

Peter A. Galbraith
GALBRAITH & OWEN, P.C.
1407 West 31st Avenue, Suite 700
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(907) 276-4883
Attorneys for Cook Inlet Processing, Inc.

FILED

JAN 02 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
the GLACIER BAY) No. A88-115 Civil
1) (Consolidated)
RE: ALL CASES

SUBSTITUTION OF COUNSEL

Peter A. Galbraith, of Birch, Horton, Bittner & Cherot, 1127 West 7th Avenue, Anchorage, Alaska 99501, telephone number (907) 276-1550, hereby substitutes as counsel for Peter A. Galbraith, formerly of Galbraith & Owen, P.C., as attorney of record for plaintiff Cook Inlet Processing in the above-captioned case in accordance with Civil Rule 81(d)(2)(ii). This substitution shall be effective on January 1, 1991.

BIRCH, HORTON, BITTNER & CHEROT
Attorneys for Cook Inlet Processing

DATED: January 2, 1991

By:

Peter A. Galbraith
Peter A. Galbraith

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ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
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703

GALBRAITH & OWEN, P.C.
Attorneys for Cook Inlet Processing

DATED: December 31, 1990

By: Peter A. Galbraith

Peter A. Galbraith

FILED

JAN 8 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
Deputy

ORDER

IT IS SO ORDERED this 7 day of January, 1991.

M. Woodell
FEDERAL DISTRICT COURT JUDGE

cc: M. Woodell
R. Underhill
B. O'Neill
D. Ruskin

BIRCH, HORTON,
BITTNER AND CHEROT

ATTORNEYS AT LAW

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Attorneys for Cook Inlet Processing, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
)
the GLACIER BAY) No. A88-115 Civil
) (Consolidated)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Kimberly A. Esterling, being first duly sworn upon her oath, deposes and says: that she is a secretary with the law offices of Birch, Horton, Bittner & Cherot, 1127 W. 7th Avenue, Anchorage, Alaska 99501; that on the 2nd day of January, 1991, she served true and correct copies of: SUBSTITUTION OF COUNSEL by depositing same, with sufficient postage, in the United States mail, addressed to:

Michael H. Woodell, Esq.
Bradbury, Bliss & Riordan
431 West 7th Avenue, Suite 201
Anchorage, Alaska 99501

J.W. Sedwick, Esq.
Thomas E. Meacham, Esq.
Burr, Pease & Kurtz
810 "N" Street
Anchorage, Alaska 99501

Alan Braverman, Esq.
Wilmer, Cutler & Pickering
2445 "M" Street N.W.
Washington, D.C. 20037

**BIRCH, HORTON,
BITTNER AND CHEROT**

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Stuart E. Shiffer, Acting Assistant Attorney General
Mark Davis, Acting United States Attorney
Phillip A. Berns, Attorney in Charge, West Coast Office
R. Michael Underhill, Trial Attorney

(attorney to be served)

Richard A. Knee, Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
15036 Federal Building, P.O. Box 36028
450 Golden Gate Avenue
San Francisco, CA 94102-3463

Brian B. O'Neill, Esq.
Steven C. Schroer, Esq.
Gerard M. Nolting, Esq.
Alan M. Anderson, Esq.
Lori Ann Wagner, Esq.
Sarah Armstrong, Esq.
Richard A. Duncan, Esq.
Faegre & Benson
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Minneapolis, Minnesota 55402

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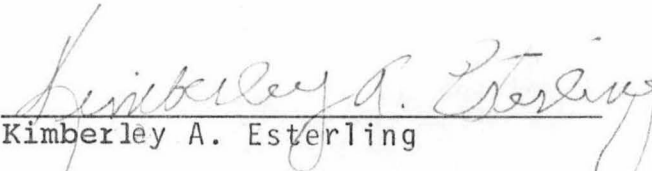
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D. John McKay, Esq.
Middleton, Timme & McKay
601 West 5th Avenue, Suite 420
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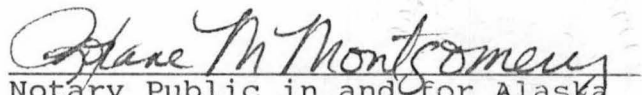
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C. Michael Hough, Esq.
3691 Ben Walters Lane #2
Homer, Alaska 99603

John C. Pharr, Esq.
733 4th Avenue, Suite 200
Anchorage, Alaska 99501


Kimberley A. Esterling

SUBSCRIBED AND SWORN to before me this 2 day of
January, 1991.


