

PREFATORY STATEMENT

Exxon Shipping alleges that no answer to plaintiffs' prefatory statement is required and, if an answer were required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in plaintiff's prefatory statement and, on that basis, denies them.

JURISDICTION AND VENUE

1. Answering paragraph 1, Exxon Shipping lacks knowledge or information regarding certain alleged tribal entities sufficient to form a belief as to the truth of the allegation that this Court has subject matter jurisdiction over the purported claims asserted in the above captioned matter pursuant to 28 U.S.C. §1362 and, on that basis, denies that allegation. Exxon Shipping admits the remaining allegations in paragraph 1.

2. Answering paragraph 2, Exxon Shipping admits that this action may be brought in this judicial district under 28 U.S.C. §1391, that Exxon Corporation, Exxon U.S.A., and Exxon Shipping were and are doing business in this district, and that the grounding of the EXXON VALDEZ and resulting oil spill occurred in this district. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and, on that basis, denies them.

BOGLE & GATES

SUI
103 _____ Avenue
ANCHORAGE, AK 99501
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 2
Reexvald.Fed

THE PARTIES PLAINTIFF

3-64. Answering paragraphs 3-64, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraphs 3-64.

THE PARTIES DEFENDANT

65. Answering paragraph 65, Exxon Shipping admits that Exxon Corporation ("Exxon Corp.") is a New Jersey corporation with its principal place of business in New York. Exxon Shipping admits that Exxon Corp.'s principal business is energy, including exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Exxon Shipping further admits that Exxon Company, U.S.A. ("Exxon, U.S.A."), is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States. Exxon Shipping admits that Exxon Corp. owns the stock in Exxon Shipping, and further admits that Exxon Corp. owned the cargo that was on board the EXXON VALDEZ on March 24, 1989, some of which was discharged into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 65.

66. Answering paragraph 66, Exxon Shipping admits that it is a domestic maritime subsidiary of Exxon Corp., separately incorporated in Delaware, with its executive offices in Houston, Texas. Exxon Shipping admits that it is the

BOGLE & GATES

Suite
1031
Avenue
New York, N.Y. 10020
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 3
Reexvald. Fed

registered owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 66.

67. Answering paragraph 67, Exxon Shipping denies the allegations in paragraph 67.

68. Answering paragraph 68, Exxon Shipping admits that plaintiffs purport to define certain terms. Except as expressly admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the Amended and Consolidated Class Action Complaint is necessarily accurate or appropriate.

69. Answering paragraph 69, Exxon Shipping admits that Alyeska Pipeline Service Company ("Alyeska") is a Delaware corporation, and that Alyeska is owned by the defendants identified in paragraphs 70 through 76 of the Amended and Consolidated Class Action Complaint, who are permittees under the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System ("TAPS"). Exxon Shipping admits that Alyeska operates TAPS, including the shipping terminal facilities at the Port of Valdez, Alaska. Exxon Shipping further admits that Alyeska formulated a certain oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69 and, on that basis, denies them.

BOGLE & GATES

Sui
103
An
th Avenue
AK 99501
(907) 276-4557

70. Answering paragraph 70, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 70.

71. Answering paragraph 71, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 71.

72. Answering paragraph 72, Exxon Shipping admits the allegations in paragraph 72.

73-77. Answering paragraphs 73-77, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraphs 73-77.

78. Answering paragraph 78, Exxon Shipping admits the allegations in paragraph 78.

79. Answering paragraph 79, Exxon Shipping admits that plaintiffs purport to define certain terms. Except as admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the Amended and Consolidated Class Action Complaint is necessarily accurate or appropriate.

80. Answering paragraph 80, Exxon Shipping admits that Joseph Hazelwood was employed by Exxon Shipping as the Master of the EXXON VALDEZ and that his duties as Master were

BOGLE & GATES

Suit
103
Avenue
Anchorage, AK 99501
(907) 278-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 5
Reexvald.Fed

within the scope of his employment by Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 80.

81. Answering paragraph 81, Exxon Shipping admits that Gregory Cousins was employed by Exxon Shipping as the Third Mate on the EXXON VALDEZ and that his duties as Third Mate were within the scope of his employment by Exxon Shipping. Exxon Shipping further admits that Mr. Cousins was on watch when the EXXON VALDEZ ran aground. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 81.

82. Answering paragraph 82, Exxon Shipping admits the allegations in paragraph 82.

CLASS ACTION ALLEGATIONS

83-94. Answering paragraphs 83 through 94, Exxon Shipping admits that plaintiffs purport to bring class actions as set forth in paragraphs 83 through 94. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 83 through 94 and, on that basis, denies them.

