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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 FIFTH PUNITIVE DAMAGES DISTRIBUTION APPLICATION**
24 **DISTRIBUTING FUNDS TO CLAIMANTS IN MULTIPLE CLAIM**
25 **CATEGORIES AND THEIR ATTORNEYS**

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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. Once the distributions envisioned in this "Fifth" Punitive Damages application are
7 completed, over 90% of the money available for claimants covered by the Plan of
8 Allocation from the \$383,375,000 Punitive Damage award received from Exxon in
9 August, 2008, will have been approved for distribution by the Court. Before discussing
10 the Fifth Punitive Damages application, I will provide the Court with the following
11 synopsis of what has occurred so far in the Punitive Damages distribution process.
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14 a. In October, 2008, after a distribution had been made to the Chugach Native
15 corporations, a reserve had been established for costs for plaintiffs' counsel, and
16 additional reserves had been made primarily for the SeaHawk challenge to the Plan of
17 Allocation, I determined that we could safely distribute \$307,407,993.75 of Punitive
18 Damages¹ to all claimants covered by the Plan of Distribution. The October 31, 2008,
19 "First" Punitive Damages application² sought authority to distribute approximately
20 \$154,217,847.90 in Punitive Damages to claimants in thirteen claim categories (the 10
21 oiled salmon fisheries, native subsistence users, those native subsistence claimants in the
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¹ Docket No. 8885: Administrator's Declaration for the First Punitive Damages Application, Sections 5-8.

² Docket No. 8884

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1 NOOSC category, and those who took under the Prince William Sound Fund³) who had
2 no impairments on their claims. After the Court granted approval on November 24,
3 2008,⁴ those funds were paid out during the first two weeks of December, 2008. Nearly
4 12,000 individual payments were made, comprising over 50.1671% of the available
5 money for distribution.
6

7 b. On January 20, 2009, Lead Counsel filed a "Second" Punitive Damages
8 application,⁵ asking for authority to distribute approximately \$60,158,434.02 in Punitive
9 Damages to the same thirteen claim categories in the first application, but to those
10 claimants who had a single impairment (such as an IRS levy, or a domestic relations lien)
11 on their claim. Those funds comprised over 19.5696% of the available money for
12 distribution. The Court granted approval on February 12, 2009,⁶ and payments have been
13 initiated to either the claimants themselves, in whole or part, and to Bankruptcy trustees,
14 the Internal Revenue Service, various Child Support Agencies, heirs, assignees and other
15 third-party judgment holders. For payments associated to the Second application, the
16 EQSF initiated nearly 9,000 total payments.
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25 ³ NATV, NOOS, F00E, S01E, S03E, S04E, S01H, S03H, S04H, S01K, S02K, S04K and S01L

⁴ Docket No. 8922

⁵ Docket No. 8959

⁶ Docket No. 8975

1 c. On March 25, 2009, Lead Counsel filed a "Third" Punitive Damages
 2 application⁷ covering claims in two broad categories: (1) claimants with multiple
 3 impairments in the claim categories included on the First and Second applications,⁸ and
 4 (2) claimants in new claim categories⁹ with no liens, levies, assignments or further
 5 impairment.
 6

7 d. Category (1) from the Third application covered approximately \$20,973,542.19
 8 of the Punitive Damage recovery, or over 6.8227%. The Court granted approval of the
 9 distribution request on April 15, 2009.¹⁰ While the EQSF has and continues to initiate
 10 payments to either the claimants themselves, in whole or part, and to Bankruptcy trustees,
 11 the Internal Revenue Service, various Child Support Agencies, heirs, assignees and other
 12 third-party judgment holders, these multi-impaired claims are very labor intensive and
 13 take a great deal of time to process. To date, the EQSF has initiated payment on over 800
 14 of these claims. The EQSF continues to process these claims as quickly as possible on a
 15 rolling basis and anticipates completion by late July, 2009.
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19 e. Category (2) from the Third application covered \$30,664,181.04 of the Punitive
 20 Damage recovery, or over 9.9751%. Payments were initiated to claimants on May 7,
 21 2009. To date, the EQSF has initiated over 2500 claims covered by Category (2) of the
 22 Third Punitive Damages application.
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25 ⁷ Docket No. 9039

⁸ S01E, S03E, S04E, F00E, S01H, S03H, S04H, S01K, S02K, S04K, S01L, NATV and NOOS

⁹ G01E, G34E, H01E, L12E, L21E, G01H, G01K, G34K, H01K, AQUA and RPRO

¹⁰ Docket No. 9067

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1 f. On, May 4, 2009, Lead Counsel filed a “Fourth” Punitive Damages application,
2 seeking authority to distribute approximately \$3,877,827.37 in Punitive Damages to
3 claims in six new categories (tenders, personal property, personal injury, native
4 corporation, non-native subsistence and area business categories¹¹) who had no
5 impairments on their claims. The EQSF anticipates Court approval in short order, which
6 will permit the EQSF to pay the approximately 443 claims in this category within about
7 one month.
8

9
10 g. That brings us to this current “Fifth” Punitive Damages application. In it, I
11 have identified 407 claimants in various categories who the EQSF expects to be able to
12 pay within 30 days of the Court’s approval. In coordination with Lead Counsel, I have
13 selected the claimants from twenty-six categories, focusing primarily on claimants who
14 have either resolved a prior impairment that precluded them from being included in one
15 of the four previous applications, or claimants who have impairments that can be resolved
16 quickly. The 407 claims include those in the following claim categories: Aquaculture
17 Associations, Area Business, Chignik Salmon Seine, Cook Inlet Roe Herring Seine, Cook
18 Inlet Salmon Drift, Cook Inlet Salmon Seine, Cook Inlet Salmon Set Net, Kodiak Food &
19 Bait Herring, Kodiak Herring Seine & Combined Herring Gear, Kodiak Herring Set Gill
20 Net and Combined Herring Gear, Kodiak Salmon Seine, Kodiak Salmon Set Net, Native
21 Subsistence, Non-Native Subsistence, Personal Injury, Prince William Sound 1989 Fund,
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¹¹ Designated EQSF processing codes for the six claim categories included on the Fourth Punitive Damages application: TEND, PPRO, PINJ, NATC, NNSU and BUSI.

