

1 1. I am the Court-appointed Claims Administrator of both the Exxon Qualified
2 Settlement Fund (hereinafter "EQSF") and the Alyeska Qualified Settlement Fund
3 (hereinafter "AQSF"). I make this declaration based on personal knowledge and am
4 competent to testify to the matters set forth herein.
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6 2. This declaration and those accompanying the "Seventh Punitive Damages
7 Distribution Application" and the "Supplement to Seventh Punitive Damages
8 Distribution Application" seek authority to allocate and distribute portions of the
9 \$470,268,908.71 the EQSF received from Exxon on July 1, 2009. This Amended Eighth
10 Distribution Application also seeks to distribute a small portion of the \$383,349,750.00¹
11 the EQSF received from Exxon on August 28, 2008.
12

13 3. On August 20, 2009, I submitted a declaration that is substantially congruent
14 with this declaration. Since that time, Exxon has filed an objection to Lead Counsel's
15 Seventh Application which my August 20 declaration supported, and a motion arguing
16 that it is entitled to \$4,408,499.76 from the money it has transferred to plaintiffs' counsel.
17 Lead Counsel has directed me to provide for an additional reserve adequate to net
18 \$4,408,499.76 after fees over and above those envisioned in my August 20, 2009
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23 ¹ The \$383,349,750.00 represents Exxon's partial satisfaction of the \$507,500,000.00 judgment the
24 Supreme Court ordered. This has been classified as "Punitive Damages Principal" in prior applications to
25 differentiate and identify the separate payments the EQSF has received from Exxon for payments related
to "Punitive Damages." The \$470,268,908.71 represents Exxon's payment of accumulated interest on the
\$383,349,750.00 judgment. This will be classified as "Punitive Damages Interest" in this and future
applications to differentiate and identify the separate payments the EQSF has received from Exxon for
payments related to "Punitive Damages".

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1 declaration to deal with the contingency that Exxon prevails on its motion. The amount
2 is \$5,681,056.39 (calculated at \$4,408,499.76/.776).

3 4. The only other change to the remaining paragraphs of this declaration from
4 that I filed on August 20 is that I have calculated revised proposed payments to claimants
5 in the Kodiak Salmon Set Net (S04K) fishery. Since the filing of the application, the
6 Administrator and Lead Counsel have discovered an error in the calculation of shares to
7 S04K claimants. Specifically, in calculating setoffs for prior lost income payments, the
8 figures for S04K claimants on the August 20, 2009 Exhibits as submitted counted prior
9 payments for the 1989 "fill" category² whereas those payments should not have been
10 considered. The "fill" provision at issue only appears in the S04K plan, so the error only
11 affected the S04K claim category, and thus affects none of the other 46 categories of
12 claims covered by the application. The revised exhibits A and C submitted herewith,
13 which reduce overall shares to accommodate the additional reserve caused by Exxon's
14 motion, now properly calculate prior setoffs within the S04K claim category.³

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18 5. As I did in my declaration in support of the First Application for
19 Distribution of Punitive Damages, I will first review the decisions I made to determine
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21
22 ² The S04K Plan of Distribution required that the first money available for distribution to
23 claimants be used to compensate those whose fishing was precluded or substantially reduced in 1989.
24 With the distribution of punitive damages principal, that process is completed; those 1989 claims have
25 been fully satisfied; and prior payments as to the 1989 "fill" component are no longer relevant. The only
"prior payments" which should now be considered are those relating to lost income claims, and that has
been done in the calculations which appear in and are attached to this declaration.

³ I wish to thank publicly the various S04K claimants who called in following the posting by the
Anchorage Daily News of proposed shares attached to the August 20 filing to advise of the error.

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1 the amount of money available for distribution on claims participating in the Plan of
2 Allocation.