FACTUAL ALLEGATIONS

A. ALLEGED PRE-SPILL EVENTS

95. Answering paragraph 95, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

BOGLE & GATES

Suite 103
103rd Avenue
Anchorage, AK 99501
(907) 276-4557

truth of the allegations and, on that basis, denies the allegations in paragraph 95.

96. Answering paragraph 96, Exxon Shipping admits that in March 1970 the Wilderness Society, the Friends of the Earth and the Environmental Defense Fund filed an action against the Secretary of the Interior, obtaining a preliminary injunction restraining the Secretary from issuing a permit for the TAPS project, and that during this litigation and during the preparation by the Secretary of an Environmental Impact Statement which was issued in March 1972, there was debate about the environmental risks associated with the project. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 96.

97. Answering paragraph 97, Exxon Shipping admits that the owners of Alyeska favored the Port of Valdez for locating the southern terminal for TAPS and that some fishermen and inhabitants of Prince William Sound expressed concern about the environmental impact of a major oil spill in the region. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 97.

98. Answering paragraph 98, Exxon Shipping admits that portions of Prince William Sound are within the boundaries of the Chugach National Forest and the Nellie Juan-College Fjord Wilderness study area. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to

BOGLE & GATES

2010
1031
Ave
907) 276-4557

h Avenue
K 99501

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 7
Reexvald.Fed

form a belief as to the truth of the allegations in paragraph 98 and, on that basis, denies them.

99. Answering paragraph 99, Exxon Shipping admits that certain parties filed lawsuits, and that on February 9, 1973, the Court of Appeals for the District of Columbia held that a grant of right-of-way by the Secretary of the Interior would violate the width limitations of Section 28 of the Mineral Lands Leasing Act of 1920, and that as a result of this legal impediment, the owners of Alyeska sought legislation from Congress authorizing the TAPS project. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 99.

100. Answering paragraph 100, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 100.

101. Answering paragraph 101, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 101.

102. Answering paragraph 102, Exxon Shipping admits that the Secretary of the Interior granted the owners of Alyeska a permit for the Trans-Alaska Pipeline System ("TAPS") project, including a tanker terminal at the Port of Valdez, pursuant to the Agreement and Grant of Right-of-Way for Trans-

BOGLE & GATES

Suite
1031
Anchorage, AK 99501
(907) 276-4557

Alaska Pipeline. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 102 and, on that basis, denies them.

103. Answering paragraph 103, Exxon Shipping admits Alyeska began operating TAPS, including the tanker terminal, in 1977. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 103 and, on that basis, denies them.

104. Answering paragraph 104, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 104 and, on that basis, denies them.

105. Answering paragraph 105, Exxon Shipping admits that Alyeska published a contingency plan that was approved by the State of Alaska and the federal government and is a public record and speaks for itself. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 105 and, on that basis, denies them.

106. Answering paragraph 106, Exxon Shipping admits that the Alyeska plan includes a scenario discussing a hypothetical 200,000 barrel oil spill. Except as expressly admitted, Exxon Shipping lacks knowledge or information

BOGLE & GATES

Suite
1030
Avenue
Anchorage, Alaska 99501
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 9
Reexva Id. Fed

sufficient to form a belief as to the truth of the allegations in paragraph 106 and, on that basis, denies them.

107. Answering paragraph 107, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 107.

108. Answering paragraph 108, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 108.

B. ALLEGATIONS RE THE OIL SPILL

109. Answering paragraph 109, Exxon Shipping admits that on the evening of Thursday, March 23, 1989, the EXXON VALDEZ was berthed at the Valdez terminal having been loaded with approximately 53,000,000 gallons of TAPS crude oil. Exxon Shipping further admits that the EXXON VALDEZ is an approximately two-year old single hull tanker, measuring approximately 987 feet in length and 166 feet in beam, weighing approximately 213,000 deadweight tons and having 11 cargo tanks. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 109.

110. Answering paragraph 110, Exxon Shipping admits that the EXXON VALDEZ left the terminal at approximately 9:15 p.m. en route to Long Beach, California and that Captain Hazelwood was Master of the vessel and was entrusted with her

BOGLE & GATES

Suite 1031
Avenue
Anchorage, AK 99501
(907) 276-4557

operational and navigational safety. Exxon Shipping admits that public records purport to show that Captain Hazelwood has been convicted of driving while under the influence of alcohol. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 110.