1 Prince William Sound Food & Bait Herring, Prince William Sound Roe Herring Drift,
 2 Prince William Sound Roe Herring Seine, Prince William Sound Roe Pound, Prince
 3 William Sound Salmon Drift, Prince William Sound Salmon Seine, Prince William
 4 Sound Salmon Set Net, Prince William Sound Wild Kelp Harvest, Real Property and
 5 Tender.¹² Together, these 407 claims have a gross value of \$8,554,826.93.¹³ This
 6 represents over 2.7283 % of the Punitive Damages available for distribution. Once this
 7 distribution is completed, over 90.5789% of the Punitive Damages will have been
 8 approved by the Court for distribution. Anticipating that the Court will approve the
 9 distribution in early July, the EQSF should be able complete this portion of the
 10 distribution within one month.

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 14 3. The remaining Punitive Damage funds available for distribution (which amounts to
 15 less than 10% of the total award), are more complex and will take some additional time to
 16 distribute. Lead Counsel and I envision several future applications for distribution of the
 17 remaining Punitive Damages Principal recovery, as follows:

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 19 a. One of the applications will be for distribution of punitive damages to the
 20 Unhoiled Fisheries. A special group of claims staff has been designated to focus

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 22 ¹² Designated EQSF processing codes for the twenty-six claim categories included on this Fifth Punitive
 23 Damages application: AQUA, BUSI, S01L, G01H, S03H, S01H, S04H, H01K, G01K, G34K, S01K,
 24 S04K, NATV, NNSU, PINJ, F00E, H01E, G34E, G01E, L21E, S03E, S01E, S04E, L12E, RPRO and
 TEND

25 ¹³ Docket No. 8885: Referring to Section 9 of the Administrator's Declaration for the First Punitive
 Damages Application, there was approximately \$6,153,815.83 of remaining compensatory damages that
 could be distributed during this phase of distributions to all claim categories. These funds increased the
 total amount available for all claimants from \$307,407,993.75 to \$313,561,809.58. In this application, all

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1 exclusively on issuing final percent share letters to EQSF claimants in the Unoiled
2 Fisheries (U00B). Once that has been completed (and appeals are resolved), that
3 distribution application will be filed with the Court.
4

5 b. Another application will be filed for those claimants in the smaller remaining
6 claim categories who have no impairments to their claims, including: Cook Inlet
7 Dungeness Crab, Cook Inlet Miscellaneous Finfish, Cook Inlet Pot Shrimp, Cook Inlet
8 Tanner Crab, Kodiak Dungeness Crab, Kodiak Miscellaneous Finfish, Kodiak
9 Miscellaneous Shellfish, Kodiak Scallop, Prince William Sound Dungeness Crab, Prince
10 William Sound King Crab, Prince William Sound Miscellaneous Finfish, Prince William
11 Sound Miscellaneous Shellfish, Prince William Sound Sablefish, Prince William Sound
12 Pot Shrimp, Prince William Sound Trawl Shrimp and Prince William Sound Tanner
13 Crab.¹⁴
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17 c. At least two applications will be made for all of those claimants who remain
18 with a single impairment on their claim. One such application would be limited to those
19 claimants whose impairment is a bankruptcy or payment owed to the Internal Revenue
20 Service. A second application would include all other single impairment claims such as
21 payments to child support liens, heirs, assignees, ex-spouses or other third-party
22 judgment holders.
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figures when referring to "Punitive Damages" refers to the actual amount of Punitive Damages, unless otherwise noted.

¹⁴ Designated EQSF processing codes for the remaining "Round 3" miscellaneous oiled fisheries: D09H, M01H, P09H, T09H, D09K, M01K, O01K, W12K, D09E, K09E, M01E, R12E, C06E, P09E, P07E and

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1 d. At least one additional application will be made for all remaining claimants
2 who have multiple impairments on their claims.
3

4 4. Having accounted for prior payments made to claimants in four of the claim
5 categories (which the Plans of Allocation and Distribution require be considered before
6 additional funds are passed through to claimants), I do not envision that any payments
7 will be made from the current Punitive Damages to claimants in the Municipality,
8 Cannery Worker, Processor or Halibut fishery claim categories.
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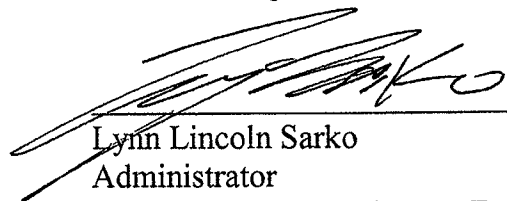
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11 5. If the Court approves the current request, I will begin authorizing payments to be
12 issued to each of the listed claimants as soon as possible after entry of this Court's order
13 approving the distribution application. Because payments to claimants in the selected
14 claim categories of this Fifth Application have no impairment issues, I anticipate that the
15 EQSF can begin initiating payments within two weeks.
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T09E

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

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



Lynn Lincoln Sarko
Administrator
Exxon Qualified Settlement Fund
Alyeska Qualified Settlement Fund
Post Office Box 21945
Seattle, Washington 98111
(206) 623-1900

Certificate of Service

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

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