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10 Liaison Counsel for Plaintiffs

Honorable H. Russel Holland

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12
13 IN THE UNITED STATES DISTRICT COURT
14
15 FOR THE DISTRICT OF ALASKA

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

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

22 DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF LEAD
23 COUNSEL'S 24th APPLICATION FOR AN ORDER DISTRIBUTING EXXON
24 QUALIFIED SETTLEMENT FUNDS TO CLAIMANTS IN VARIOUS CATEGORIES
25 AND THEIR ATTORNEYS, AND TO VARIOUS STATE PROPERTY FUNDS IF
CLAIMANTS CANNOT BE LOCATED

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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

6 2. As the Court is aware from several previous declarations I have filed, there
7 are two categories of entities (claimants, or claimants' lien agents, heirs, assignees or
8 other 3rd-party judgment holders, whom I will term "claimants' agents") which are
9 entitled to an award for whom we are currently unable to make a distribution.
10

11 a. The first category involves those entities that have been the subject of prior
12 orders authorizing distributions but for whom we do not have a current
13 address or payee identified. Typically, this problem has resulted when,
14 after we made and received approval for a distribution, we learned that an
15 address that the EQSF and/or AQSF thought was viable turned out not to be
16 so, or we learned that the person was deceased. There are also some
17 entities for whom a technical problem remains with their claim. Despite
18 ongoing efforts to find such entities, to identify a representative to come
19 forward for an entity who is deceased, and to resolve technical problems,
20 many of which efforts have been successful, there remains a group of such
21 entities whom the EQSF and/or AQSF still have been unable to fully pay.
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CLAIMANTS IN VARIOUS CLAIM CATEGORIES AND THEIR ATTORNEYS AND TO VARIOUS
STATE LOST PROPERTY FUNDS IF CLAIMANTS CANNOT BE LOCATED - 2

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

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Entities that are not fully paid are categorized alphabetically on Exhibits A1-A3, with data regarding the sources of undistributed funds by claim category and distribution source, as well as data regarding the extent to which the claimant or a lienholder is scheduled to receive the allocation(s). Claimants who have a previously approved allocation, but are not fully paid, are listed in Exhibit A-1 to this declaration.¹ Currently, there are 2326 claimants listed on Exhibit A-1 along with specific information about how much of each allocation for the claimant would go, if any, to a lien-holder. Exhibit A-2 lists exclusively those 1846 claimants who are currently scheduled to actually receive a portion of their award and the amount they will receive. Exhibit A-3 lists exclusively the 350 lien-holders who are scheduled to actually receive a portion of claimants' awards and the amount each lien-holder will receive.²

¹ Because our efforts to process claims are ongoing, some of the persons on this list will have been found and their claims paid by the time this declaration is submitted to the Court.

² Because there are some lienholders who receive the entire amount of multiple claimants' awards, the sum of 1836 and 350 is less than the 2326 claimants on Exhibit A-1.

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- b. The second category involves those claimants who we have known for some time do not have a current address, or who are deceased and no representative has come forward, and, as a result, we have not included those claims on prior applications. Those persons and the gross amounts of their awards are listed in Exhibits B1-4 to this declaration. Claims are listed in the format we have used for prior original applications. Thus Exhibit B-1 lists those 322 unhoiled fishery claimants for whom an application is being made to distribute compensatory damages; Exhibit B-2 lists those 626 claimants from multiple claim categories for whom an application is being made to distribute punitive damages principal payments; Exhibit B-3 lists those 655 claimants from multiple claim categories for whom an application is being made to distribute punitive damages principal payments; and Exhibit B-4 lists those 677 claimants from multiple claim categories for whom an application is being made to distribute final distribution payments (the source of which is the \$70 million Exxon transferred after it determined not to appeal on costs).
- c. Exhibit B-5 collects all of the claimant names on Exhibits B-1 through B-4, and lists the 732 claimants for whom this application is being made, along with the total net amount, after attorneys' fees have been deducted, that

1 those claimants are scheduled to receive and the last known jurisdiction
2 with which they were associated.

3 d. At this stage, entities listed on Exhibits A and B are now functionally
4 equivalent for purposes of fund administration except that Lead Counsel
5 and I have not yet sought Court authorization to distribute to those
6 claimants on Exhibits B1-4. Through this application, we seek that
7 authority.
8