Notary Public in and for Alaska
My commission expires: 4/22/92

FILED

JAN 04 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
Deputy

Michael H. Woodell
BRADBURY, BLISS & RIORDAN
431 West 7th Avenue, Suite 201
Anchorage, Alaska 99501
(907) 278-4511

Lawyers for Defendants Trinidad, West,
Hawker, Mathiasen's and GBTC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
the GLACIER BAY) No. A88-115 Civil
(Consolidated)

RE: All Cases

UNOPPOSED MOTION
TO ALLOW DEFENDANTS TO RESPOND TO
JOINT MOTION FOR APPROVAL OF SETTLEMENT

All defendants, except the Fund, through their liaison counsel, hereby move the court (1) to allow defendants until January 11, 1991 to respond to the December 14 Joint Motion for Order Approving Settlement Between the Fishermen Plaintiffs Represented by Faegre & Benson ("Fishermen Plaintiffs") and Defendant the Trans-Alaska Pipeline Liability Fund ("Fund") ("Joint Motion"), and (2) to withhold ruling on the Joint Motion until after defendants' response is filed and considered.

This motion is based on the attached affidavit of counsel and is unopposed by Fishermen Plaintiffs and the Fund.

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& RIORDAN
LAWYERS
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704

DATED this 4th day of January, 1991 at Anchorage,

Alaska.

BRADBURY, BLISS & RIORDAN
Lawyers for Defendants Trinidad,
West, Hawker, Mathiasen's and GBTC

By: 
Michael H. Woodell

FILED

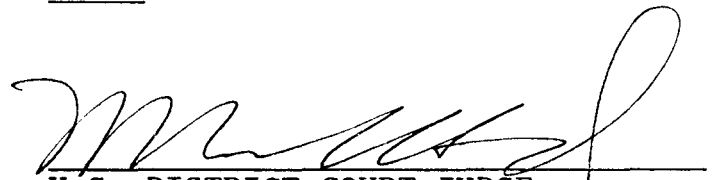
JAN 8 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
by _____ Deputy

ORDER

IT IS SO ORDERED.

DATED: 1/7/91

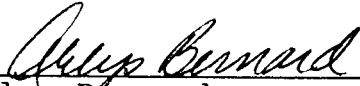

U.S. DISTRICT COURT JUDGE

cc: M. Woodell
R. Underhill
B. O'Neill
D. Ruskin

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UNOPPOSED MOTION
Case No. A88-115 Civil

I HEREBY CERTIFY that service of
UNOPPOSED MOTION TO ALLOW DEFENDANTS
TO RESPOND TO JOINT MOTION FOR
APPROVAL OF SETTLEMENT
has been made upon all counsel of
record this 4th day of January,
1991, based upon the court's Master
Service List of July 11, 1990.



Arlys Bernard
Secretary to Michael Woodell

MHW/ab
581-4\unoppos.mot

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UNOPPOSED MOTION
Case No. A88-115 Civil

Michael H. Woodell
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(907) 278-4511

Lawyers for Defendants Trinidad, West,
Hawker, Mathiasen's and GBTC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) No. A88-115 Civil
the GLACIER BAY)
) (Consolidated)
)
_____)

RE: All Cases

AFFIDAVIT OF COUNSEL

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Michael H. Woodell, being first sworn, states as follows:

1. I am a member of the firm of Bradbury, Bliss & Riordan, counsel for Trinidad, West and other vessel interests and I am liaison counsel for defendants in this action.

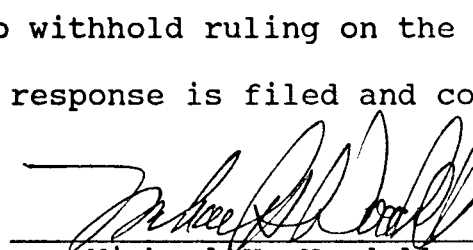
2. I have conferred with all counsel representing defendants in this action and have their authority to bring this unopposed motion. Defendants' counsel and counsel for the Fund and the fishermen have made considerable progress on reaching an agreement on the meaning and effect of the proposed settlement, but need time to complete negotiations. It is hoped that many,

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if not all, of defendants' objections can be resolved by stipulation.

