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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) Case No. 3:89-cv-095-HRH
18 The EXXON VALDEZ) (Consolidated)
19 _____)

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

23 LEAD COUNSEL'S TWENTY-FIFTH APPLICATION FOR AN ORDER
24 DISTRIBUTING EXXON QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN
25 VARIOUS CATEGORIES AND THEIR ATTORNEYS

This is the twenty-fifth application for authority to distribute portions of the

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1 money plaintiffs received from Exxon as partial payments on the punitive damages
2 judgment entered by the United States Supreme Court along with other funds received by
3 the Exxon Qualified Settlement Fund (“EQSF”).

4 In connection with proceedings related to the 16th Application for the distribution
5 of punitive damages, the Court in its November 10, 2010 order said:
6

7 At such time as Lead Counsel and the Administrator deem it
8 appropriate to finally terminate all administration of the EQSF, the
9 Court would have Lead Counsel and the Administrator consider
10 the appropriateness and feasibility of employing any remaining
11 funds for the purpose of ameliorating the shortages, which some
12 claimants in various claims categories (but in particular cannery
13 workers) have suffered.

14 [Clerk’s Docket No. 9658, p. 11].

15 As indicated in the attached Declaration of Lynn Lincoln Sarko, Administrator of
16 both the EQSF and the Alyeska Qualified Settlement Fund (“AQSF”), he has determined
17 that EQSF reserves are adequate to permit a distribution of more than \$4.0 million to
18 2101 claimants to bring every *individual* claimant (including cannery workers)¹ to 90%
19 of their estimated damages as calculated when plaintiffs’ counsel prepared the matrices
20 that informed the Plan of Allocation and the Plans of Distribution. At the same time, he
21 projects that the remaining reserves will be sufficient to allow the EQSF to administer
22

23 _____
24 ¹ Claimant groups covered would include cannery workers as well as claimants in the Processor,
25 Tenderer and three other small fishery claim categories.

1 this distribution, to continue the work envisioned by the 23rd and 24th applications, and to
2 complete administration of the other distributions that are outstanding.

3 Other than the six claim categories, which are the subject of this application, every
4 other claimant in the remaining 44 claim categories has received in excess of 90% of
5 their target damage allocation under the Plan of Allocation and the Plans of Distribution.
6 In contrast, because of the way the plans have worked, some claimants have received as
7 little as 16.4% of their target allocation (a cannery worker), 41.1% for PWS shrimp
8 trawlers, 45% for PWS sablefishers, 48% for processors, 81% for Cook Inlet
9 miscellaneous shellfishers, and 87% for tenderers. The problem is obviously most
10 exacerbated for cannery workers, but given that Mr. Sarko has determined that there are
11 adequate resources to bring each individual claimant to 90% with the approximately \$4
12 million I am proposing to use for this equalizing distribution, it seems appropriate to use
13 the money to bring *every individual* claimant to a uniform percentage of their target
14 allocation.
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18 Using the criterion that every individual claimant who has not yet received 90% of
19 its damages as calculated under the plans of distribution would now receive 90% of their
20 target recovery, a total gross distribution of \$4,025,502.89 would be made, broken out as
21 follows:
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LEAD COUNSEL'S TWENTY-FIFTH APPLICATION FOR AN ORDER DISTRIBUTING BOTH
ALYESKA AND EXXON QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN VARIOUS
CLAIM CATEGORIES AND THEIR ATTORNEYS - 3

In re the Exxon Valdez, Case No. 3:89-cv-095-HRH
DWT 18513185v1 0027510-000015

- 1 • 1534 cannery worker claimants would receive a gross allocation of
- 2 \$1,431,356.49 as set out in pages 1-53 of Exhibit A;
- 3 • 45 M01H claimants (Cook Inlet Miscellaneous Shellfish) would receive
- 4 \$505.35 as set out in pages 54-55 of Exhibit A;
- 5 • 104 C06E claimants (Prince William Sound Sablefish) would receive
- 6 \$68,183.82 as set out in pages 56-59 of Exhibit A;
- 7 • 8 Prince P07E claimants (Prince William Sound Shrimp Trawl) would
- 8 receive \$49,243.26 as set out on page 60 of Exhibit A;
- 9 • 26 Fish Processor claimants would receive \$2,342,059.14 as set out on page
- 10 61 of Exhibit A; and
- 11 • 384 Tenderer claimants would receive \$134,154.83 as set out in pages 62-
- 12 75 of Exhibit A.

13 As explained in Mr. Sarko's Declaration the amounts in the Exhibits are gross
14 dollar allocations on claims prior to any deductions for attorneys' fees. The total amount
15 of gross payments under this current application is approximately \$ 4,025,502.89.

16 Finally, we are simultaneously making a Twenty-Fourth Application for the
17 distribution of punitive damages, in which I have asked for permission to distribute any
18 unclaimed funds to state unclaimed property funds, if after specific efforts to find
19 claimants are undertaken, they have still not come forward to claim their awards. I ask

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LEAD COUNSEL'S TWENTY-FIFTH APPLICATION FOR AN ORDER DISTRIBUTING BOTH
ALYESKA AND EXXON QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN VARIOUS
CLAIM CATEGORIES AND THEIR ATTORNEYS - 4

1 that the same procedures be used in connection with those claimants identified to receive
2 a distribution through this application that were used for those listed in the Twenty-
3 Fourth application if we are not able to distribute their recoveries.

4 A proposed order is attached authorizing the proposed distributions discussed in
5 this application.
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7 Respectfully submitted this 4th day of November, 2011.
8

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17 Certificate of Service

18 The undersigned certifies that on November 4th, 2011, a true and correct copy of the foregoing
19 LEAD COUNSEL'S TWENTY-FIFTH APPLICATION FOR AN ORDER DISTRIBUTING EXXON
20 QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN VARIOUS CLAIM CATEGORIES AND
21 THEIR ATTORNEYS was served on the following attorneys or
22 parties of record by the court's ECF system:

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By: s/ David W. Oesting

LEAD COUNSEL'S TWENTY-FIFTH APPLICATION FOR AN ORDER DISTRIBUTING BOTH
ALYESKA AND EXXON QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN VARIOUS
CLAIM CATEGORIES AND THEIR ATTORNEYS - 5