9 3. I am aware that each of the 50 states maintains funds for the deposit of
10 unclaimed property which may provide a resource for ultimate distribution of unclaimed
11 awards if the EQSF and/or AQSF remain unable to identify a proper recipient and
12 distribute the awards that are the subject of Exhibits A and B. Representative legislation
13 authorizing the establishment of such funds and describing their operation is contained in
14 *A.S. 34.45.110-780* for Alaska, *R.C.W. 63.29.010-906* for Washington, *Code of Civil*
15 *Procedure, Part 3, Title 10, Chapter 7, Secs. 1500-1582* for California, and *O.R.S. 98.05-*
16 *.436* for Oregon. These four jurisdictions appear to have the largest number of entities
17 and largest dollar amounts if we are unable to find the individuals or their representatives
18 listed on Exhibits A and B. These four states currently encompass over 83% of the
19 unique entities involved, and over 81% of the funds. Once funds are remitted to a
20 particular state as unclaimed, claimants or lien-agents would still have several years to
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1 claim the money before it would escheat to a state treasury. Of the unique entities
2 (claimants and lienholders) who are entitled to receive a distribution, for those that
3 ultimately have a last known address that is a foreign jurisdiction, or have an unknown
4 address, if the efforts to find them as outlined below in paragraphs 6-9 are unsuccessful, I
5 am proposing to turn over their claims to the State of Washington's unclaimed property
6 program. Lead Counsel and I believe that procedure is consistent with both applicable
7 federal and state law for persons with unknown or foreign last known addresses.
8

9 4. To provide additional data to explain the approach we intend to take to
10 identify and pay particular entities, I have sorted the 2645 entities and the current
11 amounts available for transfer on Exhibits A-2, A-3 and B-5 by the total remaining
12 amount of the claim involved from the largest unpaid recipient to the smallest, and have
13 ranked them by the size of the potential amount available in Exhibit C. Exhibit F then
14 collects this data into categories based on the size of the claim.
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- 17 a. Exhibit F indicates there are 306 entities whose undistributed balance
18 exceeds \$5,000, for a total of about \$5.5 million; 454 entities' undistributed
19 balance falls between \$1,000 and \$5,000, for a total value of about \$1
20 million; 664 entities' undistributed balance falls between \$100 and \$1000,
21 for a total of about \$ 250,000; 228 entities' undistributed balance falls
22 between \$50 and \$100, for a total of about \$16,000; and there are another
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993 entities whose undistributed balance is than \$50, totaling about \$20,000.

5. To give some idea of the jurisdictions which might ultimately be the recipient of such funds, assuming that no additional claimants or lienholders were found, Exhibit C also lists the jurisdictions where we have a last known address, those for which we do not currently have one, and those for which we have a foreign address. That data is summarized in Exhibit D. Of the 2645 entities eligible to receive funds, over 83% have a last known address of Alaska, Washington, California or Oregon. Twenty-four entities have foreign addresses and sixty-three entities are currently listed as unknown (though we expect to be able to assign an address to the great bulk of these as administration continues).

6. Though I have listed the amounts that remain available in each of the Exhibits A-B, above, I anticipate that the amount that will ultimately have to be remitted to the various state unclaimed property funds will be very small. This is because, over the period of administration, with a particular focus during the last six months, we have undertaken an aggressive program to identify persons with defects in their claims, primarily claimants who do not have current addresses, and claimants who are deceased but for whom no proper entity has yet come forward to receive the claim. We have focused on claims in excess of \$10,000, and have been over 98% successful in

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1 transferring claim amounts for that group, which claims have now been paid. It is our
2 intention (as it is for the direct action firms with claimants, see paragraph 8 below) to
3 continue such efforts for the claims that are the subject of Exhibits A and B. Indeed, we
4 have contacted a substantial number of the entities on those exhibits already, and efforts
5 are underway to claim amounts due by personal representatives who are opening estates,
6 representatives of decedents who are gathering information to comply with collection
7 affidavit statutes, and others who are providing whatever is needed to claim funds to
8 which they are entitled.
9

10
11 7. Based on our successful work identifying such entities so far, I am
12 proposing to make at least the following efforts during the period following approval of
13 this application prior to the distribution of any funds to a state unclaimed property fund.
14 (Such efforts are, of course, already underway.) Each of the direct action firms which
15 will receive funds for their own clients has also agreed to use at least the same level of
16 efforts to try to find the claimants for which they will receive funds.

- 17
18 a. The EQSF website would contain a list of all 2645 entities on Exhibit C
19 listing the amount of their claim, and with instructions available on how to
20 contact someone at the EQSF (or the applicable direct action firm) to
21 collect the claim. To call attention to the information available on the
22 website, we would intend to publish notices in the Anchorage Daily News,
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1 the Cordova Times, the Kodiak Daily Mirror, the Homer Tribune, the
2 Seward Phoenix Log, the Peninsula Clarion, the Valdez Star, the Juneau
3 Empire and the Seattle Times, advising potential recipients that information
4 regarding undistributed funds is available on the website, providing a
5 telephone number for access to a person who could assist with collecting
6 the proper information, and providing an address to which someone could
7 write for further information.
8

9 b. For each of the approximately 1650 entities scheduled to receive over \$50,
10 we would attempt to use the IRS's letter forwarding service to contact lost
11 claimants. At a marginal cost of approximately \$2.00 per entity, the IRS is
12 willing to send *our* letter to the entity at the most recent address *the IRS* has
13 if we provide the content of the letter, and the person's social security
14 number. We would anticipate sending different letters to those entities
15 whom the EQSF and/or AQSF believes are alive, and those who we believe
16 are deceased, with the latter asking that a representative of the decedent
17 come forward to claim the money.
18