3. I have spoken with Brian O'Neill of Faegre & Benson, counsel for Fishermen Plaintiffs, and Alan Braverman of Wilmer, Cutler & Pickering, counsel for the Fund, and they have advised me that they do not oppose this motion and that I am authorized to so inform the court.

4. For the foregoing reasons, we respectfully request the court to allow defendants to respond to the Joint Motion on or before January 11, 1991, and to withhold ruling on the Joint Motion until after defendants' response is filed and considered.


Michael H. Woodell

SUBSCRIBED AND SWORN TO before me this ^{OK} 4 day of January, 1991.


NOTARY PUBLIC for Alaska
My commission expires: 9-16-94

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AFFIDAVIT OF COUNSEL
Case No. A88-115 Civil

I HEREBY CERTIFY that service of
the foregoing AFFIDAVIT OF COUNSEL
has been made upon all counsel of
record this 4th day of January, 1991
based upon the court's Master
Service List of July 11, 1990.

Arlys Bernard
Arlys Bernard
Secretary to Michael Woodell

MHW/ab
581-4\unoppos.aff

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AFFIDAVIT OF COUNSEL
Case No. A88-115 Civil

FILED

JAN 08 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)	
)	
the GLACIER BAY)	No. A88-115 Civil
)	(Consolidated)
_____)	

ORDER

Stay of Proceedings and Status Conference

Pursuant to this court's order of September 14, 1990,¹ all discovery under either Phase I or Phase II scheduled for after September 21, 1990, was stayed until further order. The stay was necessitated by this court's tentative ruling on related matters in In re the Exxon Valdez, No. A89-095 Civil. In the order of September 14, 1990, the court provided that a status conference

¹ Clerk's Docket No. 473 herein.

would be scheduled as soon as those related matters in the Exxon Valdez were resolved.

Recently the court issued Order No. 35 in In re the Exxon Valdez which addressed the tentative ruling affecting this case. The Exxon Valdez claimants were directed to exhaust their administrative remedies. This court stated in Order No. 35 as follows:

The court anticipates that the plaintiffs' claims against the Fund in In re the Glacier Bay, No. A88-115 Civil, will be handled differently. Glacier Bay is distinguished from this case by the fact that the Glacier Bay plaintiffs were required to file suit because the vessel owner and operator refused to pay claims against their \$14 million liability. Section 1653(c)(3) was not amended to make the Fund responsible for payment of that \$14 million until after the Glacier Bay plaintiffs were prepared for trial.

In re the Exxon Valdez, No. A89-095 Civil (Clerk's Docket No. 1107 at 3-4 n.3). The court is now directing all claimants in Glacier Bay to urgently pursue their claims with the Fund in hopes that settlement can be reached. However, since the two-year period provided for in 43 C.F.R. § 29.7(c)(2) for the Fund to pay claims has long expired, the litigation must proceed. The stay of discovery is herewith lifted. The trial date remains set for early spring 1991, either as a "back-up" for the Exxon Valdez criminal trial or rescheduled for the first available date after the Exxon Valdez criminal trial.²

² Order of August 24, 1990, Clerk's Docket No. 457 herein.

This order addresses those issues that the court anticipated in its order of September 14, 1990, would require a status conference. If the parties nevertheless perceive a need for a status conference at this time, they may contact the court's case management clerk to arrange for one.

DATED at Anchorage, Alaska, this 7 day of January, 1991.


United States District Judge

cc: Liaison counsel notified + copied 1/9/91

cc: M. Woodell
B. Underhill
B. O'Neill
D. Ruskin

FILED

JAN 25 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

Gary J. Strauss
Barbara L. Holland
David R. West
Garvey, Schubert & Barer
10th Floor
1011 Western Avenue
Seattle, Washington 98104
(206) 464-3939

Marcia Davis
900 East Benson Boulevard
Anchorage, Alaska 99508
(907) 561-5111

Attorneys for Defendants
The Standard Oil Company and
S.P.C. Shipping, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

IN RE THE GLACIER BAY

No. A88-115 Civil
(Consolidated)
(Pertains to All Cases)

