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FILED

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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By APL Deputy

Honorable H. Russel Holland

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

In re

the EXXON VALDEZ

This Document Relates
to Action Nos.

No. A89-095 Civil
(Consolidated)

A89-138

CHUGACH ALASKA CORPORATION, an Alaska
Native regional corporation; CHUGACH
FOREST PRODUCTS, INC., an Alaska
corporation; CHUGACH DEVELOPMENT
CORPORATION, an Alaska Corporation;
CHUGACH FISHERIES, INC., an Alaska
corporation; CHUGACH TIMBER CORPORATION,
an Alaska corporation; BERING DEVELOP-
MENT CORPORATION, an Alaska corporation;
THE TATITLEK CORPORATION, an Alaska
Native village corporation; CHENEGA
CORPORATION, an Alaska Native village
corporation; CHN, Inc., an Alaska
corporation; THE EYAK CORPORATION, an
Alaska Native village corporation; EYAK
DEVELOPMENT INC., an Alaska corpor-
ation; PORT GRAHAM CORPORATION, an
Alaska Native village corporation;
PORT GRAHAM DEVELOPMENT CORPORATION,
an Alaska corporation (P-81 through P-94)

Plaintiffs,

v.

EXXON CORPORATION, A New Jersey
corporation, (D-1); EXXON CO., USA, a
Texas corporation, (D-5); EXXON
SHIPPING CO., a Delaware corporation,
(D-2);

AMENDED COMPLAINT
JURY TRIAL DEMAND

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Defendants.

PLAINTIFFS by and through counsel, allege upon information and belief as follows, reserving unto themselves the additional right to seek recourse against the Trans-Alaska Pipeline Liability Fund established pursuant to 43 U.S.C. §1653 et seq in the event claims made pursuant to the regulations issued thereunder are not satisfied:

1. This is an action for monetary damages and other relief arising out of the massive discharge of oil from the M/V EXXON VALDEZ upon and into the waters, surface and subsurface lands of the area in and around Prince William Sound, the Lower Kenai

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Peninsula and the Gulf of Alaska. Plaintiffs are Native regional and village corporations incorporated under the laws of the state of Alaska pursuant to the Alaskan Native Claims Settlement Act, 43 U.S.C. §1601 et seq, as amended, ("ANCSA").

2. This is a case of admiralty and maritime jurisdiction, and is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. This action is also within the Court's federal question jurisdiction pursuant to 28 USC §1331, diversity jurisdiction pursuant to 28 U.S.C. §1332 and jurisdiction over actions brought by Indian tribes pursuant to 28 USC §1362. This Court has jurisdiction over state law claims pursuant to the doctrine of pendent jurisdiction.

3. Venue is proper in this district pursuant to 28 U.S.C. §1339 because the claims arose in this district and the Defendants are doing business in this district.

PARTIES

4. CHUGACH ALASKA CORPORATION ("CAC") is an Alaska Native regional corporation incorporated under the laws of the State of Alaska pursuant to ANCSA. CAC's shareholders are primarily Native Alaskans whose history, culture, values and family life arose in and are tied to the Chugach Region, as defined in ANCSA (hereafter "Natives" or "Native Alaskans"). CAC holds, pursuant to ANCSA, the right, title, or interest in the surface and/or subsurface estates of approximately one million acres of

land in Alaska, including lands in the area in and around Prince William Sound, the Gulf of Alaska, and the Lower Kenai Peninsula damaged by the EXXON VALDEZ oil spill.

5. **CHUGACH FOREST PRODUCTS, INC.** ("Chugach Forest") is a corporation organized under the laws of the State of Alaska and is a wholly owned subsidiary of CAC. Chugach Forest is engaged in the processing and marketing of timber, including timber from the area in and around Prince William Sound and the Lower Kenai Peninsula damaged by the EXXON VALDEZ oil spill, and in manufacturing relating to wood and other forest products.

6. **CHUGACH TIMBER CORPORATION** ("Chugach Timber"), is a corporation organized under the laws of the State of Alaska, is a wholly owned subsidiary of Chugach Forest and is engaged in the business of harvesting and marketing timber situated on lands owned by CAC and others throughout the coastal area of South Central Alaska damaged by the EXXON VALDEZ oil spill.

7. **CHUGACH DEVELOPMENT CORPORATION** ("Chugach Development") is a corporation organized under the laws of the State of Alaska, and is a wholly owned subsidiary of CAC. Chugach Development is involved in developing business opportunities relating to the lands owned by CAC damaged by the EXXON VALDEZ oil spill.

8. **CHUGACH FISHERIES, INC.** ("Chugach Fisheries") is a corporation organized under the laws of the State of Alaska, and is a wholly owned subsidiary of CAC. Chugach Fisheries is engaged

in the seafood industry, including the processing, canning and marketing of seafood taken from the waters in and around Prince William Sound, the Gulf of Alaska, Kodiak and the Lower Kenai Peninsula polluted by the EXXON VALDEZ oil spill.

9. **BERING DEVELOPMENT CORPORATION** ("BDC"), a corporation organized under the laws of the State of Alaska, is a wholly owned subsidiary of CAC and Chugach Development, each of which owns 50% of BDC's stock. BDC is engaged in the business of the commercial exploitation of coal and other minerals and resources on, in, and under the lands held by CAC damaged by the EXXON VALDEZ oil spill.

10. **THE TATITLEK CORPORATION** ("Tatitlek") is a Native village corporation organized under the laws of the State of Alaska pursuant to ANCSA. Tatitlek holds, pursuant to ANCSA, the entitlement, right, title or interest in the surface estate of approximately 137,248 acres of land in Alaska, including lands in the area in and around Prince William Sound damaged by the EXXON VALDEZ oil spill. Tatitlek shareholders are primarily Native residents (as the term is used in §6(a) of ANCSA) of Tatitlek or descendants or heirs thereof (hereafter also referred to as "Natives" or "Native Alaskans").

11. **CHENEGA CORPORATION** ("Chenega") is a Native village corporation organized under the laws of the State of Alaska pursuant to ANCSA. Chenega holds, pursuant to ANCSA, the entitlement, right, title or interest in the surface estate of

approximately 76,093 acres of land in Alaska, including lands in the area in and around Prince William Sound damaged by the EXXON VALDEZ oil spill. Chenega's shareholders are primarily Native residents (as that term is used in §6(a) of ANCSA) of Chenega Village now relocated to Chenega Bay (hereafter also referred to as "Natives" or "Native Alaskans").

12. **CHN, INC.** ("CHN") is a corporation organized under the laws of the State of Alaska and is a wholly owned subsidiary of Chenega. CHN holds timber harvesting rights to, and is engaged in the sale of timber from the area in and around Prince William Sound damaged by the EXXON VALDEZ oil spill.

13. **THE EYAK CORPORATION** ("Eyak") is a Native village corporation organized under the laws of the State of Alaska pursuant to ANCSA. Eyak holds, pursuant to ANCSA, the right, title or interest in the surface estate of approximately 148,730 acres of land in Alaska, including lands in the area in and around Prince William Sound damaged by the EXXON VALDEZ oil spill. Eyak shareholders are primarily Native residents (as the term is used in §6(a) of ANCSA) of Eyak or descendants or heirs thereof (hereafter also referred to as "Natives" or "Native Alaskans").