111. Answering paragraph 111, Exxon Shipping admits that from the time it left the terminal until it reached the pilot's station near Rocky Point, the EXXON VALDEZ was navigated by Edward Murphy, a state-licensed marine pilot. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 111 and, on that basis, denies them.

112. Answering paragraph 112, Exxon Shipping admits that Captain Hazelwood left the bridge after the vessel got underway, and that Captain Hazelwood returned to the bridge before Pilot Murphy disembarked near Rocky Point at approximately 11:30 p.m. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 112 and, on that basis, denies them.

113. Answering paragraph 113, Exxon Shipping admits that it was in compliance with all applicable laws and regulations regarding pilotage with respect to the events alleged. Except as specifically admitted, Exxon Shipping denies the allegations in paragraph 113.

114. Answering paragraph 114, Exxon Shipping admits that Captain Hazelwood left the bridge and went to his cabin shortly after 11:50 p.m. Exxon Shipping further admits that Mr. Cousins was on watch. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 114.

115. Answering paragraph 115, Exxon Shipping admits that the Vessel Traffic System (VTS) lanes are depicted on nautical charts which were aboard the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 115.

116. Answering paragraph 116, Exxon Shipping admits that Bligh Reef is depicted on charts on board the EXXON VALDEZ, that it is a navigational hazard located approximately one nautical mile from the nearest VTS lanes, and that the buoy off Bligh Reef was equipped with a flashing red light and a bell. Exxon Shipping further admits that the delay in bringing the EXXON VALDEZ back into the traffic lanes appears at present to be the principal cause of the collision with Bligh Reef. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 116 and, on that basis, denies them.

117. Answering paragraph 117, Exxon Shipping admits that the EXXON VALDEZ struck Bligh Reef shortly after midnight on March 24, 1989. Exxon Shipping further admits that at the time of impact, the vessel was running at a speed of

BOGLE & GATES

Suite 1031
1 Avenue
Anchorage, Alaska 99501
907 276 4557

approximately 12 knots. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 117.

118. Answering paragraph 118, Exxon Shipping admits that after the EXXON VALDEZ ran aground, all engine commands were in the ahead position. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 118.

119. Answering paragraph 119, Exxon Shipping denies the allegations in paragraph 119.

120. Answering paragraph 120, Exxon Shipping admits that the EXXON VALDEZ struck Bligh Reef, puncturing eight of her oil tanks and three of her ballast tanks, and eventually spilling approximately 258,000 barrels of oil into the waters of Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 120.

C. ALLEGATIONS RE RESPONSE AND CLEANUP EFFORTS BY THE ALYESKA DEFENDANTS AND THE EXXON DEFENDANTS

121. Answering paragraph 121, Exxon Shipping admits that the oil was not completely contained or removed within 2 days and that three oil skimmers and 8,500 feet of boom were not at the scene within five hours. Exxon Shipping further admits that as part of the lightering operation for the EXXON VALDEZ, the EXXON BATON ROUGE discharged ballast water, which included some oil, into Prince William Sound pursuant to United States Coast Guard authorization. Except as expressly admitted, and insofar as the allegations in paragraph 121 apply

BOGLE & GATES

Suite 1031
Avenue
Anchorage, AK 99501
907 276 4557

to Exxon Shipping, Exxon Corp. and Exxon U.S.A., Exxon Shipping denies the allegations in paragraph 121. Insofar as the allegations in paragraph 121 apply to the Alyeska defendants, and except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 121 and, on that basis, denies them.

122. Answering paragraph 122, Exxon Shipping admits that some of the oil spread across and out of Prince William Sound into some parts of the Kenai Peninsula, the Cook Inlet, the Kodiak Archipelago and the Alaska Peninsula. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 122.

D. ALLEGED EFFECTS OF THE OIL SPILL

123. Answering paragraph 123, Exxon Shipping admits that approximately 11 million gallons of crude oil were spilled into the water surrounding the EXXON VALDEZ, that prevailing winds and currents spread the oil spill, that the spill spread to some shoreline and beach areas, that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals, that the State of Alaska closed or restricted fishing for certain varieties of sea food in the Prince William Sound area, as well as the Kodiak Island and Cook Inlet areas, and that the number of fish harvested in the Area was thereby reduced. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a

BOGLE & GATES

1000
1000 Avenue
Anchorage, AK 99501
(907) 276-4557

belief as to the truth of the allegations in paragraph 123 and, on that basis, denies them.

