STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-WE-14-0059**
OMEGA PROTEIN, INC.	*	
	*	**Enforcement Tracking No.**
AI # 2590	*	**WE-CN-13-00482**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between Omega Protein, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns and/or operates a menhaden fish processing facility located in Cameron, Cameron Parish, Louisiana ("the Facility").

II

On February 28, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-13-00482, which was based upon the following findings of fact:

"The Respondent owns and/or operates a menhaden fish processing facility located at 391 Gulf Beach Highway, in Cameron, Cameron Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0003654 on January 31, 2005, which became effective on March 1, 2005, and expired on February 28, 2010. The

Respondent submitted a permit renewal application to the Department on or about August 4, 2009. LPDES permit LA0003654 was reissued to the Respondent on May 12, 2010, made effective on June 1, 2010, and will expire on May 31, 2015. Under the terms and conditions of LPDES Permit LA0003654, the Respondent is authorized to discharge process wastewater including boiler blowdown, evaporator condensate, washdown water, barometric leg seal water, bailwater, treated sanitary wastewater, and stormwater runoff to the Calcasieu Ship Channel, all waters of the state.

An inspection conducted by the Department on or about February 28, 2013, revealed that the Respondent did cause and/or allow the unauthorized discharge of fish oil to waters of the state. Specifically, on or about August 27, 2009, the menhaden fish processing facility had fish oil tank overflows when a check valve malfunctioned on a lift pump. The quantity of fish oil discharged is unknown. Each unauthorized discharge of fish oil to waters of the state is a violation of La. R.S. 30:2076.A.1.a, and LAC 33:IX.501.D.

An inspection conducted by the Department on or about February 28, 2013, revealed that the Respondent did cause and/or allow the unauthorized discharge of fish oil to waters of the state. Specifically, on or about July 14, 2011, the menhaden fish processing facility had fish oil tank overflows when a check valve malfunctioned on a lift pump. The quantity of fish oil discharged was approximately 500 gallons. Each unauthorized discharge of fish oil to waters of the state is a violation of La. R.S. 30:2076.A.1.a, and LAC 33:IX.501.D.

An inspection conducted by the Department on or about February 28, 2013, revealed that the Respondent did cause and/or allow the unauthorized discharge of diesel to waters of the state. Specifically, on or about July 21, 2009, a menhaden fish processing fishing vessel collided with a moored fishing vessel while attempting to tie-up. The impact caused a weld failure approximately 20 feet from the stern of the vessel on the starboard side. The split was about 8 inches long adjacent

to one of the diesel fuel tanks. Approximately 120 gallons of diesel were discharged. Each unauthorized discharge of diesel to waters of the state is a violation of La. R.S. 30:2076.A.1.a, and LAC 33:IX.501.D.

An inspection conducted by the Department on or about February 28, 2013, and a subsequent file review conducted by the Department on or about November 7, 2013, revealed the following exceedances of permitted discharge limitations as reported by the Respondent on DMRs and non-compliance reports:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
04/2010	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	<20 mg/L
		pH (std units)	6.0 (min)	4.83
		TSS, Weekly Average	45 mg/L	106.3 mg/L
06/2010	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	<100 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	<100 mg/L
		BOD_5, Daily Maximum	45 mg/L	96.5 mg/L
07/2010	003	TSS, Monthly Average	30 mg/L	51.6 mg/L
		TSS, Daily Maximum	45 mg/L	82.6 mg/L
08/2010	003	BOD_5, Daily Maximum	45 mg/L	63.6 mg/L
		pH (std units)	6.0 (min)	5.7
		TSS, Monthly Average	30 mg/L	47 mg/L
		TSS, Daily Maximum	45 mg/L	87.1 mg/L
09/2010	003	BOD_5, Monthly Average	30 mg/L	42 mg/L
		pH (std units)	6.0 (min)	5.7
10/2010	003	BOD_5, Monthly Average	30 mg/L	38.5 mg/L
		TSS, Monthly Average	30 mg/L	46.5 mg/L
		TSS, Daily Maximum	45 mg/L	51 mg/L
11/2010	003	pH (std units)	6.0 (min)	5.96
		TSS, Monthly Average	30 mg/L	154 mg/L
		TSS, Daily Maximum	45 mg/L	260 mg/L