CROSSCLAIMS OF S.P.C.
SHIPPING AND THE STANDARD
OIL COMPANY AGAINST THE
UNITED STATES OF AMERICA

Defendants S.P.C. Shipping, Inc. (now known as BP Oil Shipping Company, USA) (hereafter "SPC") and The Standard Oil Company ("SOHIO"), by and through their attorneys, allege as their crossclaims against third-party defendant the United States of America ("U.S.A.") as follows:

LAW OFFICES
GARVEY, SCHUBERT & BARER
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
TENTH FLOOR
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104-1023
(206) 464-3939

731

1 PARTIES

2 1. SPC is a Delaware corporation with its principal place of
3 business in Cleveland, Ohio. On or about June 27, 1986, SPC
4 entered into a time charter agreement with Tesoro Alaska Petroleum
5 Company regarding the GLACIER BAY.

6 2. SOHIO is an Ohio corporation with its principal place of
7 business in Cleveland, Ohio. SOHIO posted a guarantee pursuant to
8 A.S. 46.04.040 regarding the GLACIER BAY.

9 3. The U.S.A. is a sovereign nation.

10 JURISDICTION

11 4. This Court has jurisdiction over SPC's and SOHIO's
12 crossclaims against the U.S.A. pursuant to the Suits in Admiralty
13 Act, 46 U.S.C. §§ 741-752, the Public Vessels Act, 46 U.S.C.
14 §§ 781-790, 28 U.S.C. § 1331, and the doctrines of pendant and
15 ancillary jurisdiction.

16 OPERATIVE FACTS

17 5. The National Oceanic and Atmospheric Administration
18 ("NOAA") is an agency of the United States within the Department of
19 Commerce.

20 6. NOAA's responsibilities include conducting hydrographic
21 and topographic surveys, using information derived from said
22 surveys to create navigational charts for safe navigation of marine
23 commerce, and distributing said charts to mariners who rely thereon
24 in directing the course of and anchoring their vessels.

1 7. On July 2, 1987, on information and belief, the GLACIER
2 BAY struck an uncharted obstruction while anchored in Cook Inlet,
3 Alaska and discharged oil.

4 8. On information and belief, in selecting the location to
5 anchor where the grounding occurred, the master and/or pilot of the
6 GLACIER BAY relied on a navigational chart prepared and distributed
7 by NOAA.

8 9. On information and belief, NOAA negligently prepared this
9 chart in a manner not reasonably calculated to detect hazards to
10 navigation such as the uncharted obstruction which was struck by
11 the GLACIER BAY.

12 10. On information and belief, the inadequate survey and
13 charting which caused the grounding of the GLACIER BAY resulted
14 from negligent operation of the DAVIDSON, a NOAA vessel, and other,
15 as yet unidentified, vessels and negligent operation of survey
16 equipment aboard the vessels by employees of the U.S.A. acting
17 within the scope of their employment.

18 11. On information and belief, the DAVIDSON and the other, as
19 yet unidentified, vessels employed to perform the surveying and
20 charting services were owned and/or operated by the U.S.A. at the
21 times the above-mentioned surveys were conducted.

22 12. Plaintiffs and certain other parties, including
23 codefendants and the State of Alaska, are seeking or may seek to
24 recover damages from SPC and SOHIO, among others, for loss of
25
26

1 income and other damages allegedly suffered due to the GLACIER
2 BAY's discharge of oil.

3 FIRST CROSSCLAIM AGAINST THE U.S.A.
4 (Suits in Admiralty Act)

5 13. SPC and SOHIO incorporate Paragraphs 1 through 12 above as
6 though fully set forth herein.

7 14. Third party defendant U.S.A., by virtue of the Suits in
8 Admiralty Act, 46 U.S.C. §§ 741-752, has waived its sovereign
9 immunity from suit and consented to be sued herein.

10 15. On information and belief, but for the negligent operation
11 of the DAVIDSON and the other, as yet unidentified, vessels, the
12 negligent operation of survey equipment aboard the vessels by
13 employees of the U.S.A., and the negligent charting and surveying
14 by NOAA, the grounding of the GLACIER BAY, and the resulting
15 discharge of oil, would not have occurred.

