

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)	
)	
the EXXON VALDEZ)	
_____)	
This Document Relates to)	No. 3:89-cv-0095-HRH
)	
ALL CASES)	
_____)	

O R D E R

Joint Motion of Cannery Workers
and Seafood Sales, Inc.

In connection with Lead Counsel for All Plaintiffs' seventh and eighth applications for distribution of recoveries from the grounding of the Exxon Valdez, an undefined group of cannery workers and Seafood Sales, Inc., a processor claimant (herein collectively "the Joint Movants"), move for an order compelling the EQSF Administrator to provide further information.¹ The Joint Movants further seek leave to defer filing a response to Lead Counsel's seventh and eighth applications pending receipt and review of that additional information. The motion is opposed by Lead Counsel for All Plaintiffs.² Following the filing of the

¹Docket No. 9317.

²Docket No. 9332.

Joint Movants' reply,³ Lead Counsel moved for leave to file a sur-reply.⁴ The Joint Movants oppose the latter motion.⁵

Although the exact nature of the Joint Movants' concerns are not clear to the court, it is clear that they question the adequacy of the reserve proposed by the EQSF Administrator and Lead Counsel for purposes of possible further distributions to cannery workers and/or fish processors who presently stand to receive less than their final matrix share of distributions of allocations.⁶

As a result of its preliminary review of all of the papers filed in support of and in opposition to Lead Counsel's seventh and eighth applications, the court is satisfied that the cannery workers and fish processors have, as claim categories, received their full matrix allocations. However, the EQSF Administrator must necessarily address the problem created by reason of some processors and cannery workers having been overpaid while others are underpaid as a direct consequence of recoveries by processors and cannery workers outside of the claims administration process.⁷

³Docket No. 9342.

⁴Docket No. 9347.

⁵Docket No. 9348.

⁶The circumstances giving rise to possible shortages of distributions to some claimants is explained in the EQSF Administrator's supplemental declaration filed in support of Lead Counsel's seventh and eighth applications for distributions. Docket No. 9285.

⁷It is clear that the problem which the confronts the EQSF Administrator is not at all a new one. It has been known for twelve years. It was known to be a problem when the plans of allocation and distribution were approved by the court. The matter of overpayments and under-payments has become critical at this time for two reasons: we are approaching the final distribution of
(continued...)

The court was initially prepared to grant Lead Counsel's seventh and eighth applications. However, upon further reflection, the court is troubled by the fact that when All Alaskan Seafoods objected to Lead Counsel's seventh and eighth applications, seeking more information and in substance questioning whether the reserves proposed were adequate, Lead Counsel quickly reached an agreement with All Alaskan Seafoods to reserve some additional funds such that the seventh and eighth applications might be taken up and a very substantial distribution to a huge number of claimants might be made.

The prospect of delaying that distribution troubles the court a good deal. However, the court has no means of determining at this juncture how it is that it was appropriate to add an additional reserve for All Alaskan Seafoods, Inc., and no other claimant. Lead Counsel takes the position that the Joint Movants have not asked for a delay in the seventh or eighth applications, but this is clearly what they request. At this time, however, the Joint Movants have been supplied with much (and perhaps all) of the information they have requested. What the joint motion seeks is leave to defer opposing the seventh and eighth applications while the data provided to them by Lead Counsel is being analyzed. Given the court's uncertainty about exactly what it is the Joint Movants are concerned about, as well as the court's uncertainty as to why a separate reserve for All Alaskan Seafoods was appropriate but

⁷(...continued)
recoveries to claimants, and there is far less money to distribute than all concerned estimated and hoped for when the plans of allocation and distribution were agreed to and approved.

apparently not appropriate for the Joint Movants, the joint motion is granted as set out below.

Lead Counsel's motion for leave to file a surreply is also granted. That surreply shall be filed and has been considered by the court along with the Joint Movants' opposition to the motion for leave to file. In the latter regard, Lead Counsel has, on October 2, 2009, filed a notice covering processor and cannery worker data sheets that had previously been omitted.⁸

IT IS HEREBY ORDERED:

1. On or before October 19, 2009, counsel for the cannery workers and counsel for Seafood Sales, Inc., shall complete their analysis of data provided to them respectively by the EQSF Administrator and file their opposition, if any, to Lead Counsel's seventh and eighth applications.
2. Respective counsel for the cannery workers and Seafood Sales, Inc., shall not share the data provided with anyone else other than the individual clients or the principals of Seafood Sales, Inc., absent a further order of the court.
3. On or before October 23, 2009, Lead Counsel shall serve and file a reply to any opposition filed on behalf of either or both of the Joint Movants.

⁸Notice of Filing Processor and Cannery Worker Data Sheets, Docket No. 9349.

4. The court will not be inclined to postpone the foregoing dates unless Lead Counsel initiates or joins in such a request.

DATED at Anchorage, Alaska, this 9th day of October, 2009.

/s/ H. Russel Holland
United States District Judge