestones

a. The following stipulated penalties shall be payable to the United States and shall accrue per violation per Day for each violation of the major milestones identified in subparagraph b:

Penalty Per Violation Per Day	Period of Noncompliance
$ 100.00	1st through 14th Day
$ 1,000.00	15th through 30th Day
$ 5,000.00	31st Day and beyond

b. The following is a list of the major milestones for Defendant's completion of the benthic survey, completion (if required by EPA) of the partial or complete removal of the seafood processing waste piles, and completion of the Environmental Management Systems Analysis, as required by Section V (Compliance Requirements) and Section VI (Environmental Management Systems Analysis) of this Decree:

Benthic Impact Survey:

i. Submittal of list of proposed contractor(s) to EPA;
ii. Selection of contractor(s);
iii. Submittal of draft QAPP to EPA;
iv. Submittal of final QAPP to EPA;
v. Commencement of field work;
vi. Finalization of field work;
vii. Submittal of draft Project Report to EPA; and
viii. Submittal of final Project Report to EPA.

Waste Remediation Plan:

i. Submittal of draft Waste Remediation Plan to EPA;
ii. Submittal of final Waste Remediation Plan to EPA;
iii. Commencement of field work;
iv. Completion of field work; and
v. Submittal of final Report to EPA.

Environmental Management Systems Analysis:

i. Submittal of draft Request for Proposals to EPA;
ii. Submittal of names of project management consultant(s) to EPA;
iii. Submittal of draft Workplan to EPA;
iv. Submittal of supplemental Environmental Management Systems Report to EPA;
v. Submittal of Recommendations Section of the supplemental Environmental Management Systems Report to EPA; and
vi. Submittal of Environmental Management Systems Improvement Plan to EPA.

37. Reporting Requirements. The following stipulated penalties shall be payable jointly to the United States and the State of Alaska and shall accrue per violation per Day for each violation of the reporting requirements of Section VII of this Consent Decree:

Penalty Per Violation Per Day	Period of Noncompliance
$ 100.00	1st through 14th Day
$ 500.00	15th through 30th Day
$ 1,000.00	31st Day and beyond

38. Except as provided in subparagraphs 36a and b, above, stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

39. Defendant shall pay any stipulated penalty within thirty (30) Days of receiving the United States' and/or the State of Alaska's written demand.

40. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree. The State may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

41. Stipulated penalties shall continue to accrue as provided in Paragraph 38, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA and/or the State of Alaska that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States and/or the State of Alaska within thirty (30) Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States and/or the State of Alaska prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) Days of receiving the final appellate court decision.

42. Defendant shall pay stipulated penalties owing to the United States and/or the State of Alaska in the manner set forth and with the confirmation notices required by Paragraphs 9, 10, or 11, as applicable, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

43. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. Section 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States and/or the State of Alaska from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

44. Subject to the provisions of Section XII of this Consent Decree (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States and the State of Alaska for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the CWA, CERCLA, or EPCRA or their

applicable regulatory requirements, Defendant shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

IX. FORCE MAJEURE

45. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Consent Decree.

46. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice orally or by electronic or facsimile transmission to EPA, DOJ and the State of Alaska pursuant to Paragraph 71 of Section XIV of this Decree (Notices), within 72 hours of when Defendant first knew that the event might cause a delay. Within seven days thereafter, Defendant shall provide in writing to EPA and ADEC an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether,

in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known.

47. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

48. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

49. If Defendant elects to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution), it shall do so no later than fifteen (15) Days after receipt of EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be

warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 45 and 46, above. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.

X. DISPUTE RESOLUTION

50. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

51. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed twenty (20) Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within seven (7) Days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

52. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the

United States a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

53. The United States shall serve its Statement of Position within 45 Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

54. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XIV of this Consent Decree (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within ten (10) Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

55. The United States shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules.

56. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 51 (Informal Dispute Resolution) pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 51, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of the Consent Decree.

57. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 41. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII (Stipulated Penalties).