16 16. If SPC and/or SOHIO are found liable to plaintiffs or any
17 other person, party, or entity who or which may hereafter file
18 actions, complaints, crossclaims, or counterclaims against SPC
19 and/or SOHIO as a result of the discharge of oil from the GLACIER
20 BAY, the U.S.A. is liable to SPC and/or SOHIO by way of
21 reimbursement, indemnity, contribution, recovery over or otherwise,
22 for the full amount of any judgment entered against SPC and/or
23 SOHIO, or for the proportionate share of the U.S.A., and for all
24 attorney's fees, costs, expenses, and disbursements incurred by SPC
25 and SOHIO in defending against said actions.
26

1 SECOND CROSSCLAIM AGAINST THE U.S.A.
2 (Public Vessels Act)

3 17. SPC and SOHIO incorporate Paragraphs 1 through 16 above as
4 though fully set forth herein.

5 18. The U.S.A., by virtue of the Public Vessels Act, 46 U.S.C.
6 §§ 781-790, has waived its sovereign immunity and consented to be
7 sued herein.

8 19. On information and belief, but for the negligent operation
9 of the DAVIDSON and the other, as yet unidentified, vessels, the
10 negligent operation of the survey equipment aboard the vessels by
11 employees of the U.S.A., and the negligent charting and surveying
12 by NOAA, the grounding of the GLACIER BAY, and the resulting
13 discharge of oil, would not have occurred.

14 20. If SPC and/or SOHIO are found liable to plaintiffs or any
15 other person, party, or entity who or which may hereafter file
16 actions, complaints, crossclaims, or counterclaims against SPC
17 and/or SOHIO as a result of the discharge of oil from the GLACIER
18 BAY, the U.S.A. is liable to SPC and/or SOHIO, by way of
19 reimbursement, indemnity, contribution, recovery over or otherwise,
20 for the full amount of any judgment entered against SPC and/or
21 SOHIO, or for the proportionate share of the U.S.A., and for all
22 attorney's fees, costs, expenses, and disbursements incurred by SPC
23 and SOHIO in defending against said actions.

1 WHEREFORE, Defendants SPC and SOHIO pray for relief as follows:

2 1. That if judgment is entered in favor of plaintiffs or in
3 favor of any other person, party, or entity, which hereafter may
4 file actions, complaints, crossclaims, or counterclaims against SPC
5 and/or SOHIO, with respect to the oil discharged by the GLACIER
6 BAY, then judgment over be entered in favor of SPC and/or SOHIO and
7 against the U.S.A., requiring it to pay SPC and/or SOHIO the full
8 amount of any such judgment, or such proportionate amount as may be
9 adjudged as its share of fault or liability, together with
10 interest, costs, attorney's fees, expenses, and disbursements, and
11 to otherwise indemnify, exonerate, hold harmless and/or contribute
12 to SPC and/or SOHIO as against all liabilities, judgments or awards
13 against SPC and/or SOHIO herein; and

14 2. For such other relief as the Court deems just and
15 equitable.

16 DATED this 15th day of January, 1991.

17 GARVEY, SCHUBERT & BARER

18
19 By 

20 Gary J. Strauss
21 Barbara L. Holland
22 David R. West
23 Of Attorneys for Defendants
24 S.P.C. Shipping and
25 The Standard Oil Company
26

337/03717/AC8

Gary J. Strauss
Barbara L. Holland
Garvey, Schubert & Barer
1011 Western Avenue
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Seattle, Washington 98104
(206) 464-3939
Attorneys for S.P.C. Shipping, Inc.

JUDGE RUSSEL HOLLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
the GLACIER BAY) No. A88-115 Civil
)
) (Consolidated)

RE: ALL CASES

AFFIDAVIT OF SERVICE

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

Service of Crossclaims Of S.P.C. Shipping And The Standard Oil Company Against The United States Of America has been made this 23rd day of January, 1991, upon all counsel of record based upon the Master Service List of July 11, 1990, and the U.S. Attorney General (via Certified Mail).

DATED: 1/23/91 Kelly M. Goade

SUBSCRIBED AND SWORN TO before me this 23rd day of January, 1991.

Heather Sutherland
NOTARY PUBLIC in and for the State
of Washington.
My Commission Expires: 6/29/93

AFFIDAVIT OF SERVICE - 1

LAW OFFICES
GARVEY, SCHUBERT & BARER
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS
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