14. **EYAK DEVELOPMENT, INC.** ("Eyak Development") is a corporation organized and existing under laws of the State of Alaska and is a wholly owned subsidiary of Eyak. Eyak Development is principally engaged in two businesses: (i) operating a marina and warehousing storage facility in Prince William Sound and (ii)

owning and operating a trailer court in Cordova, which activities have been damaged by the EXXON VALDEZ oil spill.

15. **EYAK TIMBER, INC.** ("Eyak Timber") is a corporation organized and existing under the laws of the State of Alaska and is a wholly owned subsidiary of Eyak. Eyak Timber is engaged in the business of harvesting and marketing timber situated on lands owned by Eyak and others throughout the coastal area of South Central Alaska damaged by the EXXON VALDEZ oil spill.

16. **PORT GRAHAM CORPORATION** ("Port Graham") is a Native village corporation organized under the laws of the State of Alaska pursuant to ANCSA. Port Graham holds, pursuant to ANCSA, the entitlement, right, title or interest in the surface estate of approximately 111,642 acres of land in Alaska, including lands in and around the Gulf of Alaska, the Kenai Fjords National Park and Cook Inlet damaged by the EXXON VALDEZ oil spill. Port Graham owns a fish processing facility in the Village of Port Graham and is also engaged in the harvesting and marketing of timber. Port Graham shareholders are primarily Native residents (as the term is used in §6(a) of ANCSA) of Port Graham (hereafter also referred to as "Natives" or "Native Alaskans").

17. **PORT GRAHAM DEVELOPMENT CORPORATION** ("PGDC") is a corporation organized and existing under the laws of the State of Alaska. PGDC is engaged in a retail store business and a fuel sale business. Its customers include the residents of Port Graham as well as the seasonal commercial fishing fleet, processors,

employees, tourists and visitors to Port Graham. PGDC's businesses have been damaged by the EXXON VALDEZ oil spill.

18. The Native regional corporation, Native village corporations and their subsidiaries referred to in paragraphs 4 through 17 have paid their biennial corporation tax last due and have filed their biennial reports for the last reporting period and are in all ways capable of bringing and maintaining this action.

19. Pursuant to ANCSA, CAC and the Native village corporations named above own, hold, use and develop their lands and resources for the exclusive and express purposes of improving and promoting the social and economic well-being of their Native shareholders, and of protecting the traditional values, customs and rights of said shareholders who rely upon, use and benefit from the lands and natural resources in and around Prince William Sound, the Gulf of Alaska and the Lower Kenai Peninsula.

20. Further, pursuant to ANCSA, CAC and the Native village corporations named above, are the owners in trust and custodians of the Natives' aboriginal and subsistence hunting and fishing rights appurtenant to the lands they own within the Chugach Region. Specifically, the lands and natural resources owned and controlled by the plaintiff corporations are used by Native Alaskans in the exercise of their absolute priority, pursuant to 16 U.S.C. §3114, to subsistence use of the wild, renewable resources taken for personal or family consumption, such as food, lodging, resources, clothing and tools, or for making and selling

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handicraft articles out of byproducts from natural resources taken for consumption ("Subsistence Rights"). The lands and natural resources so held in trust by the plaintiff corporations for Native Alaskans in the exercise of their Subsistence Rights have been damaged and impaired by the EXXON VALDEZ oil spill.

21. CAC and the Native village corporations named above, either directly or through wholly owned subsidiaries, are also engaged in the business management of the lands and natural resources they own and in various businesses related to the natural resources of the area damaged by the oil spill from the EXXON VALDEZ. These activities include, but are not limited to, the following: (i) processing of seafood taken from waters in and around Prince William Sound, the Lower Kenai Peninsula, Kodiak and the Gulf of Alaska; (ii) ownership and/or operation of fish processing facilities for the canning and/or preservation of seafood taken from the waters in and around Prince William Sound, the Lower Kenai Peninsula, Kodiak and the Gulf of Alaska; (iii) marketing of frozen and canned seafood in the Pacific Northwest; (iv) sale, lease and/or logging of timber situated on the lands they own or lease; (v) commercial exploitation of other forest and wood products; (vi) potential oil and gas exploration and development; and (vii) other income generating activities (including, but not limited to, the promotion of tourism), all for the social and economic benefit of their Native shareholders.

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22. Defendant **EXXON SHIPPING CO.** ("Exxon Shipping") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 811 Dallas Avenue, Houston, Texas 77022. Exxon Shipping was and is wholly controlled by Exxon Corporation and Exxon, USA as more fully described in paragraphs 23 and 24. Exxon Shipping is the registered owner and operator of the M/V EXXON VALDEZ.

23. Defendant **EXXON CORPORATION** ("Exxon") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 1251 Avenue of the Americas, New York, New York 10020. Exxon is a multi-national corporation engaged, inter alia, in the business of transporting petroleum products from Port Valdez, Alaska to various points. At all material times, Exxon was the corporate parent of Defendant Exxon Shipping and, along with Exxon Co. USA, so dominated and controlled Exxon Shipping as to render it liable for the conduct of Exxon Shipping as more fully described below. Exxon owns and/or controls the cargo which was on board the EXXON VALDEZ on March 24, 1989, and which was discharged into the waters described above.

24. Defendant **EXXON CO., USA** ("Exxon USA") is a subsidiary of Defendant Exxon with its principal place of business at 800 Bell Avenue, Houston, Texas 77002. Exxon USA is engaged in the business of producing crude oil and refining, transporting and marketing petroleum products in the United States. At all material times, Exxon USA, along with Defendant Exxon, so dominated and

controlled Exxon Shipping, so as to render it liable for the conduct of Exxon Shipping as more fully described below. Exxon USA owns and/or controls the cargo which was on board the EXXON VALDEZ on March 24, 1989, and which was discharged into the waters described above. Defendants Exxon Shipping, Exxon and Exxon USA shall hereinafter be referred to collectively as "the Exxon Defendants".

25. Defendant **Exxon Transportation Co.** ("Exxon Transportation") is a subsidiary of Exxon Corp. with its principal place of business at 811 Dallas Avenue, Houston, Texas 77082 and the owner of the steam tanker EXXON BATON ROUGE. Exxon Shipping and Exxon Transportation are maritime subsidiaries of Exxon Corp., and are wholly dominated and controlled by Exxon Corp. directly and through Exxon USA. Exxon Shipping is the registered owner and operator of the EXXON VALDEZ and the operator of the EXXON BATON ROUGE. Exxon Transportation is the registered owner of the EXXON BATON ROUGE.

26. Defendants **Exxon Corp., Exxon USA, Exxon Shipping and Exxon Transportation** are collectively sometimes referred to herein as "the Exxon defendants."

27. Defendant **ALYESKA PIPELINE SERVICE COMPANY** ("Alyeska") is a Delaware corporation with its principal place of business in Alaska. Alyeska is owned and controlled by a group of oil companies, including Exxon, as more fully described below ("the Alyeska Owners"). Alyeska operates the Trans-Alaska Pipeline

System ("TAPS") and the shipping terminal facilities at the Port of Valdez, Alaska. Alyeska was formed by Exxon and the other Alyeska members to act as their agent in the construction, operation and maintenance of TAPS and the terminal facility at the Port of Valdez. Alyeska was responsible and otherwise assumed responsibility to the public, including plaintiffs, for formulating an oil spill contingency plan and maintaining adequate personnel and equipment to fulfill the obligations of that plan for emergency response to spills in Prince William Sound, including the coordination of clean up activities.