XI. INFORMATION COLLECTION AND RETENTION

58. The United States and the State of Alaska and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:

a. monitor the progress of activities required under this Consent Decree;

b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;

c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;

d. obtain documentary evidence, including photographs and similar data related to this Consent Decree; and

e. assess Defendant's compliance with this Consent Decree.

59. Upon request, Defendant shall provide EPA and ADEC or their authorized representative splits of any samples taken by Defendant. Upon request, EPA shall provide Defendant splits of any samples taken by EPA. Upon request, ADEC shall provide Defendant splits of any samples taken by ADEC.

60. Until five (5) years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to

Defendant's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or the State of Alaska, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

61. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the State of Alaska at least ninety (90) Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or the State of Alaska, Defendant shall deliver any such documents, records, or other information to EPA or the State of Alaska. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of each author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Defendant. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

62. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2.

As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2.

63. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State of Alaska pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

64. Defendant's complete performance of all obligations in this Consent Decree resolves all civil and administrative claims of the United States and the State of Alaska against Defendant for the violations alleged in the Complaint filed in this action through the date of lodging.

65. The United States and the State of Alaska reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated in Paragraph 64. This Consent Decree shall not be construed to limit the rights of the United States or the State of Alaska to obtain penalties or injunctive relief under the Act or implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 64. The United States and the State of Alaska further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's Facility, whether related to the violations addressed in this Consent Decree or otherwise.

66. In any subsequent administrative or judicial proceeding initiated by the United States or the State of Alaska for injunctive relief, civil penalties, other appropriate relief relating to the Facility, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State of Alaska in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 64 of this Section.

67. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the State of Alaska do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA, CERCLA, or EPCRA, 33 U.S.C. § 1251 *et seq.*, 42 U.S.C. § 9601 *et seq.*, or 42 U.S.C. § 11001 *et seq.*, or with any other provisions of federal, State, or local laws, regulations, or permits.

68. This Consent Decree does not limit or affect the rights of Defendant or of the United States or of the State of Alaska against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

69. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIII. COSTS

70. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the State of Alaska shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XIV. NOTICES

71. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing, transmitted by first class mail or express mail and addressed as follows:

To the United States:

Kevin Feldis
Assistant United States Attorney
District of Alaska
Federal Building & U.S. Courthouse
222 W. 7th Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
Telephone: (907) 271-5071

and

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611
Re: DOJ No. _____

To EPA:

Cara Steiner-Riley
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 6th Avenue, Suite 900
Seattle, Washington 98101

and

Robert Grandinetti, Compliance Officer
NPDES Compliance Unit
U.S. Environmental Protection Agency, Region 10
309 Bradley Boulevard, Suite 115
Richland, Washington 99352

To the State:

Daniel Cheyette
Assistant Attorney General
Office of Special Prosecutions
Office of the Attorney General
310 K Street, Suite 308
Anchorage, AK 99501

and

Chris Foley
Alaska Department of Environmental Conservation
Water Quality Program Manager
555 Cordova Street
Anchorage, AK 99501

To Defendant:

Stephen Goodman
Graham & Dunn
2801 Alaskan Way, Suite 300
Seattle, WA 98121

Gregg Bishop
UniSea, Inc.
P.O. Box 920008
Dutch Harbor, Alaska 99692

72. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

73. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XV. EFFECTIVE DATE

74. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket; provided, however, that Defendant hereby agrees that it shall be bound to perform duties scheduled to occur prior to the Effective Date. In the event the United States or the State of Alaska withdraws or withholds consent to this Consent Decree before entry, or the Court declines to enter the Consent Decree, then the preceding requirement to perform duties scheduled to occur before the Effective Date shall terminate.

XVI. RETENTION OF JURISDICTION

75. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections X and XVII, or effectuating or enforcing compliance with the terms of this Decree.