3 6. As set forth in my declaration in support of the Seventh Punitive Damages
4 Application, there is \$401,425,004.41 available for distribution from the Punitive
5 Damages Interest recovery.
6

7 7. I have performed an analysis similar to that discussed in paragraphs 10 – 15 of
8 my October 29, 2008, declaration in support of the First Punitive Damages Application⁴,
9 which involved: (a) adjusting the percentages in the Plan of Allocation, as envisioned in
10 that Plan, for modifications because of under-subscription of class claims in the Personal
11 Injury, Personal Property and Non-Native subsistence claim categories (see paragraph 10
12 of my October 29,2008 declaration); and (b) calculating offsets for prior distributions to
13 ensure that net recoveries are distributed consistently with Final Percent Shares (*id.* at ¶¶
14 11-15). Those offsets included amounts already distributed from Punitive Damages
15 Principal which Plaintiffs' Counsel received from Exxon, and whose distribution has
16 been the subject of the first six applications for distribution of Punitive Damages
17 Principal.
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20 8. In consultation with Lead Counsel and Plaintiffs' Allocation Committee, it has
21 been determined that the initial distribution of Punitive Interest funds to claims
22 participating under the Plan of Allocation should be made to those whose claims can be
23 paid the fastest, due to the status of claim encumbrances. Lead Counsel and I will file
24
25

⁴ Docket 8884

1 future distribution requests to claimants whose claims take more time to process due to
2 encumbrances on their claims.

3 9. There are approximately 17297 claims in the 47 claim categories that we can
4 pay, quickly, from the Punitive Interest recovery. If the Court accepts this proposal, the
5 total amount distributed by claim category would be as follows:
6

7 **Table 1**

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
#	POD	Claim Category Name															
1	AQUA	Aquaculture Associations															\$7,624,335.64
2	BUSI	Area Business															\$579,775.09
3	S01L	Chignik Salmon Seine															\$12,361,363.12
4	D09H	Cook Inlet Dungeness Crab															\$222,879.01
5	M01H	Cook Inlet Miscellaneous Finfish															\$5,740.06
6	G01H	Cook Inlet Roe Herring Seine															\$969,833.93
7	S03H	Cook Inlet Salmon Drift															\$47,114,214.60
8	S01H	Cook Inlet Salmon Seine															\$7,422,427.34
9	S04H	Cook Inlet Salmon Set Net															\$20,087,978.46
10	P09H	Cook Inlet Shrimp Pot															\$8,121.22
11	T09H	Cook Inlet Tanner Crab															\$441,324.52
12	D09K	Kodiak Dungeness Crab															\$113,559.12
13	H01K	Kodiak Food and Bait Herring															\$117,693.27
14	G01K	Kodiak Herring Seine and Combined Herring Gear															\$1,795,790.68
15	G34K	Kodiak Herring Set Gill Net and Combined Herring Gear															\$545,659.19
16	M01K	Kodiak Miscellaneous Finfish															\$90,900.58
17	O01K	Kodiak Miscellaneous Shellfish															\$55,136.77
18	S02K	Kodiak Salmon Beach Seine															\$698,628.58
19	S01K	Kodiak Salmon Seine															\$41,281,446.10
20	S04K	Kodiak Salmon Set Net															\$15,083,438.98
21	W12K	Kodiak Scallop															\$25,466.30
22	MUNI	Municipality															\$8,361,711.21
23	NATV	Native															\$16,522,431.82
24	NATC	Native Corporation															\$2,704,202.17
25	NOOS	Native Opt Out Settlement Class															\$1,875,137.47
	PINJ	Personal Injury															\$85,135.34
	PPRO	Personal Property															\$15,649.35
	F00E	Prince William Sound 1989 Fund															\$10,395,978.43
	D09E	Prince William Sound Dungeness Crab															\$62,269.69
	H01E	Prince William Sound Food and Bait Herring															\$260,988.60

#	POD	Claim Category Name	Gross Allocation
31	K09E	Prince William Sound King Crab	\$238,707.51
32	M01E	Prince William Sound Miscellaneous Finfish	\$47,884.80
33	R12E	Prince William Sound Miscellaneous Shellfish	\$24,990.07
34	G34E	Prince William Sound Roe Herring Drift	\$1,031,497.93
35	G01E	Prince William Sound Roe Herring Seine	\$13,055,374.00
36	L21E	Prince William Sound Roe Pound	\$7,313,582.57
37	C06E	Prince William Sound Sablefish	\$22,803.87
38	S03E	Prince William Sound Salmon Drift	\$21,113,934.99
39	S01E	Prince William Sound Salmon Seine	\$35,071,070.68
40	S04E	Prince William Sound Salmon Set Net	\$1,147,715.28
41	P09E	Prince William Sound Shrimp Pot	\$510,429.35
42	P07E	Prince William Sound Shrimp Trawl	\$14,337.38
43	T09E	Prince William Sound Tanner Crab	\$1,024,527.63
44	L12E	Prince William Sound Wild Kelp Harvest	\$462,559.79
45	RPRO	Real Property	\$14,265,708.00
46	NNSU	Subsistence (Non-native)	\$8,486.33
47	TEND	Tender	\$2,205,839.00
Total:			\$294,488,665.82