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
01/2011	003	BOD_5, Daily Maximum	45 mg/L	49.7 mg/L
02/2011	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	341 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	11600 mg/L
		TSS, Monthly Average	30 mg/L	33.8 mg/L
03/2011	003	BOD_5, Daily Maximum	45 mg/L	49.4 mg/L
		Fecal Coliform, Monthly Average Geometric	14 mg/L	1470 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	54000 mg/L
04/2011	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	25.3 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	64 mg/L
05/2011	001	pH (std units)	9.0 (max)	9.21
	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	20 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	100 mg/L
06/2011	001	BOD_5, Monthly Average	7800 lb/day	10277 lb/day
		BOD_5, Daily Maximum	14000 lb/day	22830 lb/day
		Oil and Grease, Monthly Average	1520 gal/day	2038 gal/day
		Oil and Grease, Daily Maximum	2800 gal/day	5455.1 gal/day
		TSS, Monthly Average	3000 lb/day	8039 lb/day
		TSS, Daily Maximum	7400 lb/day	15479 lb/day
	003	TSS, Monthly Average	30 mg/L	47.9 mg/L
		TSS, Daily Maximum	45 mg/L	72 mg/L
07/2011	001	TSS, Monthly Average	3000 lb/day	13256 lb/day
		TSS, Daily Maximum	7400 lb/day	52783 lb/day
	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	15.49 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	60 mg/L
08/2011	001	BOD_5, Monthly Average	7800 lb/day	9261 lb/day

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
		BOD_5, Daily Maximum	14000 lb/day	19745 lb/day
		TSS, Monthly Average	3000 lb/day	70038 lb/day
		TSS, Daily Maximum	7400 lb/day	176815 lb/day
	003	BOD_5, Monthly Average	30 mg/L	40 mg/L
		BOD_5, Daily Maximum	45 mg/L	73 mg/L
		Fecal Coliform, Monthly Average Geometric	14 mg/L	31.6 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	50 mg/L
09/2011	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	20 mg/L
10/2011	001	pH (std units)	9.0 (max)	9.6
04/2012	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	29240 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	45000 mg/L
		TSS, Monthly Average	30 mg/L	75.5 mg/L
		TSS, Daily Maximum	45 mg/L	92 mg/L
05/2012	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	412 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	500 mg/L
07/2012	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	291 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	1700 mg/L
		TSS, Monthly Average	30 mg/L	57.5 mg/L
		TSS, Daily Maximum	45 mg/L	77 mg/L
08/2012	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	49 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	480 mg/L
10/2012	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	64.8 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	70 mg/L
		TSS, Monthly Average	30 mg/L	34 mg/L
		TSS, Daily Maximum	45 mg/L	54 mg/L
11/2012	003	TSS, Monthly Average	30 mg/L	72.5 mg/L
		TSS, Daily Maximum	45 mg/L	102 mg/L

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Value
02/2013	003	TSS, Monthly Average	30 mg/L	30.5 mg/L
03/2013	003	Fecal Coliform, Monthly Average Geometric	14 mg/L	97.4 mg/L
		Fecal Coliform, Daily Maximum Geometric	43 mg/L	40000 mg/L

Each exceedance of a permitted discharge limitation prior to June 1, 2010, is a violation of LPDES Permit LA0003654 (Part I, Page 3 of 3 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A. Each exceedance of a permitted discharge limitation on or after June 1, 2010, is a violation of LPDES Permit LA0003654 (Limits and Monitoring, Pages 1-4 of 4 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A."

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-FOUR THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS ($24,700.00), of which Four Hundred Fifty and 59/100 Dollars ($450.59) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the

CONOPP and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Cameron Parish, Louisiana. The advertisement, in form,

wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

OMEGA PROTEIN, INC.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
D. Chance McNeely, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
D. Chance McNeely, Assistant Secretary