XVII. MODIFICATION

76. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

77. Any disputes concerning modification of this Decree shall be resolved pursuant to Section X of this Decree (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 56, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVIII. TERMINATION

78. After Defendant has completed the requirements of Section V (Compliance Requirements) of this Decree, has thereafter maintained continuous satisfactory compliance with this Consent Decree and Defendant's permit for a period of three years, has complied with all other requirements of this Consent Decree, including the Environmental Management System required by Appendix A of this Decree, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendant may serve upon

the United States and the State of Alaska a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

79. Following receipt by the United States and the State of Alaska of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States and the State of Alaska agree that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

80. If the United States does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section X of this Decree. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination, until thirty (30) days after service of its Request for Termination.

XIX. PUBLIC PARTICIPATION

81. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States and the State of Alaska reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of this Decree, unless the United States and the State of Alaska have notified Defendant in writing that they no longer support entry of the Decree.

XX. SIGNATORIES/SERVICE

82. Each undersigned representative of Defendant and other parties to the Decree, the State of Alaska, and the United States Attorney for the District of Alaska and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

83. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons.

XXI. INTEGRATION

84. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXII. FINAL JUDGMENT

85. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State of Alaska and Defendant. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

XXIII. APPENDICES

86. The following appendices are attached to and part of this Consent Decree:

"Appendix A" is the Environmental Management Systems Analysis Protocol; and

"Appendix B" is the Benthic Impact Survey Protocol for the Zones of Deposit in Dutch Harbor.

Dated and entered this __ day of _____, 2011.

_____
UNITED STATES DISTRICT JUDGE
District of Alaska

FOR PLAINTIFF UNITED STATES OF AMERICA:

Date: 2/15/11

IGNACIA S. MORENO
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U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
Washington, DC 20044-7611

Date: 2/24/11

ROBERT MAHER
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March 7, 2011

KAREN L. LOEFFLER
UNITED STATES ATTORNEY

Date: 3/7/11

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Assistant United States Attorney
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Date: _____

CYNTHIA GILES
Assistant Administrator for Enforcement and Compliance Assurance
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1200 Pennsylvania Avenue, N.W.
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FOR PLAINTIFF UNITED STATES OF AMERICA:

Date: _____

_____
IGNACIA S. MORENO
ASSISTANT ATTORNEY GENERAL
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Date: _____

_____
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KAREN L. LOEFFLER
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_____
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Date: Feb. 2, 2011

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FOR DEFENDANT UNISEA, INCORPORATED:

Date: 17 JANUARY 2011

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President
Unisea, Incorporated
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Date: January 18, 2011

STEPHEN H. GOODMAN
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APPENDIX A

ENVIRONMENTAL MANAGEMENT SYSTEMS ANALYSIS PROTOCOL

I. OBJECTIVES

The objectives of the Environmental Management Systems Analysis are to:

A. ensure that Unisea has and maintains a high quality, comprehensive environmental management program at the Facility;

B. develop a more complete understanding of Facility processes, internal controls (management and engineering), business organization at the Facility and responsibilities with respect to applicable Environmental Laws;

C. identify any current and past environmental management practices which may affect the Management Consultant's or Defendant's understanding of the problems with Defendant's current environmental management systems, and correct those practices which adversely affect Defendant's ability to achieve compliance;

D. ensure that systems are established to identify and respond to changes in Environmental Laws and effectively address the interrelationships among environmental programs;

E. enhance existing systems or establish new systems to periodically evaluate the effectiveness of other management systems in achieving compliance with Environmental Laws.

II. ENVIRONMENTAL MANAGEMENT SYSTEMS ANALYSIS WORKPLAN

A. CRITERIA

The Workplan shall set forth the procedures the Management Consultant will follow so that upon completion of the Analysis, the Defendant and the Management Consultant will be able to:

1. evaluate:

a. all activities undertaken at the Facility which are regulated under Environmental Laws;

b. all activities undertaken at the Facility to implement the requirements of this Consent Decree; and

c. all systems (existing or proposed), plans and procedures used at corporate, business unit and Plant levels, as appropriate, with respect to the specific requirements and applicable objectives of Environmental Laws, and with respect to effective implementation of environmental management systems, plans and procedures at the Facility.