10. By deferring payment on those claims with encumbrances that require more detailed review and processing by our claims staff, the proposed distribution can be accomplished within approximately twenty days after (1) issuance of this Court's order, and (2) passage of a 30 day appeal period.

11 Attached as Exhibit A to Lead Counsel's Amended Eighth Application is the report showing gross dollar allocations from Punitive Damages Interest on 17120 claims in the 47 claim categories listed in the table located in Section 6 above.

12. Attached as Exhibit B to Lead Counsel's Amended Eighth Application is the report showing gross dollar allocations of Punitive Damage Interest on approved damaged gear claims. Damaged gear claims were calculated on a *pro rata* basis, proportional to the ratio of loss to the total relevant matrix damages, as set forth in the

1 plans of distribution. As further noted in those plans, damaged gear claims are only
2 awarded “up to the amount of loss,” but there is no guarantee that there will be sufficient
3 recoveries to pay all damaged gear claims the total amount of the loss.

4
5 13. Attached as Exhibit C to Lead Counsel’s Amended Eighth Application is the
6 report showing gross dollar allocations on claims receiving *both* (emphasis added)
7 Punitive Damages Principal and Punitive Damage Interest recoveries. The 21 claim
8 categories are inclusive of those listed in the table in Section 6 above and there are 177
9 individual claims listed in Exhibit C. These claims have resolved a prior encumbrance
10 that prevented their inclusion in one of the first six Punitive Damages Principal
11 distribution applications. The gross dollar allocations listed in Exhibit C are itemized for
12 each claim, claimant, claim category and distribution to differentiate the amount of
13 Principal and Interest the particular claim is eligible to receive.

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16 14. The gross dollar amounts included in Exhibits A and B for Punitive Damages
17 Interest is \$293,580,105.23 for all 47 claim categories.

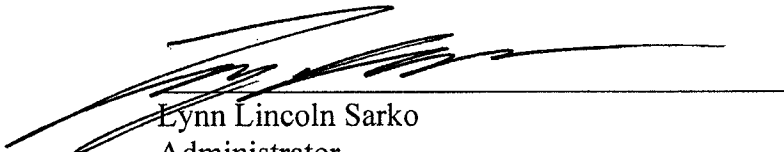
18
19 15. The gross dollar amounts included in Exhibit C for Punitive Damages Principal
20 is \$771,428.79 and \$908,560.59 for Punitive Damages Interest in the 21 selected claim
21 categories.

22 16. The dollar figures provided in Exhibits A through C are gross dollar allocations
23 on claims prior to any deductions for attorneys’ fees or costs. The total amount of gross
24 payments under this Amended Eighth Distribution Application is approximately
25 \$295,260,094.61.

1 17. If I receive notice of a new lien, levy or assignment between the date of this
2 motion and the payment issuance date, I will withhold payment on that claim, and instead
3 include a request to distribute on that claim in a future application.

4 18. I certify under penalty of perjury of the laws of the State of Washington
5 that the foregoing is true and correct.
6

7 DATED this 4th day of September 2009 at Seattle, Washington.

8 

9 Lynn Lincoln Sarko
10 Administrator
11 Exxon Qualified Settlement Fund
12 Alyeska Qualified Settlement Fund
13 Post Office Box 21945
14 Seattle, Washington 98111
15 (206) 623-1900

16 Certificate of Service

17 The undersigned certifies that on September 4, 2009, a true
18 and correct copy of the foregoing DECLARATION OF LYNN LINCOLN SARKO was served
19 on the following attorneys or parties of record by the court's ECF system:

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