

1 David W. Oesting  
2 DAVIS WRIGHT TREMAINE LLP  
3 701 West 8th Avenue, Suite 800  
4 Anchorage, AK 99501  
5 (907) 257-5300

6 Lead Counsel for Plaintiffs

7 Lloyd B. Miller  
8 SONOSKY, CHAMBERS, SACHSE,  
9 MILLER & MUNSON  
10 900 West 5th Avenue, Suite 700  
11 Anchorage, AK 99501  
12 (907) 258-6377

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. A89-095-CV (HRH)  
18 \_\_\_\_\_ ) (Consolidated)  
19 )  
20 THIS DOCUMENT RELATES TO )  
21 ALL CASES )  
22 \_\_\_\_\_ )

23 **DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF LEAD**  
24 **COUNSEL'S APPLICATION FOR AN ORDER DISTRIBUTING**  
25 **EXXON QUALIFIED SETTLEMENT FUNDS TO NATV, NOOS, F00E, S01E,**  
**S03E, S04E, S01H, S03H, S04H, S01K, S02K, S04K AND S01L CLAIMANTS AND**  
**THEIR ATTORNEYS**

1           1. I am the Court-appointed Claims Administrator of 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           2. The current application to distribute punitive damages covers claimants in the  
6 same 13 categories that were the subject of the October 31, 2008 application to pay over  
7 12,000 claims in the following claim categories: Native (NATV), Native Opt Out  
8 Settlement Class (NOOS), the Prince William Sound 1989 Fund (F00E), Prince William  
9 Sound Salmon Seine (S01E), Prince William Sound Salmon Drift (S03E), Prince William  
10 Sound Salmon Set Net (S04E), Cook Inlet Salmon Seine (S01H), Cook Inlet Salmon  
11 Drift (S03H), Cook Inlet Salmon Set Net (S04H), Kodiak Salmon Seine (S01K), Kodiak  
12 Salmon Beach Seine (S02K), Kodiak Salmon Set Net (S04K) and Chignik Salmon Seine  
13 (S01L). This submission does not cover any of the 39 remaining claim categories, which  
14 will be covered in future applications.

15           3. The October 31 application asked for permission to distribute to 12,161  
16 claimants, listed on Exhibit C, and the Court's November 24, 2008 application authorized  
17 that distribution. My goal with the first application was to get those claimants paid who  
18 were to receive the entire amount of their claim, with no amount going to any other  
19 entity, whether that entity was the IRS, another lienholder or an assignee. Between the  
20 time of the October 31 application and the actual distribution (direct deposits were made  
21  
22  
23  
24  
25

DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT  
OF AN ORDER DISTRIBUTING FUNDS TO F00E, NATV, NOOS,  
S01E, S01H, S01K, S01L, S02K, S03E, S03H, S04E, S04H AND S04K

- 2

*In re the Exxon Valdez*, Case No. 3:89-cv-095-HRH

1 between December 5 and 11 and checks were issued on December 12, 2008), the EQSF  
2 received additional impairments on 419 of those claimants listed on Exhibit C and the  
3 EQSF did not issue payment on those claims. As a result, 11,742 claims were actually  
4 paid. We anticipate distribution of Form 1099's to those claimants during the last week  
5 of January, 2009.  
6

7 4. There are over 8100 claims that remain to be approved by the Court in the  
8 thirteen claim categories that the EQSF made distributions to at the end of 2008.  
9 Through this application, we are proposing to now pay approximately 5331 of those  
10 claims, and to defer application on the remainder, which involve more complex  
11 processing, to a later date.  
12

13 5. Of the approximately 5331 claims that are covered by this application, they fall  
14 into eight broad categories:  
15

16 a. First, approximately 543 claims involve impairments that the particular  
17 claimant was able to resolve since the first distribution application was filed on October  
18 31, 2008. These claimants have no current impairments at this time, however, should I  
19 receive notice of a lien, levy or assignment between the date of this motion and the check  
20 issuance date, I will withhold payment to the claimant and pay the judgment holder  
21 according to the terms of the lien, levy or assignment. I do not intend to seek additional  
22 Court approval for claimants falling in this situation.  
23  
24  
25

1                   b. Second, approximately 360 claims involve bankruptcies. For these  
2 claims, bankruptcy trustees to whom payment must be made have been identified, and  
3 payments will be made by check directly to the applicable trustee. The EQSF will be  
4 providing a list of these claims to the IRS so that it may interact with trustees for those  
5 cases that involve an IRS claim.  
6

7                   c. Third, approximately 1080 claims have an outstanding IRS levy, but no  
8 other lien, levy or assignment. The great bulk of these claims will require the entire  
9 amount of the claim to be paid to the IRS, but some of which require payment of part of  
10 the claim to the IRS (up to the amount of the levy), and the balance to the claimant. To  
11 the extent that an amount needs to be paid by the EQSF to the IRS, I have worked out a  
12 process acceptable to the IRS by which individual checks on behalf of each claimant will  
13 be sent to the Service. To the extent there is a balance due a particular claimant, a direct  
14 deposit of that amount will be made in favor of the claimant, or a check will be issued to  
15 the claimant if the claimant has not signed up for direct deposit. On January 12, 2009, I  
16 tendered to the IRS a list of those claimants with levies, and requested that the EQSF  
17 receive an updated levy amount, including interest, through February 26, 2009.