2. recommend changes to or introduction of permanent system(s) for effectively and efficiently managing Facility activities with respect to environmental compliance;

3. recommend a permanent system(s) for responding to changes in environmental regulations;

4. prepare a report, consisting of an Analysis section and a Recommendations section, in accordance with Section III of this Environmental Management Systems Analysis Protocol.

B. TASKS

The Management Consultant, in conjunction with appropriate Defendant personnel, shall prepare a Workplan to accomplish the objectives and criteria set forth in Sections I and II.A. of this Appendix A. The Workplan shall include performing the tasks described below:

1. Review or Prepare Supporting Documentation

a. Identify all activities regulated by Environmental Laws undertaken at the Facility, using site maps, plans and blueprints, with overlays identifying all locations where environmental compliance is necessary;

b. As necessary to provide an understanding of how Environmental Laws apply to the manufacturing processes and how the processes are interrelated, prepare charts and descriptions of major manufacturing processes, including descriptions of raw materials used, wastes generated,

and disposal of wastes (e.g., air emissions, reclaimed, reused or recycled materials, discharges into Iliuluik Harbor, etc.);

c. As necessary to provide an understanding of how and where Environmental Laws apply to pollutants or regulated materials generated, stored or used by Defendant, prepare a profile of all pollutants and regulated materials (including analytical results in cases where waste determinations are based on them) that also indicates all associated storage, use, generation, disposal, and emission processes and locations; and

d. Review the report prepared in April 2009 by the Defendant's contractor, ERM-West, Inc., entitled "Unisea EMS Audit Report, Dutch Harbor, Alaska, Facility" (hereinafter "ERM Report"), and to the extent specified by EPA in writing, incorporate the findings, conclusions, and recommendations of the ERM Report into the Workplan.

2. Identify Environmental Management Systems

a. establish whether there are existing systems in place or proposed by Defendant to establish compliance with Environmental Laws and if so, review systems to ascertain whether the systems are achieving compliance, including whether the systems are achieving applicable objectives of Environmental Laws.

b. where no system currently exists, identify all factors necessary to achieve compliance with Environmental Laws and the applicable objectives of Environmental Laws.

c. review organizational structure to determine appropriate location(s) for establishment of the system(s) to manage compliance.

3. Observe and Evaluate Actual Operations The Management Consultant shall observe as necessary and evaluate actual operation, maintenance and handling procedures to understand the activities regulated by Environmental Laws and the processes leading thereto which are undertaken by Defendant, including observation and evaluation of:

a. waste management practices;
b. wastewater management and control practices;
c. air emissions control and monitoring practices;
d. CERCLA and EPCRA reporting practices;
e. seafood processing waste management practices;

f. sampling and analysis practices; and
g. any other applicable practices and procedures.

4. Sample and Test To the extent necessary to meet the requirements of Sections II.B.1 and II.B.7 of this Appendix A, the Management Consultant or Defendant shall obtain and test samples of waste or process streams or emissions when:

a. the Management Consultant or Defendant perceives a need to confirm pollutant identification or hazardous waste determinations;

b. the characteristics of Defendant's discharges are unknown; or

c. it is necessary to properly evaluate potential waste minimization and pollution prevention options.

5. Interview Facility Personnel The Management Consultant shall discuss Defendant's environmental management systems with the appropriate employees at the Facility who manage or handle pollutants and wastes or are otherwise responsible for environmental compliance practices. The Management Consultant shall propose a method for maintaining the confidentiality of such employee interviews.

6. Review Records and Documents

The Management Consultant shall, as necessary to accomplish the Objectives set forth in Section I and meet the Criteria of Section II of this Appendix A, examine the following at the Facility, at Defendant's corporate offices, or otherwise within Defendant's possession or control:

a. Records to determine:

i. Whether the proper records are maintained;
ii. What personnel have knowledge of records' contents, location and maintenance;
iii. The organization of the records and the appropriateness of that organization; and,
iv. The systems that are available and in use to maintain the records.