28. Defendant **BP Pipeline (Alaska), Inc.** ("BP") is a Delaware corporation with its principal place of business in Cleveland, Ohio. BP is co-owner of Alyeska and its designated representative sat on the Alyeska Owner's Committee.

29. Defendant **Arco Pipeline Co., Inc.** ("Arco") is a Delaware corporation with its principal place of business in Independence, Kansas. Arco is the co-owner of Alyeska and, at all relevant times, its designated representative sat on the Alyeska Owners' Committee.

30. Defendant **Exxon Pipeline Co., Inc.** ("Exxon Pipeline") is a Delaware corporation with its principal place of business in Houston, Texas. Exxon Pipeline is a co-owner of Alyeska and, at all relevant times, its designated representative sat on the Alyeska Owners' Committee.

31. Defendant **Mobil Alaska Pipeline Co., Inc.** ("Mobil") is a Delaware corporation with its principal place of business in Dallas, Texas. Mobil is Union is a co-owner of Mobil and its designated representative sat on the Alyeska Owners' Committee.

32. Defendant **Union Alaska Pipeline Co., Inc.** ("Union") is a Delaware corporation with its principal place of business in Los Angeles, California. Union is a co-owner of Alyeska and, at all relevant times, its designated representative sat on the Alyeska Owners' Committee.

33. Defendant **Phillips Alaska Pipeline Co., Inc.** ("Phillips") is a Delaware corporation with its principal place of business in Barthesville, Oklahoma. Phillips is a co-owner of Alyeska and, at all relevant times, its designated representative sat on the Alyeska Owners' Committee.

34. Defendant **Amerada Hess Pipeline Corp.** ("Amerada Hess") is a Delaware corporation with its principal place of business in Woodbridge, N.J.. Amerada Hess is a co-owner of Alyeska and, at all relevant times, its designated representative sat on the Alyeska Owners Committee.

35. Defendants **Alyeska, BP, Arco, Exxon Pipeline, Mobil, Union, Phillips and Amerada Hess** are hereinafter referred to "the Alyeska defendants."

36. Defendant **JOSEPH HAZELWOOD** ("Hazelwood") was the Master of the M/V EXXON VALDEZ. At all times relevant herein,

Hazelwood was an employee and/or agent of the Exxon Defendants and was acting within the scope of his authority.

37. Defendant **GREGORY COUSINS** ("Cousins") was the Third Mate on the M/V EXXON VALDEZ and the officer on watch when the ship ran aground. At all times relevant herein, Cousins was an employee and/or agent of the Exxon defendants and was acting within the scope of his authority.

38. Defendant **EDWARD MURPHY** ("Murphy") is a licensed pilot who piloted the EXXON VALDEZ from the Port of Valdez to Rocky Point on the night of March 23-24, 1989.

COMMON FACTUAL ALLEGATIONS

39. The M/V EXXON VALDEZ ("EXXON VALDEZ") is a 987 foot very large crude carrier ("VLCC") of 211,469 deadweight tons (dwt) built in 1986 by the National Steel and Shipbuilding Co. of San Diego, California and owned and is operated by Exxon Shipping. On or about March 23, 1989, the EXXON VALDEZ loaded at Valdez, Alaska approximately 62 million gallons of crude oil that had been transported through the Trans-Alaska Pipeline.

40. The oil terminal in Valdez, Alaska, at which the EXXON VALDEZ was loaded, is owned by defendant Alyeska. The terminal is a facility of the Trans-Alaska Pipeline.

41. At approximately 9:30 p.m. on March 23, 1989, the fully laden EXXON VALDEZ, under Hazelwood's command, departed the

Port of Valdez. Defendant Edward Murphy, a licensed pilot, was on board the vessel, piloting her out of the harbor. The EXXON VALDEZ entered Prince William Sound and successfully navigated the Valdez Narrows. After navigating the Valdez Narrows, the Captain of the EXXON VALDEZ allowed Valdez Harbor Pilot Murphy to depart the tanker and Murphy so departed.

42. Shortly after the harbor pilot departed, the EXXON VALDEZ, under Hazelwood's command and with the knowledge and consent of the Exxon Defendants and the United States Coast Guard, changed course from the outbound lane to the inbound lane of the designated shipping lanes located approximately 22 miles south of Valdez.

43. Subsequent to the vessel leaving the outbound shipping lane and entering the inbound lane, Hazelwood departed the bridge leaving the direction and control of the EXXON VALDEZ to Cousins, who was not certified to pilot a VLCC like the EXXON VALDEZ in the waters of Prince William Sound. Said lack of certification was within the privity and knowledge of the Exxon Defendants.

44. At approximately 12:04 a.m. on March 24, 1989, the vessel, having entirely left the designated shipping lanes and having been under the control of the unqualified Cousins, all within the privity and knowledge of the Exxon Defendants, ran aground on Bligh Reef, a well-known, charted and buoyed hazard in Prince William Sound. When the vessel ran aground, Hazelwood was

not on the bridge and Cousins, who was not certificated to pilot in Prince William Sound, was in control of the vessel.

45. At the time of the grounding, the vessel was incompetently manned within the privity and knowledge of the Exxon Defendants who knew or had reason to know that officers and crew members, including Hazelwood, from the EXXON VALDEZ and other Exxon vessels, imbibed alcoholic beverages prior to sailing. The Exxon Defendants failed to institute adequate measures to preclude alcohol impairment of such officers and crew members. Indeed, blood tests conducted on the captain after the accident showed that he had a blood alcohol level which, even twelve hours later, significantly exceeded Coast Guard regulations. This impairment and the Exxon Defendants' failure to institute adequate measures to preclude alcohol impairment of the officers and crew serving on board its vessels transporting oil from the Trans-Atlantic pipeline, caused and contributed to the stranding of the EXXON VALDEZ and the subsequent discharge of its cargo of crude oil into the waters of Prince William Sound.

46. By reason of the aforesaid, the single hull of the EXXON VALDEZ was breached in several places and enormous quantities of crude oil were discharged into the waters of Prince William Sound, thereby polluting the same and the places to which it was carried by the forces of wind and current. Said cargo of crude oil laden on board the EXXON VALDEZ was known by Defendants herein to be capable of floating a long period of time and polluting the sea

and causing widespread ecological and economic harm wherever deposited on shore by force of wind and current and was, accordingly, a dangerous and/or potentially harmful substance.

47. As a result of the said grounding and consequent escape and continuous leakage of the vessel's crude oil cargo into the waters of Prince William Sound, said waters, together with the shores of islands within Prince William Sound and along the Lower Kenai Peninsula, Kodiak and the Gulf of Alaska owned, occupied or used by Plaintiffs, their Native shareholders and public and private fisheries and other public and private institutions and enterprises were, and continue to be, damaged or threatened by serious oil pollution to the detriment of Plaintiffs and many of their Native shareholders, inhabitants and local authorities.