18  
19 Anticipating that the motion this declaration supports will be granted on approximately  
20 January 31, 2009, the EQSF has secured the Service's agreement that the EQSF  
21 Administrator may use that list to determine amounts due as long as the EQSF releases  
22 the funds to the Service on or before February 26, 2009.  
23  
24  
25

1                   d. Fourth, approximately 467 claimants whose claims are otherwise  
2 payable have not submitted a current W-9 to the EQSF. For them, the EQSF will treat  
3 them as if they required mandatory backup withholding. I will direct the EQSF to  
4 withhold and remit 28% of the claim to the Service, and the balance to the claimant. The  
5 EQSF has worked out a process acceptable to the IRS by which we will use the IRS  
6 Electronic Funds Transfer Payment System (EFTPS), and can make this remittance on  
7 behalf of this entire group of claimants with a single transfer. The EQSF is currently  
8 coordinating with Doris Marshall of the Anchorage IRS office for this transfer. For each  
9 of these claims, the amount not withheld will be paid to the claimant through either direct  
10 deposit or a check.

13                   e. Fifth, approximately 902 claimants signed up for voluntary withholding,  
14 through which the EQSF has been asked to deduct a certain percentage of any amount  
15 due the claimant and forward it to the IRS on behalf of the claimant. As with the claims  
16 covered by subparagraph c, above, the EQSF will use the EFTPS for payment, and the  
17 balance will be paid to the claimants, either by direct deposit or a check.

19                   f. Sixth, approximately 549 claimants have submitted a form to the EQSF  
20 indicating that their claims require mandatory backup withholding. After consultation  
21 with the IRS, the EQSF will treat each of these claims as if the claimant asked for  
22 voluntary withholding at the rate of 28%. For transfer of amounts to the IRS, the EQSF  
23 will follow the same procedures set out in sub-paragraph c above, and the balance will be  
24  
25

1 paid to the claimant.

2 g. Seventh, approximately 262 claimants have a single lien filed against  
3 their claim from a state child support agency. As with the IRS levies discussed in  
4 subparagraph b, above, some of the liens will require that we pay the entire amount to the  
5 Child Support Agency, and some will require that the EQSF pay a portion of the claim to  
6 Child Support, and the balance will be paid to the claimants, either by direct deposit or a  
7 check.  
8

9 h. Eighth, approximately 1168 claimants have a lien that is not from the  
10 IRS or a child support agency, or an assignment of part or all of the claim. As to the  
11 “liens,” these include claims by prior spouses, business partners, and judgment creditors.  
12 As to the “assignments,” the great bulk are assignments by personal representatives to  
13 heirs or devisees of deceased claimants. Such lienholders will receive payment with any  
14 balance paid to the claimant.  
15  
16

17 6. Those approximately 2800 claimants in the thirteen claim categories that we  
18 anticipate will be the subject of a future, third application to distribute punitive damages  
19 primarily fall into three major categories. Many claimants have multiple reasons for their  
20 claims remaining impaired. First, there is a group of approximately 600 claimants for  
21 which the EQSF does not have a good address on file. For them, the EQSF intends to  
22 take advantage of a program that the IRS has by which the EQSF will provide the names  
23 and tax identification numbers to the Service, and the IRS will issue a letter to the  
24  
25

DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT  
OF AN ORDER DISTRIBUTING FUNDS TO F00E, NATV, NOOS,  
S01E, S01H, S01K, S01L, S02K, S03E, S03H, S04E, S04H AND S04K

- 6

*In re the Exxon Valdez*, Case No. 3:89-cv-095-HRH

1 persons at their last known address advising them to contact us. Second, there are  
2 approximately 700 claims where the EQSF knows that the claimant is deceased but for  
3 which adequate documentation has not yet been provided to the EQSF that would allow  
4 the claim to be paid to a personal representative or other authorized agent. For them, the  
5 EQSF intends to renew efforts to contact appropriate persons to provide documents  
6 necessary to receive the claims. Third, there are approximately 1800 claims where there  
7 are multiple liens (inclusive of some of those claimants that are deceased and have not  
8 provided sufficient documentation, or have a bad address), which require more  
9 meticulous processing before payment can be issued. For example, a claimant may have  
10 an IRS lien for less than the full amount of the claim, a child support lien, and a lien from  
11 an ex-spouse. We are deferring these to the third round in an effort to get the “single  
12 lien” claimants, whose cases require less processing, paid first.

13  
14  
15  
16 7. In my October 31, 2008 declaration, I explained that as a result of the  
17 assumptions and calculations made there, I was proposing to distribute \$247,005,722.58  
18 to claimants in the thirteen claim categories. During December 2008, the EQSF  
19 distributed \$155,642,132.80 of that amount. The approximately 5331 claimants who may  
20 receive all or a portion of their claim or whose allocation(s) may be made in whole or  
21 part to third parties are set out in Exhibit A to this declaration. The total amount which  
22 will be distributed if the court approves this distribution is \$62,529,097.75, the second  
23 component of the \$247,005.722.58.  
24  
25

DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT  
OF AN ORDER DISTRIBUTING FUNDS TO F00E, NATV, NOOS,  
S01E, S01H, S01K, S01L, S02K, S03E, S03H, S04E, S04H AND S04K

- 7

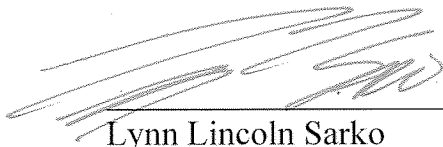
*In re the Exxon Valdez*, Case No. 3:89-cv-095-HRH

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

8. I have notated those claimants that were previously included on Exhibit C of the October 31, 2008 distribution application. Claimants in this situation will only be paid their Gross Allocation once.

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

DATED this 13th day of January 2009.



---

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