b. All Corporate and Facility guidelines, policies and internal operating rules pertaining to Facility operations and environmental compliance;

c. Applications, licenses, permits and approvals (including state permits and approvals), or other regulatory documents pertaining to regulated activities at the Facility, including, but not limited to:

i. Operating and monitoring plans;
ii. Waste or wastewater treatability or treatment procedures, methods, sampling data and study results;
iii. Testing, sampling and analysis procedures and data collection methods (including quality control);
iv. Facility maintenance and inspection procedures and records for equipment and structures;
v. Effluent data, including data on any direct or indirect discharge to surface or ground waters;
vi. Contingency plans and emergency procedures;
vii. Employee training programs and records;
x. Emergency Planning and Community Right-to- Know documents and records; and
xi. Liability insurance required under Environmental Laws.

d. Production data and data on raw materials and raw waste characteristics as necessary to assess the proper management of pollutants, as well as to assess waste minimization and pollution prevention potential in accordance with Section II.B.7., below.

7. Assess Waste Minimization/Pollution Prevention Potential The Management Consultant shall identify to Defendant, and to EPA in accordance with Section III.B.4 of this Appendix A, any opportunity for waste minimization or pollution prevention that the Management Consultant identifies in the course of its performance of the Environmental Management Systems Analysis. Should the Management Consultant believe that it is necessary to perform additional work to identify waste minimization or pollution prevention opportunities, the Management Consultant shall inform both Defendant and EPA of the additional work the Management Consultant believes is needed. The Management Consultant shall, at Defendant's option, (a) perform such work or (b) describe the necessary work in the Recommendations Section of the Environmental Management Systems Report.

8. Assess Accident Prevention and Response Procedures Assess the capabilities of the procedures and programs in place at Defendant's Facilities to reduce the likelihood and severity of accidental releases of hazardous substances and to ensure appropriate responses by Facility personnel and communications with outside emergency assistance organizations.

C. SCHEDULE

The Workplan shall contain a schedule for performing all tasks required under the Workplan. The schedule shall require submission of the Environmental Management Systems Report no later than one hundred and twenty (120) Days after EPA's approval of the Workplan. In addition, the Management Consultant shall provide a schedule for follow-up visits and reports to verify that Defendant has effected the changes proposed in the Environmental Management Systems Improvement Plan.

D. AUDIT PERSONNEL

The Workplan shall include the names and resumes of those Management Consultant employees who will be primarily responsible for performance of the tasks set forth in the Workplan. The Workplan shall also identify personnel from Defendant's corporate office and the Facility who will be assigned to work with the Management Consultant. The specific responsibilities of each person named shall be identified in the Workplan.

III. ENVIRONMENTAL MANAGEMENT SYSTEMS REPORT

The Environmental Management Systems Report must provide a complete description of Defendant's environmental management programs, report the findings of the Environmental Management Systems Analysis and recommend initiatives for remedying problems identified. During the development of the Environmental Management Systems Report, the Management Consultant must work with appropriate corporate and Facility personnel in order to provide a basis for management acceptance of the findings of the Environmental Management Systems Report.

In order to encourage candor in communications between the Management Consultant and Defendant's employees, the Environmental Management Systems Report shall be composed of two parts: (1) Analysis of Environmental Management Systems, and (2) Recommendations. The entire Environmental Management Systems Report shall be submitted to Defendant, and the Recommendations Section shall be submitted to EPA.

A. ANALYSIS OF ENVIRONMENTAL MANAGEMENT SYSTEMS

The Analysis of Environmental Management Systems shall meet the objectives stated in Section I of this Protocol, and shall include the following:

1. A summary of Workplan tasks performed;

2. A description of the Facility and its operations, as necessary to support recommendations for the Facility;

3. Where necessary to support or understand the recommendations, a general summary of applicable information derived from interviews with employees;

4. Where necessary to support or understand the recommendations, a general description of Defendant's systems, operations, policies and practices relating to compliance with Environmental Laws;

5. An analysis of the ability of Defendant's corporate, business unit, and Facility management systems to:

a. ensure that Facility activities do not violate Environmental Laws;

b. ensure that specific plans and procedures meet the performance objectives of Environmental Laws;

c. track the Facility's environmental compliance;

d. respond effectively to emergencies or unexpected events;

e. foster communications within the Facility and between the Facility and corporate headquarters;

f. respond to changes in Environmental Laws; and

g. ensure that all required plans are capable of being implemented and are being implemented (e.g., are there periodic tests of plans to ensure implementability), and ensure that mechanisms are in place for modifying such plans in response to perceived weaknesses or changes in conditions.