48. Exxon Shipping, as the registered owner and operator of the EXXON VALDEZ, and Exxon and Exxon USA as the controlling owners of Exxon Shipping and owners and transporters of the cargo of said vessel, knew, should have known or were reckless in not knowing that Hazelwood had an alcohol abuse problem and was incompetent and effectively unable to command or control the vessel. Complaints of Hazelwood's abuse of crewmembers in an intoxicated state were known to the Exxon Defendants. The Exxon Defendants also had knowledge of the ingestion by other officers of alcoholic beverages prior to the sailing of other vessels from the Port of Valdez. Only weeks before the EXXON VALDEZ oil spill, local community groups in Valdez had publicly expressed concern to

Defendants and others that officers and crew were boarding tankers while intoxicated. The negligent, grossly negligent and reckless acts of Hazelwood were all within the privity and knowledge of the Exxon Defendants.

49. Defendant Murphy, who had piloted the EXXON VALDEZ to Rocky Point, knew, should have known or was reckless in not knowing that Hazelwood was intoxicated and was not competent or otherwise able to command or control the vessel. Murphy knew, should have known or was reckless in not knowing that no other officer or crew member on board the EXXON VALDEZ was qualified to navigate the vessel in Prince William Sound. Notwithstanding the foregoing, Murphy negligently and recklessly departed the EXXON VALDEZ and permitted Hazelwood to assume direction and control of the vessel upon his departure.

50. The Exxon defendants and Alyeska, and other oil companies involved in the construction and operation of the Trans-Alaska Pipeline, publicly represented to concerned citizens of the area, including Plaintiffs and their Native shareholders, that the tanker fleet operating out of Valdez would be designed to minimize oil spills by exceeding or meeting all applicable government standards relating to the design and construction of similar vessels. The Exxon defendants and Alyeska also promised and represented that they would develop an oil spill contingency plan and maintain sufficient resources in personnel and equipment to fully respond to, contain and/or clean up a major oil spill

resulting from operations relating to the Trans-Alaska Pipeline or the marine transportation from Valdez through Prince William Sound of oil transported through the pipeline.

51. Despite repeated assurances by the Exxon Defendants and Alyeska that they were fully equipped and prepared to contain and clean up a spill in Prince William Sound, said Defendants were, in fact, ill equipped and unprepared to contain or mitigate the effects of a large spill.

52. The limited equipment available at the time of the spill was not kept in a state of readiness. When the EXXON VALDEZ went aground, Alyeska and the Exxon Defendants failed to take necessary and immediate measures to contain and mitigate the effects of the oil spill and contributed to and otherwise exacerbated the damages caused and threatened thereby through inaction during the first critical 72 hours when much of the damage might have been avoided through prompt and effective response. Alyeska did not provide any personnel for more than 12 hours, and there were virtually no properly trained personnel to respond to the disaster. Moreover, there was insufficient mechanical equipment available to contain the spill.

53. Although Alyeska and the Exxon Defendants knew, should have known or were reckless in not knowing of the potential devastation resulting from a major spill in Prince William Sound and of its reasonable likelihood, Alyeska, over the past few years, with the knowledge and consent of the Exxon Defendants, actually

decreased its containment and spill response capability in at least the following respects:

(a) A full time professionally trained crew was gradually eliminated and replaced by dock workers and office workers with no experience or training in dealing with oil spills;

(b) A barge designed to take oil from spill sites was replaced by a much smaller, second-hand, barge, which was too damaged to be used in the EXXON VALDEZ spill;

(c) Modern, self-inflating booms designed to contain oil slicks immediately after a spill, were unavailable for more than 24 hours; and

(d) Alyeska promised to keep a full time oil spill coordinator in Valdez, but at the time of the spill, no such coordinator was stationed there.

54. Alyeska had earlier been offered assistance and cooperation from Plaintiff CAC to develop adequate means for an effective response to a catastrophic spill in Prince William Sound, including the establishment of various storage facilities along the Sound, the availability of personnel and specialized equipment, and other means which, if available, could have contained or minimized the damage caused by the EXXON VALDEZ oil spill. Alyeska negligently or recklessly rejected such assistance and cooperation and misleadingly and falsely represented that it had the capacity of providing an adequate response without the help of CAC and others.

55. As a result of the reductions and cutbacks described above and the unreasonable refusal of Alyeska to accept proposals from CAC and others regarding the establishment of adequate spill response capability, Alyeska was completely unprepared to respond to, contain, and clean up the spill from the EXXON VALDEZ.

PUNITIVE AND/OR EXEMPLARY DAMAGES

56. The Defendants' conduct as alleged herein was willful, wanton, malicious and so outrageous as to justify the award of punitive and/or exemplary damages against them.

FIRST CLAIM FOR RELIEF

(All Defendants)

PUBLIC NUISANCE

57. Plaintiffs reallege paragraphs 1 through 46 of this complaint and all allegations contained therein.

58. By causing and allowing a discharge of approximately 10.5 million gallons of crude oil into Prince William Sound and its environs, Defendants' conduct constitutes a nuisance under applicable common law principles.

59. As a direct and proximate result of the discharge of oil from the M/V EXXON VALDEZ into Prince William Sound and its environs, Plaintiffs have sustained damages which are continuing.

SECOND CLAIM FOR RELIEF

(Exxon Defendants and Alyeska Defendants)

STRICT LIABILITY [AS §§ 46.03.822-828]

60. Plaintiffs reallege paragraphs 1 through 49 of this complaint and all allegations contained therein.

61. The oil, which was discharged into the waters of Prince William Sound and its environs as a result of the grounding of the EXXON VALDEZ presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, and other parts of the natural habitat, and is a hazardous substance as defined in AS §§ 46.03.826(4)(A) and (B).

62. The Exxon defendants and Alyeska own and/or have control of, pursuant to AS §§ 46.03.826(3), the oil which was loaded on the EXXON VALDEZ and discharged into the waters of Prince William Sound.

63. Pursuant to AS §§ 46.03.822-828, the Exxon defendants and Alyeska are jointly, severally and strictly liable, without regard to fault, for causing the discharge of a hazardous substance into Prince William Sound and its environs and for all damages proximately caused to Plaintiffs as a result thereof, which damages are continuing.

THIRD CLAIM FOR RELIEF

(All Defendants)

PRIVATE NUISANCE [AS § 09.45.230]

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64. Plaintiffs reallege paragraphs 1 through 53 of this complaint and all allegations contained therein.

65. As a direct and proximate result of the discharge of oil from the EXXON VALDEZ into the waters of Prince William Sound and its environs, including the above-described conduct of the Defendants, Plaintiffs have suffered substantial and continuing damages.

66. Pursuant to Alaska Statute § 09.45.230, Defendants' activities in causing and allowing the release of enormous quantities of oil into the waters of Prince William Sound constitutes a private nuisance.

FOURTH CLAIM FOR RELIEF

(All Defendants)

INHERENTLY DANGEROUS ACTIVITY

67. Plaintiffs reallege paragraphs 1 through 56 of this complaint and all allegations contained therein.

68. Under principles of common law, the oil loading and shipping activities engaged in by Defendants are so inherently dangerous and potentially devastating to the ecological environment, Plaintiffs, their Native shareholders and Alaska's residents, citizens, and businesses, that, even when conducted under the best of circumstances and with utmost care, they constitute inherently or abnormally dangerous activities for which the Defendants are strictly liable.