19 c. For each of the 750 entities scheduled to receive over \$1,000, we would
20 assign an individual to attempt to find the entity and assist in the perfection
21 of the claim through a combination of devices including some or all of the
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following:

- (1) Internet searches to identify most recent address or other contact information;
- (2) Attempting to contact persons who appear from our files to possibly have some relationship with the applicant (such as previous skippers for commercial fishing claims);
- (3) Contacting Native organizational entities, such as regional corporations, village corporations, tribal entities, municipal entities and non-profit Native organizations to locate those with Native claims, or who otherwise appear to be Alaska Native;
- (4) Searching obituary records and state probate records for evidence of estates that may have been opened for decedents, and then contacting lawyers or personal representatives who may have been involved with the estates;
- (5) Trying to find claimant relatives or friends identifiable from EQSF files or other sources;
- (6) Searching *Courtview* (Alaska's site that lists all open and closed state Court cases) and similar sites in other jurisdictions to locate entities; and
- (7) Contacting trade groups (such as fishermen's organizations) for relevant entities.

1 8. Of the 2645 unique entities which are slated to receive individual
2 recoveries, there are 733 who are claimants represented by direct action firms. Along
3 with the EQSF, those firms have been making efforts to find the lost claimants, and once
4 found, notify the EQSF so that payments can be made, or applications can be made to the
5 Court. Representatives from each of the direct action firms have indicated to me that
6 they wish to continue these efforts for their own clients, and if they ultimately are unable
7 to reach them, to turn the funds over to applicable state unclaimed property funds.
8 Through this application, Lead Counsel and I are seeking authority to turn over these
9 funds in early 2012 to the appropriate direct action firm for further efforts to find the
10 claimant, and to disburse the claim amounts ultimately to state unclaimed property funds
11 if the claimants cannot be located. The number of claimants represented by each such
12 direct action firm is listed by firm in Exhibit E.
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16 9. Assuming that the Court approves this application on or about December 1,
17 2011, it is my intention to file a report with the Court regarding the progress that we
18 make releasing funds to the claimants and claimant agents on Exhibits A and B every six
19 months. We anticipate that the great bulk of our efforts would occur during the first six-
20 month period, and that after that period, very few entities would come forward to claim
21 their shares. Nonetheless, the EQSF and/or AQSF would continue to be available to
22 distribute shares if entities come forward with appropriate documentation. I also
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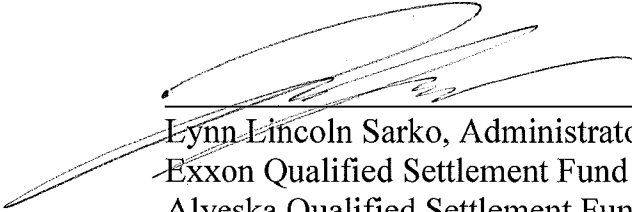
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1 anticipate a final report to the Court on or about December 1, 2013, that the EQSF and/or
2 AQSF have in fact concluded the administration of the settlement funds by distributing
3 the balance to the various lost property funds.

4 10. The AQSF is in the process of identifying entities that have yet to be fully
5 distributed, similar to that information detailed by the EQSF as summarized in Exhibit C.
6 All AQSF funds have been the subject of prior distribution orders. It is my intent, that
7 for each time we prepare the semi-annual reports to the Court as outlined in Section 9
8 above, I will include detailed AQSF information as well. As of today, I estimate that
9 there are approximately 700 non-fully paid entities in the AQSF who have claims worth
10 approximately \$460,000.
11

12 11. I certify under penalty of perjury of the laws of the State of Washington
13 that the foregoing is true and correct.
14

15 DATED this 4th day of November 2011 at Seattle, Washington.
16

17
18 
19 Lynn Lincoln Sarko, Administrator
20 Exxon Qualified Settlement Fund
21 Alyeska Qualified Settlement Fund
22 Post Office Box 21945
23 Seattle, Washington 98111
24 (206) 623-1900

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1 Certificate of Service

2 The undersigned certifies that on November 4, 2011, a true and correct copy of the foregoing
3 DECLARATION OF LYNN LINCOLN SARKO IN SUPPORT OF LEAD COUNSEL'S
4 24TH APPLICATION FOR AN ORDER DISTRIBUTING EXXON QUALIFIED SETTLEMENT
5 PUNITIVE DAMAGES FUNDS TO CLAIMANTS IN VARIOUS CLAIM CATEGORIES AND
6 THEIR ATTORNEYS AND TO VARIOUS STATE LOST PROPERTY FUNDS IF CLAIMANTS
7 CANNOT BE LOCATED was served on the following attorneys or parties of record by the
8 Court's ECF system:

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12 By: s/ David W. Oesting

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