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13 Liaison Counsel for Plaintiffs

Honorable H. Russel Holland

14 IN THE UNITED STATES DISTRICT COURT

15 FOR THE DISTRICT OF ALASKA

16 In re:)
17 The EXXON VALDEZ) Case No. 3:89-cv-095 (HRH)
18 _____) (Consolidated)

19 THIS DOCUMENT RELATES TO)
20 ALL CASES)
21 _____)

22 **DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF LEAD**
23 **COUNSEL'S EIGHTH PUNITIVE DAMAGES DISTRIBUTION APPLICATION**
24 **DISTRIBUTING FUNDS TO CLAIMANTS IN MULTIPLE CLAIM**
25 **CATEGORIES AND THEIR ATTORNEYS**

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.
5

6 2. This declaration and the one accompanying the “Seventh Punitive Damages
7 Distribution Application” seek authority to allocate and distribute portions of the
8 \$470,268,908.71¹ the EQSF received from Exxon on July 1, 2009. This Eighth
9 Distribution Application also seeks to distribute a small portion of the \$383,349,750.00²
10 the EQSF received from Exxon on August 28, 2008. As I did in my declaration in
11 support of the First Application for Distribution of Punitive Damages, I will first review
12 the decisions I made to determine the amount of money available for distribution on
13 claims participating in the Plan of Allocation.
14
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16 3. As set forth in my declaration in support of the Seventh Punitive Damages
17 Application, there is \$407,049,250.24 available for distribution from the Punitive
18 Damages Interest recovery.
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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”.

² 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”.

1 4. I have performed an analysis similar to that discussed in paragraphs 10 – 15 of
2 my October 29, 2008, declaration in support of the First Punitive Damages Application,³
3 which involved: (a) adjusting the percentages in the Plan of Allocation, as envisioned in
4 that Plan, for modifications because of under-subscription of class claims in the Personal
5 Injury, Personal Property and Non-Native subsistence claim categories (see paragraph 10
6 of my October 29,2008 declaration); and (b) calculating offsets for prior distributions to
7 ensure that net recoveries are distributed consistently with Final Percent Shares (*id.* at ¶¶
8 11-15). Those offsets included amounts already distributed from Punitive Damages
9 Principal which Plaintiffs’ Counsel received from Exxon, and whose distribution has
10 been the subject of the first six applications for distribution of Punitive Damages
11 Principal.
12
13

14 5. In consultation with Lead Counsel and Plaintiffs’ Allocation Committee, it has
15 been determined that the initial distribution of Punitive Interest funds to claims
16 participating under the Plan of Allocation should be made to those whose claims can be
17 paid the fastest, due to the status of claim encumbrances. Lead Counsel and I will file
18 future distribution requests to claimants whose claims take more time to process due to
19 encumbrances on their claims.
20
21

22 6. There are approximately 17297 claims in the 47 claim categories that we can
23 pay, quickly, from the Punitive Interest recovery. If the Court accepts this proposal, the
24 total amount distributed by claim category would be as follows:
25

³ Docket 8884

Table 1

#	POD	Claim Category Name	Gross Allocation
1	AQUA	Aquaculture Associations	\$7,734,598.32
2	BUSI	Area Business	\$587,766.86
3	S01L	Chignik Salmon Seine	\$12,533,246.90
4	D09H	Cook Inlet Dungeness Crab	\$225,977.96
5	M01H	Cook Inlet Miscellaneous Finfish	\$5,876.97
6	G01H	Cook Inlet Roe Herring Seine	\$983,314.44
7	S03H	Cook Inlet Salmon Drift	\$47,773,616.40
8	S01H	Cook Inlet Salmon Seine	\$7,525,832.20
9	S04H	Cook Inlet Salmon Set Net	\$20,367,351.74
10	P09H	Cook Inlet Shrimp Pot	\$8,235.81
11	T09H	Cook Inlet Tanner Crab	\$447,460.79
12	D09K	Kodiak Dungeness Crab	\$115,138.08
13	H01K	Kodiak Food and Bait Herring	\$119,329.68
14	G01K	Kodiak Herring Seine and Combined Herring Gear	\$1,820,794.98
15	G34K	Kodiak Herring Set Gill Net and Combined Herring Gear	\$553,199.73
16	M01K	Kodiak Miscellaneous Finfish	\$92,207.65
17	O01K	Kodiak Miscellaneous Shellfish	\$55,903.41
18	S02K	Kodiak Salmon Beach Seine	\$708,383.61
19	S01K	Kodiak Salmon Seine	\$41,865,359.76
20	S04K	Kodiak Salmon Set Net	\$15,399,177.36
21	W12K	Kodiak Scallop	\$25,820.39
22	MUNI	Municipality	\$8,487,326.18
23	NATV	Native	\$16,752,374.69
24	NATC	Native Corporation	\$2,741,801.60
25	NOOS	Native Opt Out Settlement Class	\$1,901,202.08
26	PINJ	Personal Injury	\$86,319.08
27	PPRO	Personal Property	\$15,866.93
28	F00E	Prince William Sound 1989 Fund	\$10,540,399.40
29	D09E	Prince William Sound Dungeness Crab	\$63,134.95
30	H01E	Prince William Sound Food and Bait Herring	\$264,617.34
31	K09E	Prince William Sound King Crab	\$242,026.55
32	M01E	Prince William Sound Miscellaneous Finfish	\$48,671.36
33	R12E	Prince William Sound Miscellaneous Shellfish	\$25,343.23
34	G34E	Prince William Sound Roe Herring Drift	\$1,045,924.20
35	G01E	Prince William Sound Roe Herring Seine	\$13,236,618.10
36	L21E	Prince William Sound Roe Pound	\$7,415,219.94
37	C06E	Prince William Sound Sablefish	\$23,355.79
38	S03E	Prince William Sound Salmon Drift	\$21,407,626.71
39	S01E	Prince William Sound Salmon Seine	\$35,557,939.12

DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF LEAD COUNSEL'S EIGHTH PUNITIVE DAMAGES
DISTRIBUTION APPLICATION DISTRIBUTING FUNDS TO MULTIPLE CLAIM CATEGORIES- 4
In re the Exxon Valdez, Case No. 3:89-cv-095-HRH

<u>#</u>	<u>POD</u>	<u>Claim Category Name</u>	<u>Gross Allocation</u>
40	S04E	Prince William Sound Salmon Set Net	\$1,163,891.01
41	P09E	Prince William Sound Shrimp Pot	\$517,949.34
42	P07E	Prince William Sound Shrimp Trawl	\$15,006.76
43	T09E	Prince William Sound Tanner Crab	\$1,038,772.89
44	L12E	Prince William Sound Wild Kelp Harvest	\$469,030.88
45	RPRO	Real Property	\$14,464,063.29
46	NNSU	Subsistence (Non-native)	\$8,604.28
47	TEND	Tender	\$2,236,958.62
Total:			\$298,718,637.36

7. 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.

8. Attached as Exhibit A to Lead Counsel's 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.

9. Attached as Exhibit B to Lead Counsel's 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 plans of distribution. As further noted in those plans, damaged gear claims are only awarded "up to the amount of loss," but there is no guarantee that there will be sufficient recoveries to pay all damaged gear claims the total amount of the loss.

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

11
12 11. The gross dollar amounts included in Exhibits A and B for Punitive Damages
13 Interest is \$297,737,571.54 for all 47 claim categories.

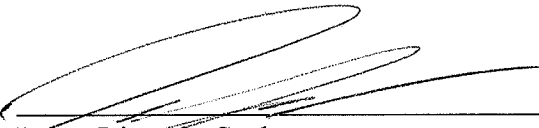
14 12. The gross dollar amounts included in Exhibit C for Punitive Damages
15 Principal is \$771,428.79 and \$981,065.82 for Punitive Damages Interest in the 21
16 selected claim categories.

17 13. The dollar figures provided in Exhibits A through C are gross dollar
18 allocations on claims prior to any deductions for attorneys' fees or costs. The total
19 amount of gross payments under this Eighth Distribution Application is approximately
20 \$299,490,066.15
21

22 14. If I receive notice of a new lien, levy or assignment between the date of this
23 motion and the payment issuance date, I will withhold payment on that claim, and instead
24 include a request to distribute on that claim in a future application.
25

1 15. I certify under penalty of perjury of the laws of the State of Washington that
2 the foregoing is true and correct.

3 DATED this 19th day of August 2009 at Seattle, Washington.



4
5
6 Lynn Lincoln Sarko
7 Administrator
8 Exxon Qualified Settlement Fund
9 Alyeska Qualified Settlement Fund
10 Post Office Box 21945
11 Seattle, Washington 98111
12 (206) 623-1900

13 Certificate of Service

14 The undersigned certifies that on August 20, 2009, a true
15 and correct copy of the foregoing DECLARATION OF LYNN LINCOLN SARKO was served
16 on the following attorneys or parties of record by the court's ECF system:

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