69. The above-described inherently dangerous activities engaged in by Defendants directly and proximately caused substantial and continuing damages to Plaintiffs.

FIFTH CLAIM FOR RELIEF

NEGLIGENCE OF THE EXXON DEFENDANTS,

HAZELWOOD, COUSINS AND MURPHY

70. Plaintiffs reallege paragraphs 1 through 59 of this complaint and all allegations contained therein.

71. At all times relevant, the Exxon Defendants owed a duty of care to Plaintiffs to ensure that reasonable measures would be taken to safely transport and handle crude oil in Prince William Sound.

72. The Exxon Defendants breached that duty by their actions and omissions, including, without limitation, the following:

(a) The negligent navigation of the EXXON VALDEZ within the privity and knowledge of the Exxon Defendants into a known, charted and buoyed hazard outside the designated shipping lanes;

(b) The failure of the Exxon Defendants to ensure properly against the operation of Exxon vessels and the EXXON VALDEZ by persons impaired by alcohol or other substances, and their failure to ensure properly the continuing qualification of the master of the EXXON VALDEZ and/or his ability to command and

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control the vessel in light of his known alcohol abuse problem or to ensure the presence on board the EXXON VALDEZ of another qualified officer with an endorsement on his Coast Guard license to navigate Prince William Sound to replace Hazelwood in the event of his incapacity to command the vessel.

(c) The negligent entrustment by the Exxon Defendants of the command of the EXXON VALDEZ to Hazelwood;

(d) The use or allowance of use by the Exxon Defendants of unsafe and improper methods of marine transport in transporting petroleum products through the Port of Valdez and Prince William Sound;

(e) The failure by the Exxon Defendants to ensure properly the suitability of the EXXON VALDEZ for the particular purpose of transporting crude oil in the Prince William Sound;

(f) The failure by the Exxon Defendants to prepare adequately for or respond to, contain and clean up the oil spill from the EXXON VALDEZ; and

(g) The failure by the Exxon Defendants to take immediate, necessary or reasonable steps subsequent to the oil spill to contain and mitigate the effects thereof.

73. The foregoing actions, among others, constituted negligence within the privity and knowledge of the Exxon Defendants.

74. The aforesaid negligent conduct of the Exxon Defendants has proximately caused damage to the Plaintiffs herein, and these damages are continuing.

75. Defendant Hazelwood, individually, had a duty of care to Plaintiffs to ensure that reasonable measures would be taken to safely transport and handle crude oil in Prince William Sound. Hazelwood breached such duty by his actions and omissions, as described above.

76. The negligent and reckless conduct of Hazelwood proximately caused damages to Plaintiffs which are continuing.

77. Defendant Cousins, individually, had a duty of care to Plaintiffs to ensure that reasonable measures would be taken to safely transport and handle crude oil in Prince William Sound. Cousins breached such duty by his actions and omissions, as described above.

78. The negligent and reckless conduct of Cousins proximately caused damages to Plaintiffs which are continuing.

79. Defendant Murphy, individually, had a duty of care to Plaintiffs to ensure that reasonable measures would be taken to safely transport and handle crude oil in Prince William Sound. Murphy breached such duty by his actions and omissions as described above, including his failure to advise the Exxon Defendants, the United States Coast Guard and/or others of the master's incapacity to command the vessel upon his relinquishment of pilotage of the vessel.

80. The negligent and reckless conduct of Murphy proximately caused damages to Plaintiffs which are continuing.

SIXTH CLAIM FOR RELIEF

(EXXON)

UNSEAWORTHINESS

81. Plaintiffs reallege paragraphs 1 through 70 of this complaint and all allegations contained therein.

82. By virtue of the matters and conduct described above, the EXXON VALDEZ was unseaworthy, in among others, the following respects:

A. The vessel was negligently and improperly manned to wit:

- (i) There were insufficient certificated watchstanders for passage through Prince William Sound and for operations to and from the Port of Valdez.
- (ii) The vessel employed a known alcoholic as Master and it was known or there was reason to know that the Master had not abstained from the ingestion of alcohol since being identified and diagnosed as an alcoholic.
- (iii) None of the Master, officers or crew had received any or proper training in taking

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the proper actions in the event of a casualty such as a grounding or oil spill.

B. The vessel was not equipped with containment boom or other equipment designed to confront the early stages of a spill or designed to minimize the impact of a spill.

C. Prior to and at the time of the casualty, the vessel was being operated in confined waters by only one deck officer in violation of the vessel's own instructions. Such violation is directly attributable to the demands imposed on the Master, officers and crew by the vessel's manner of operation.

D. The vessel was permitted to sail with three officers, i.e., the Master, Chief Officer and Radio Officer who were known to have been drinking ashore within less than four hours of the vessel's sailing, all in violation in 33 C.P.R. §95.045(a).

E. The vessel was permitted to sail under the color of oil spill contingency plans which were known or should have been known not to have been capable of being implemented.

These matters were within the privity and knowledge of the Exxon defendants and were direct and proximate and/or contributing causes to the casualty and the damages suffered as a result thereof by plaintiffs and the classes.

SEVENTH CLAIM FOR RELIEF

NEGLIGENCE OF ALYESKA DEFENDANTS

83. Plaintiffs reallege paragraphs 1 through 70 of this complaint and all allegations contained therein.

84. At all times relevant herein, Defendant Alyeska had the duty and responsibility to Plaintiffs herein, and to others, to prevent oil pollution of the Prince William Sound. Alyeska also had duties, responsibilities and authority to prevent oil spilled from tankers transporting crude oil from Port Valdez from causing pollution damage and to clean up and remove all oil in such a way as to prevent or minimize any damage to Plaintiffs herein. This duty and responsibility, which have been repeatedly acknowledged by Alyeska in public records and reports, were critical factors in obtaining agreement by various state and local authorities to the use of the Port of Valdez and Prince William Sound for the transport of oil flowing through the Trans-Alaska Pipeline.

85. Alyeska knew, had reason to know or was reckless in not knowing that a spill of catastrophic proportions could occur in Prince William Sound. Further, Alyeska knew, had reason to know or was reckless in not knowing of the tide, current, and weather conditions in the Gulf of Alaska and Prince William Sound and the existence of reefs, rocks, and other dangerous conditions and hazards to navigation which it knew, should have known or was reckless in not knowing could result in the grounding of a VLCC like the EXXON VALDEZ. Notwithstanding the foregoing, Alyeska negligently and recklessly failed to act properly, reasonably and effectively to prevent pollution and to clean up spilled oil so as

to prevent or minimize the damage to Plaintiffs in at least the following manner:

(a) Alyeska negligently, recklessly and improperly failed to establish a tested and effective oil spill contingency plan with procedures for the prompt and efficient mobilization of public and private entities and resources to combat oil spills and potential pollution and to prevent pollution of those areas of special economic, social, cultural, historical, tribal, ancestral and environmental importance;

(b) Alyeska negligently, recklessly and improperly failed to implement the provisions of its oil spill contingency plan which provided for prompt and efficient mobilization of public and private employees and resources to combat oil spills and potential pollution and to prevent pollution of those areas of special economic and environmental importance;

(c) Alyeska negligently, recklessly and improperly failed to use dispersants properly in order to prevent or minimize the effects of pollution;

(d) Alyeska negligently, recklessly and improperly failed to use booming devices in such a manner so as to protect harbors, bays, estuaries, rivers, inlets, beaches, and other areas of the coast from oil pollution;

(e) Alyeska negligently, recklessly and improperly refused to accept and utilize resources, including, without

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limitation, oil pollution and clean-up experts, offered and provided by others;

(f) Alyeska negligently, recklessly and improperly failed to instruct and control the activities of its agents and employees in undertaking, supervising or coordinating pollution prevention and clean-up operations;

(g) Alyeska negligently, recklessly and improperly failed to instruct and control the activities of others in undertaking, supervising or coordinating pollution prevention and clean up operations.