6. An analysis of Defendant's efforts to incorporate into its management systems the inter-relationships:

a. of regulations within particular regulatory programs (e.g., training programs and contingency plan requirements under CERCLA); and

b. among Environmental Laws (e.g., training programs and contingency plan requirements under CERCLA and Section 112(r) of the Clean Air Act).

7. To the extent that the following items have not been addressed pursuant to Sections 1 through 6 above, the Analysis shall critique current and proposed management practices in at least these areas:

a. resources applied to environmental compliance;

b. the procedures for obtaining resources achieve or maintain environmental compliance;

c. staffing, education, personnel training and experience requirements;

d. auditing;

e. incident reporting, including but not limited to effluent limit exceedance reports, equipment malfunctions, improper waste handling, and any unpermitted disposal, release, or discharge;

f. quality assurance and quality control programs to ensure validity of results for sampling and analysis and for environmental testing procedures, including testing done by the Facility and by contract laboratories for the Facility;

g. quality and thoroughness of implementation of all sampling and analysis plans and feedback, review and response mechanisms;

h. lines of authority and accountability between various levels within the organization (including corporate, business unit and facility managers) responsible for environmental compliance and management systems, policies and practices within business units, between business units and company-wide;

i. data management systems, including any inspection logs, returned goods or surplus product reports, and internal waste tracking or manifesting systems;

j. self-monitoring reports required to be filed with EPA or any state or local authority;

k. reporting between various levels within the organization, including Facility, business unit and corporate managers, regarding internal and external environmental audits, regulatory agency notices of violation and all other compliance data documents which, when evaluated, may lead to changes in operating procedures or directives by management to modify any Facility operating procedures.

B. RECOMMENDATIONS

In the Recommendations Section, the Management Consultant shall provide a foundation for EPA's and Defendant's acceptance of the recommendations. The Recommendations Section shall meet the applicable objectives and criteria outlined in Sections I and II.A. of this Appendix A and shall include:

1. Recommendations for improvements to Defendant's management systems and compliance plans (for example, contingency plans; risk management plans; Spill Prevention, Control and Countermeasures (SPCC) plans; waste analysis plans; and training plans), plans and documents this Consent Decree requires Defendant to develop and suggestions for new programs and compliance plans, wherever weaknesses or omissions were identified in the Analysis.

2. Recommendations of ways in which Defendant can develop (or descriptions of how Defendant already has developed) environmental management systems which successfully include the elements listed in Sections III.A.5, 6 and 7 of this Appendix A.

3. Updated site maps or plans identifying all buildings at the Facility with labels indicating the locations of activities carried on within each building. Such maps where environmental compliance is necessary (including the location of all discharges/emissions; water treatment facilities; hazardous waste accumulation areas; and other areas which the Management Consultant determines should be identified to assist EPA in understanding the recommendations);

4. Updated flow charts and descriptions of manufacturing processes, focusing on descriptions of materials used and wastes generated as necessary to support recommendations or correct the information submitted in the Workplan;

5. As necessary to provide an understanding of how and where Environmental Laws apply to regulated materials generated, stored or used by Defendant, an updated profile, developed pursuant to the Workplan, of all regulated materials.

6. Consistent with the task described in Section II.B.7 of this Appendix A, (a) descriptions of additional work necessary to enable Defendant to identify waste minimization or pollution prevention opportunities, and (b) any recommendations for reducing, recycling, reusing and minimizing waste materials and emissions, including procedures to encourage process substitution.

7. Recommendations for developing a self-monitoring program to allow Defendant to regularly evaluate its compliance with applicable environmental laws and regulations, and to follow-up on activities identified in the Environmental Management Systems Improvement Plan.