86. The negligent, reckless and improper acts of Defendant Alyeska, described above, caused and contributed to oil pollution damage, aggravated, exacerbated, and prolonged the effects of such oil pollution, and proximately caused the damages suffered by Plaintiffs herein which are continuing.

EIGHTH CLAIM FOR RELIEF

(All Defendants)

TRESPASS

87. Plaintiffs reallege paragraphs 1 through 74 of this complaint and all allegations contained therein.

88. Defendants' conduct, described above, constituted a trespass in that oil was allowed or caused to be discharged as a result of Defendants' acts and omissions and entered into and upon waters, the surface and subsurface of lands owned or leased

by Plaintiffs in and around Prince William Sound, the Gulf of Alaska, Kodiak and the Lower Kenai Peninsula, which trespass is continuing, causing injury to Plaintiffs' property rights in such waters, surface and subsurface of lands and the marine and wildlife resources contained thereon and therein.

NINTH CLAIM FOR RELIEF

(Exxon Defendants and Alyeska Defendants)

NEGLIGENT MISREPRESENTATION

89. Plaintiffs reallege paragraphs 1 through 76 of this complaint and all allegations contained therein.

90. Defendants negligently misrepresented to Plaintiffs and others that they had sufficient personnel and material means at their disposal to prevent a pollution incident or to prevent or minimize damage if a pollution incident occurred.

91. In fact, Defendants were aware, or were negligent or reckless in not being aware, that they lacked sufficient means in personnel and equipment to prevent pollution or adequately respond to an oil spill in Prince William Sound before it caused damage. Defendants knew or were reckless in not knowing that they were ill equipped and unprepared to respond to a massive oil spill such as that from the EXXON VALDEZ, but failed to warn Plaintiffs or state and federal authorities of these facts.

92. Because of these negligent and reckless misrepresentations or omissions of material facts, the true dangers

posed to Plaintiffs and the environment of Prince William Sound were not disclosed. Accordingly, adequate protective measures were not taken by others to prevent the disaster which has now occurred.

93. The misrepresentations and omission of material facts by Defendants were negligently made to induce Plaintiffs and others to refrain from action in reliance upon Defendants' conduct.

94. Because of these misrepresentations and omissions, Plaintiffs and others in a position to act in connection with an oil spill, refrained from taking action to protect the environment from contamination and from taking appropriate legal action.

95. The above-mentioned misrepresentations and omissions resulted in inadequate and ineffectual clean-up efforts which aggravated and compounded the damage caused to Plaintiffs by the oil spill.

96. As a direct and proximate result of the misrepresentations and/or omission of material facts by Defendants, Plaintiffs have suffered substantial damages which are continuing.

TENTH CLAIM FOR RELIEF

(Exxon Defendants and Alyeska Defendants)

FRAUD

97. Plaintiffs reallege paragraphs 1 through 84 of this complaint and all allegations contained therein.

98. In connection with, among other things, the granting of the right-of-way to transport oil from the Port of Valdez to

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other ports within the jurisdiction of the United States, Defendants fraudulently misrepresented to Plaintiffs and others that they had sufficient personnel, equipment and other material available to prevent a pollution incident or prevent or minimize damage if a pollution incident occurred.

99. At the time Defendants made such representations, they knew or were reckless in not knowing that the statements so made were false.

100. During the time when Defendants first announced the promulgation of their contingency clean-up plan until the date oil spilled from the EXXON VALDEZ into the waters of Prince William Sound, Defendants intentionally, knowingly and/or recklessly omitted to state material facts which made their prior statements untrue regarding their capability of responding to or mitigating an oil spill.

101. In reliance on Defendants' intentional, knowing and reckless misrepresentations and omissions cited above, adequate protective measures were not taken by Plaintiffs and others to prevent or minimize the damage which might be caused by a major pollution incident in Prince William Sound. Further, Plaintiffs and others in a position to act in connection with an oil spill refrained from taking action to protect the environment from contamination and from taking appropriate legal action.

102. Because of these misrepresentations and omissions, there was not adequate personnel and equipment to contain and/or

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clean up the oil discharged from the EXXON VALDEZ, which inadequacy not only prevented the mitigation of damage, but aggravated and compounded such damage and injury to Plaintiffs and others.

103. As a direct and proximate result of Defendants' fraudulent statements and omissions of material facts, Plaintiffs have suffered substantial damages, which are continuing.

104. Further, Defendants acted recklessly, wantonly and willfully in connection with these statements and omissions.

ELEVENTH CLAIM FOR RELIEF

(All Defendants)

105. Plaintiffs reallege paragraphs 1 through 92 of this Complaint and all allegations contained therein.

106. If, and only if, the Native Alaskans as defined herein are not able or fail to recover, for any reason, for the damages to their Subsistence Rights in any action or actions arising from the EXXON VALDEZ oil spill, brought individually or on their behalf as a class, plaintiffs seek recovery herein for such damages for the benefit of such Native Alaskans based on the Public Trust and parens patriae doctrines.

TWELFTH CLAIM FOR RELIEF

(EXXON)

PUBLIC NUISANCE

107. Plaintiffs reallege paragraphs 1 through 26 of this complaint and all allegations contained therein.

108. The steam tanker EXXON BATON ROUGE is a crude carrier of 34,266 deadweight tons (dwt) built in 1970 by Avondale Shipyard Inc. and at all material times herein was owned by Exxon Transportation and managed and operated by Exxon Shipping.

109. On or about March 24, 1989, the EXXON BATON ROUGE pumped oil and oily ballast water into Prince William Sound while proceeding towards and to lighter the grounded EXXON VALDEZ.

110. The discharge from the EXXON BATON ROUGE left a trail of oil in Prince William Sound. The oil eventually commingled with the oil leaking from the EXXON VALDEZ and was eventually deposited on the shores of the islands within Prince William Sound and along the lower Kenai Peninsula, Kodiak and the Gulf of Alaska owned, occupied or used by Plaintiffs, their Native shareholders and public and private fisheries and other public and private institutions and enterprises were, and continue to be, damaged or threatened by serious oil pollution to the detriment of Plaintiffs and many of their Native shareholders, inhabitants and local authorities. Exxon Transportation Co., as the registered owner of the EXXON BATON ROUGE, Exxon Corp. and Exxon USA as the controlling owners of Exxon Transportation and owners and transporters of the oil (slops) and oily ballast of said vessel, and Exxon Shipping as operator were negligent and reckless in discharging oil and oil ballast into Prince William Sound.

NUISANCE

111. By causing and allowing a discharge of oily ballast into Prince William Sound and its environs, the Exxon defendants' conduct constitutes a nuisance under applicable common law principles.

112. As a direct and proximate result of the discharge of oil and oily ballast from the M/V BATON ROUGE into Prince William Sound and its environs, plaintiffs have sustained damages which are continuing.

STRICT LIABILITY [AS §§ 46.03.822-828.]

113. The oil, which was discharged into the waters of Prince William Sound and its environs as a result of the discharge of oil and oily ballast from the EXXON BATON ROUGE presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, and other parts of the natural habitat, and is a hazardous substance as defined in AS §§ 46.03.826(4)(A) and (B).

114. The Exxon defendants own and/or have control of, pursuant to AS §§ 46.03.826(3), the oil and oily ballast which was carried on the EXXON BATON ROUGE and discharged into the waters of Prince William Sound.

115. Pursuant to AS §§ 46.03.822-828, the Exxon defendants are jointly, severally and strictly liable, without

regard to fault, for causing the discharge of a hazardous substance into Prince William Sound and its environs and for all damages proximately caused to Plaintiffs as a result thereof, which damages are continuing.

PRIVATE NUISANCE [AS § 09.45.230]

116. As a direct and proximate result of the discharge of oil and oily ballast from the EXXON BATON ROUGE into the waters of Prince William Sound and its environs, including the above-described conduct of the Exxon defendants, Plaintiffs have suffered substantial and continuing damages.

117. Pursuant to Alaska Statute § 09.45.230, the Exxon defendants' activities in causing and allowing the release of oil and oily ballast into the waters of Prince William Sound constitutes a private nuisance.

INHERENTLY DANGEROUS ACTIVITY

118. Under principles of common law, the oil loading and shipping activities engaged in by Defendants are so inherently dangerous and potentially devastating to the ecological environment, Plaintiffs, their Native shareholders and Alaska's residents, citizens, and businesses, that, even when conducted under the best of circumstances and with utmost care, they constitute inherently or abnormally dangerous activities for which the Defendants are strictly liable.

119. The above-described inherently dangerous activities engaged in by the Exxon defendants directly and proximately caused substantial and continuing damages to Plaintiffs.

JURY DEMAND

Plaintiffs demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, each Plaintiff prays for judgment as against each Defendant and in favor of each Plaintiff for:

(a) damage for physical harm to each Plaintiff's property and its direct and indirect economic losses, including, but not limited to, loss of profits, loss of use, loss of benefits, lost opportunities, diminution in value, loss of productivity and such other damages as may be proved at trial;

(b) damages due to the inability of each Plaintiff to preserve, protect and develop the resources on, in and under the lands owned by each of them in furtherance of each Plaintiff's duties and obligations under ANCSA to preserve, protect, and promote the social, cultural and economic well being of each plaintiff's Native shareholders and to protect their Subsistence Rights.

(c) damages to the Subsistence Rights of each Plaintiff's Native shareholders only to the extent not recovered

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in any related action brought individually or on behalf of a class of Native Alaskans.

(d) environmental damages including, but not limited to, all costs of the clean up and the creation of a fund to monitor the environment and ecology in the impacted area and to restore it to its pre-spill state;

(e) injunctive relief requiring the Defendants, jointly and severally, to repair and/or restore each Plaintiff's property to its pre-spill state;

(f) punitive and/or exemplary damages, where permitted, in an amount commensurate with the willful, wanton and reckless conduct of the Defendants;

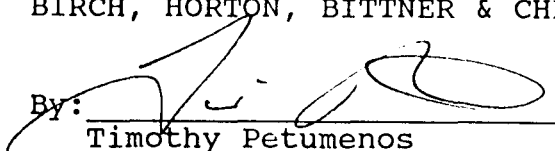
(g) each Plaintiff's costs of this action, including but not limited to, reasonable attorneys' fees, experts fees and other disbursements;

(h) pre-judgment interest, compounded annually through the date of judgment;

(i) such other and further relief as this Court deems just.

RESPECTFULLY SUBMITTED this 17th day of July, 1989.

Attorneys for Plaintiffs:
BIRCH, HORTON, BITTNER & CHEROT

By: 
Timothy Petumenos

HILL, BETTS & NASH

By: 
Christopher Kende
Kenneth McCallion

Fortier & Mikko
of Counsel for Chenega Corporation
and Port Graham Corporation

By: 
Samuel Fortier

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FILED

AUG 5 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
the EXXON VALDEZ) No. A89-095 Civil
(Consolidated)

ORDER NO. 10

(Notice of Scheduling & Planning Conference)

As the initial pre-trial conference in this case, the court will convene for purposes of a scheduling and planning conference, pursuant to Rule 16(b), Federal Rules of Civil Procedure, at 8:30 a.m. on August 24, 1989. Presiding Judge Brian C. Shortell of the Superior Court for the State of Alaska, Third Judicial District at Anchorage, will attend and participate in this conference.

As suggested by Rule 16(b), the court will take up, at this scheduling and planning conference, the matter of joining

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1 other parties or amendments to pleadings. With respect to the
2 scheduling of motions and discovery, the court is prepared to
3 proceed as far as counsel are ready to proceed in these areas;
4 however, at a minimum, the court expects the scheduling and
5 planning conference to result in the initiation of procedures
6 whereby: statements of claims will be simplified, issues will be
7 identified, and arrangements for the creation of teams or commit-
8 tees to do detailed planning for the presentation and determina-
9 tion of liability issues and discovery will be formulated. In
10 the latter regard, it is the court's expectation that the confer-
11 ence will result in an order which will set in motion procedures
12 for the selection of liaison counsel, a law issues committee, and
13 a discovery committee. The court will give consideration to the
14 creation of such other teams or committees as may seem appropri-
15 ate, including means of coordinating both motion and discovery
16 activity in this court and state court. The court also antici-
17 pates considering the desirability of the appointment of a dis-
18 covery master and of creating a discovery records repository.

19 The court encourages counsel for plaintiffs and counsel
20 for defendants and third parties to confer with one another in
21 advance of the initial pre-trial conference to the end that they
22 may designate one or a limited number of counsel to address
23 matters which will be discussed at the conference.

24 The court also invites the plaintiffs jointly and the
25 defendants and third parties jointly to serve and file (at least
26 seven (7) days prior to the initial pre-trial conference) any

1 suggestions they may have for other subjects which should be
2 considered at the initial pre-trial conference.

3 Subject to discussions at the initial pre-trial confer-
4 ence, the court envisions having a complete case management team
5 in place within thirty (30) to forty-five (45) days following the
6 initial pre-trial conference and to have detailed plans for the
7 development of the case with regard to both legal issues and dis-
8 covery available to the court and all parties within sixty (60)
9 to seventy-five (75) days from the initial pre-trial conference.
10 The court will, on short notice, hold such further conferences or
11 hearings as shall appear necessary to formalize the appointment
12 of the case management team. The court anticipates a second
13 pre-trial conference within seventy-five (75) to ninety (90) days
14 to accomplish any necessary refinement of the proposals for man-
15 agement of the case received as a result of the foregoing and to
16 approve such plans.