8. A schedule and procedures for performing one follow-up visit at the Facility within an appropriate time after Defendant's submission of the Environmental Management Systems Improvement Plan, or the Supplemental Environmental Management Systems Improvement Plan if one is required, to verify that Defendant has effected the changes proposed in the Environmental Management Systems Improvement Plan.

APPENDIX B

Benthic Impact Survey Protocol

Defendant Unisea shall perform a Benthic Impact Study ("Benthic Study"). The purpose of the Benthic Study is to document the extent and effects of seafood processing waste on the benthos and sediments in Dutch Harbor from Unisea's outfall(s); specifically, those waters adjacent to and located near the Unisea processing plant and the discharge pipe(s) connected to the facility.

The accumulation of organic wastes to the seafloor can result in a variety of measurable adverse environmental impacts, the magnitude of which can be determined by the quantity of waste as well as the oceanographic and physiographic characteristics of the receiving environment. A receiving environment with insufficient water flow will result in: 1) accumulation of organic material; 2) a reduction or removal of overlying oxygen; and 3) a shift from aerobic to anaerobic decomposition of these wastes. In this situation, water and sediment chemistry changes substantially, which adversely impacts the biological elements of the subsurface ecosystem.

Water depth, and bathymetry, will help to establish what the water circulation patterns are at the sediment-water interface. Nearby reefs, sills, or shoreline features can influence how the water circulation dynamics affect waste dispersion and accumulation processes. The rate of water flow across the seafloor determines the available dissolved oxygen needed for proper aerobic waste decomposition and assimilation.

The Benthic Study shall include, at a minimum, findings regarding the areal extent and degree of impairment resulting from seafood waste discharges within the survey area. The spatial extent of seafood waste discharges will be based on all seafood waste estimated to be greater than ½ inch in depth on the seafloor. The Study shall also include information regarding water depth, water flow rates and patterns, water chemistry, and bathymetry.

Unisea shall hire contractor(s) that can perform the Tasks specified below. Unisea shall submit a list of proposed contractors to EPA and Alaska Department of Environmental Conservation (ADEC) for review and approval no later than thirty (30) Days after entry of this Consent Decree. Within thirty (30) Days after Unisea receives written approval from EPA and ADEC, Unisea shall select a contractor(s) from this approved list of contractors and begin the Tasks specified below.

Task 1 –Finalize Draft Project Proposal

Description: Within sixty (60) Days of Unisea's selection of a contractor, Unisea shall prepare a draft Study Design and Quality Assurance Project Plan (QAPP) and submit it to EPA and ADEC. Within thirty (30) Days after receipt of written comments from EPA and ADEC on the draft Study Design and QAPP, Unisea shall submit a final Study Design and QAPP to EPA and ADEC for approval. The draft and final Study Design shall describe how Unisea's contractor will characterize the sediments, provide a map for all seafood waste deposits in the study area, and provide a latitude/longitude of the end of the discharge pipe or pipes. The draft and final Study Design shall detail the actions necessary to ensure the objectives are accomplished. It shall also include a detailed project schedule, and methods and materials expected to be used. It shall list the project team, subcontractors, and equipment to be used. It shall also highlight the contractor(s) experience in conducting benthic impact assessments on industrial discharges in Alaska.

Task 2 – Conduct Field Work

Description: Within thirty (30) Days after receipt of EPA and ADEC written approval of the final Study Design and QAPP, Unisea shall begin field work in accordance with the EPA and ADEC-approved Study Design and QAPP. All field work shall be completed by Unisea no later than one hundred and twenty (120) days after commencement of the field work.

Task 3 – Submit Project Report

Description: Within sixty (60) Days after completion of the field work, Unisea shall submit a draft Project Report, incorporating all of the data it collected during the field work and containing written findings and recommendations regarding the seafood waste discharges, to EPA and ADEC for review and approval. Within thirty (30) Days after receipt of written comments from EPA and ADEC on the draft Project Report, Unisea shall submit a final Project Report to EPA and ADEC, which shall incorporate all comments from EPA and ADEC.