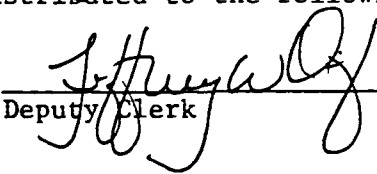
17 DATED at Anchorage, Alaska, this 2 day of August
18 1989.

19 cc: SEE ATTACHED CERTIFICATION


United States District Judge

C E R T I F I C A T I O N

I certify that on the 3RD day of August, 1989, a copy of the attached document/order has been distributed to the following attorneys/individuals.


Deputy Clerk

Lewis Gordon
Roger Holmes (BISS)
John T. Hansen
Lloyd B. Miller
W.B.T.J. Sigler
John Pharr
Matthew D. Jamin (JAMIN)
Timothy Petumenos (BIRCH)
David Oesting (DAVIS)
Stephen Pidgeon
Donald Ferguson
Marlene S. Lay
Edward Reasor
Mark S. Bledsoe
Mark Moderor
Donald Braun
Judy F. Whitson
David R. Millen
Randall Cavanaugh
Charles Kasmar
Wevley Shea
Kent Edwards (HARTIG)
Douglas Serdahely (BOGLE)
Clifford Groh, Sr. (GROH)
John Conway (ATKINSON)
Charles Flynn (BURR)
John Clough, III (FAULKNER)
Robert Richmond (RICHMOND)

FILED

AUG 03 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By Deputy

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Attorneys for defendant
Exxon Shipping Company (D-2 and D-6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)	
)	
the EXXON VALDEZ)	Case No. A89-095 Civil
)	(Consolidated)
_____)	

Re: All Cases

DEFENDANT EXXON SHIPPING COMPANY'S (D-2 AND D-6)
RE-NOTICE TO PARTIES OF OPPORTUNITY TO INSPECT VESSEL

On June 29, 1989, defendant Exxon Shipping Company ("Exxon Shipping") (D-2 and D-6) notified all parties to this consolidated proceeding that, notwithstanding the Court's order staying formal discovery herein, defendant Exxon Shipping would make the T/V EXXON VALDEZ available for inspection by any party,

RE-NOTICE TO INSPECT VESSEL -1-
DJS\DOCS\NOT07.PLD

BOGLE & GATES

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Anchorage, AK 99501
(907) 276 4557

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counsel and/or expert for a limited time after the vessel arrived in the San Diego shipyard, but before repair work was undertaken. At the time the foregoing notice was issued, the vessel was expected to be available for such inspection between approximately July 17, 1989 and August 1, 1989.

As a result of delays in getting the T/V Exxon Valdez into San Diego harbor, and ultimately into the shipyard dry dock, the time period during which the vessel can be inspected by parties, counsel and their experts has been postponed to not earlier than approximately August 20, 1989.

If parties have not previously done so, parties are requested to complete and return within the next ten (10) days, the form attached hereto as Exhibit A and to indicate thereon: (1) whether they are interested in conducting any such inspection; (2) the amount of time needed to perform such inspection; (3) for security purposes, the names and addresses of all persons who will be conducting such inspection; and (4) a description of any procedures any party wishes to employ in connection with inspection including any logistic requirements associated with such procedure. The attached form should be returned to Mr. Charles C. Read of O'Melveny & Myers, 400 South Hope Street, Los Angeles, California 90071-2899, (213) 669-6378. For the convenience of all parties,

BOGLE & GATES

RE-NOTICE TO INSPECT VESSEL -2-
DJS\DOCS\NOT07.PLD

S
R 4th Avenue
Anchorage, AK 99501
(907) 276-4557

defendant Exxon Shipping further requests that all inspecting parties, counsel and experts communicate and coordinate with one another in an attempt to minimize the total number of persons involved and to expedite the inspection process.

Once the responses from all interested parties have been received, a proposed inspection schedule will be circulated. Further coordination will be conducted through direct communications between all counsel for the inspecting parties and Mr. Charles C. Read and/or Mr. David Killough ((213)-669-6375).

Exxon Shipping further notifies all parties, their counsel and experts that substantial modifications are presently planned for the bridge of the Exxon Valdez. Accordingly, any party and/or expert interested in inspecting the vessel's bridge in its present condition should plan on doing so during the inspection time period commencing not earlier than August 20, 1989. All original bridge equipment and instrumentation removed during the forthcoming repair work will be preserved.

Finally, Exxon Shipping wishes to inform all parties that in order to ensure that the T/V Exxon Valdez meets the clearance requirements of the shipyard's dry dock, some limited trimming of protruding portions of the vessel's hull may have to be conducted

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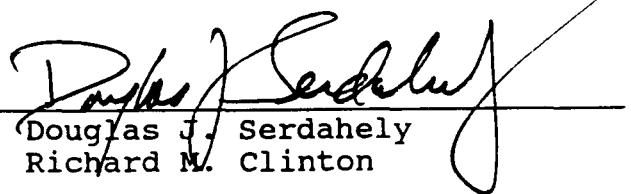
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Anchorage, AK 99501
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RE-NOTICE TO INSPECT VESSEL \ -3-
DJS\DOCS\NOT07.PLD

within the next week, before the vessel can enter the dry dock.
Should any such trimming occur, workmen will be directed to mark
and preserve for inspection removed pieces of the hull.

Dated at Anchorage, Alaska this 2d day of August, 1989.

BOGLE & GATES

By 
Douglas J. Serdahely
Richard M. Clinton

Attorneys for defendant
Exxon Shipping Company (D-2 and D-6)

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RE-NOTICE TO INSPECT VESSEL
DJS\DOCS\NOT07.PLD

-4-

In Re Valdez Oil Spill Litigation

Request for Inspection of the EXXON VALDEZ

1. Plaintiffs' Counsel:

Name

Address

Representing

2. Persons in Inspection Party:

(1) _____
Name

Title

Address

(2) _____
Name

Title

Address

(3) _____
Name

Title

Address

(4) _____
Name

Title

Address

3. Estimated number of days needed for inspection: _____

4. Please attach a description of any procedures intended to be employed in the course of such inspection and any logistic requirements associated with such procedure (e.g., power required, space requirements, etc.).

Return completed form to:

Charles C. Read
David Killough
O'Melveny & Myers
400 South Hope Street
Los Angeles, California 90071-2899
(213) 669-6378
(213) 669-6375

EXHIBIT A

Douglas J. Serdahely
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Richard M. Clinton
Bogle & Gates
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Attorneys for defendant
Exxon Shipping Company and Exxon Shipping
Company, as owner of the EXXON VALDEZ
(D-2 and D-6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)	
)	Case No. A89-095 Civil
the EXXON VALDEZ)	
)	(Consolidated)
)	

Re: All Cases

AFFIDAVIT OF SERVICE

STATE OF ALASKA)
 : ss.
THIRD JUDICIAL DISTRICT)

Joy C. Steveken, being duly sworn, upon oath, deposes and
says: that she is employed as a legal secretary in the offices of

AFFIDAVIT OF SERVICE
DJS\DOCS\JCSAFF.FED

-1-

Bogle & Gates

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