E. ALLEGED DAMAGE AND INJURY TO THE PLAINTIFFS AND PLAINTIFF CLASSES

124. Answering paragraph 124, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 124.

FIRST CLAIM FOR RELIEF

125. Answering paragraph 125, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 124 as though set forth in full at this place.

126. Answering paragraph 126, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 126.

127. Answering paragraph 127, Exxon Shipping admits that it is the owner and operator of the EXXON VALDEZ and the EXXON BATON ROUGE. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 127.

128. Answering paragraph 128, Exxon Shipping admits that 43 U.S.C. § 1653(c)(1) and (3), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the

OGLE & GATES

encl
9501
276-4557

allegations and, on that basis, denies the allegations in paragraph 128.

129. Answering paragraph 129, Exxon Shipping alleges that no answer to paragraph 129 is required and, if an answer is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 129 and, on that basis, denies them.

SECOND CLAIM FOR RELIEF

130. Answering paragraph 130, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 129 as though set forth in full at this place.

131. Answering paragraph 131, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 131.

132. Answering paragraph 132, Exxon Shipping admits that it is the owner of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 132.

133. Answering paragraph 133, Exxon Shipping denies the allegations in paragraph 133.

134. Answering paragraph 134, Exxon Shipping denies the allegations in paragraph 134.

BOGLE & GATES

1031
h Avenue
Anchorage, AK 99501
907) 276 4557

THIRD CLAIM FOR RELIEF

135. Answering paragraph 135, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 134 as though set forth in full at this place.

136. Answering paragraph 136, Exxon Shipping admits that the EXXON VALDEZ was not equipped, nor was it required to be equipped, with containment booms. Exxon Shipping further admits that immediately prior to and at the time of the grounding, the vessel was being operated by only one deck officer in violation of the vessel's own instructions. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 136.

137. Answering paragraph 137, Exxon Shipping denies the allegations in paragraph 137.

FOURTH CLAIM FOR RELIEF

138. Answering paragraph 138, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 137 as though set forth in full at this place.

139-146. Answering paragraphs 139 through 146, Exxon Shipping denies the allegations in paragraphs 139 through 146.

FIFTH CLAIM FOR RELIEF

147. Answering paragraph 147, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 146 as though set forth in full at this place.

BOGLE & GATES

1037 1 Avenue
Anchorage, Alaska 99501
(907) 276-4557

148-150. Answering paragraphs 148 through 150, Exxon Shipping alleges that no answer to the allegations in paragraphs 148 through 150 is required and, if an answer is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraphs 148 through 150.

SIXTH CLAIM FOR RELIEF

151. Answering paragraph 151, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 150 as though set forth in full at this place.

152. Answering paragraph 152, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 152.

153. Answering paragraph 153, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 153.

154. Answering paragraph 154, Exxon Shipping denies the allegations in paragraph 154 insofar as they apply to Exxon Shipping, Exxon Transportation, Exxon Corp. or Exxon, U.S.A. Insofar as the allegations in paragraph 154 apply to the Alyeska defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the

BOGLE & GATES

100
100
Avenue
Anchorage, AK 99501
807) 276 4557

allegations and, on that basis, denies the allegations in paragraph 154.

155. Answering paragraph 155, Exxon Shipping denies the allegations in paragraph 155 insofar as they apply to Exxon Shipping, Exxon Transportation, Exxon Corp. or Exxon, U.S.A. Insofar as the allegations in paragraph 155 apply to Alyeska defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 155.

PRAYER FOR RELIEF

156. Exxon Shipping denies that the plaintiffs are entitled to the relief they seek.

GENERAL DENIAL

157. Exxon Shipping denies each and every other allegation in plaintiffs' complaint that was not specifically admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

BOGLE & GATES

SU
100, 1 Avenue
Anchorage, AK 99501
907) 276-4557

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the EXXON VALDEZ, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

7. Claims by some persons or entities who may be within the purported classes herein have been settled and released or in the alternative, payments received by such persons or entities operate as an accord and satisfaction of all claims against Exxon Shipping.

BOGLE & GATES

200
1000
Avenue
Anchorage, AK 99501
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 20
Reexvald.Fed

8. Exxon Shipping has acted pursuant to government approval, direction and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction or supervision.

9. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

10. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

11. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

12. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

13. Plaintiffs' claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

BOGLE & GATES

Suite 1033
1033 1 Avenue
Anchorage, AK 99501
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 21
Reexva id. Fed

14. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

15. Certain claims asserted by plaintiffs are not ripe for adjudication.

16. Plaintiffs fail to satisfy the requirements for injunctive relief.

17. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

18. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska Constitutions and the contract clause of the United States Constitution.

19. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

20. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and

BOGLE & GATES

Suite
1031
1 Avenue
Anchorage, AK 99501
(907) 276-4557

compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

21. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

22. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

24. Plaintiffs' action against Exxon Shipping based on ANILCA, 16 U.S.C. § 3111, et seq., cannot be maintained because there is no private right of action against non-governmental defendants arising from that statute.

25. Plaintiffs' action against Exxon Shipping based on ANILCA, 16 U.S.C. § 3111, et seq., cannot be maintained

OGLE & GATES

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

9501

because plaintiffs have failed to exhaust relevant administrative remedies.

26. Plaintiffs' action against Exxon Shipping based on ANILCA, 16 U.S.C. § 3111, et seq., cannot be maintained because that statute does not create or grant to plaintiffs a property right in any fish or wildlife or other resource of the public lands.

27. ANILCA, 16 U.S.C. § 3111, et seq., provides the exclusive federal vehicle for Alaskan natives and rural Alaskans to seek protection for federally recognized subsistence interests allegedly harmed by the oil spill, and therefore all other alleged federal bases to recover any such losses are barred.

28. The corporate plaintiffs herein lack the capacity to commence and maintain this action insofar as they have failed to allege and prove that they have paid their Alaska biennial corporate taxes last due and have filed biennial reports for the last reporting period.

WHEREFORE, defendant Exxon Shipping prays judgment against plaintiff as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and

BOGLE & GATES

Suit
1031 h Avenue
Anchorage, AK 99501
(907) 276-4557

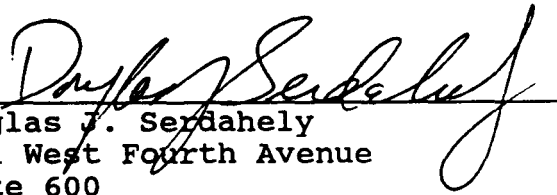
Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 24
Reexvald.Fed

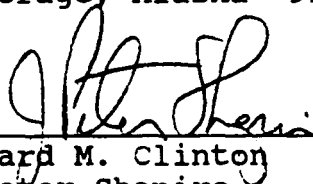
4. That the Court award such other and further relief as it may deem just and proper.

DATED this 15th day of August, 1989.

BOGLE & GATES

Attorneys for Defendant
Exxon Shipping Company

By: 
Douglas J. Seidahely
1031 West Fourth Avenue
Suite 600
Anchorage, Alaska 99501

By: 
Richard M. Clinton
J. Peter Shapiro
900 4th Avenue
The Bank of California Center
Seattle, Washington 98164

BOGLE & GATES

Sui
1031 West Fourth Avenue
Anchorage, AK 99501
(907) 276-4557

Answer of Defendant Exxon Shipping
Company to the Amended and
Consolidated Class Action Complaint - 25
Reexva 1d. Fed

Douglas J. Serdahely
Bogle & Gates
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164
(206) 682-5151

Attorneys for defendant
Exxon Shipping Company (D-2)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

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

Answer of D-2 to Amended and Consolidated Class Action Complaint Dated July 17, 1989 Re: Case and Plaintiff Nos. A89-110, P-46 through P-62, P-64 and P-118 through P-138, A89-099, P-16 through P-18, A89-297, P-202 through 206, A89-109, P-43 through P-44, A89-166, P-145, A89-102, P-19 and P-21, A89-104, P-24 through P-28, A89-265, P-189 and P-195 through P-196, A89-299, P-225, P-246 through P-247 and P-267, A89-111, P-65 through P-67, A89-126, P-74 through P-76, A89-129, P-77, A89-141, P-112, A89-096, P-13 through P-15, A89-103, P-22, A89-107, P-40 through 41, A89-125, P-73, A89-108, P-42, A89-173, P-146 through 147, A89-095, P-1, P-3 and P-8 through P-12, A89-165, P-139 through P-144

AFFIDAVIT OF SERVICE

STATE OF ALASKA)
 : ss.
THIRD JUDICIAL DISTRICT)

AFFIDAVIT OF SERVICE

-1-


BOGLE & GATES

Sq
10 4th Avenue
Anchorage, AK 99501
(907) 276-4557


Joy C. Steveken, being duly sworn, upon oath, deposes and says: that she is employed as a legal secretary in the offices of Bogle & Gates, 1031 West 4th Street, Suite 600, Anchorage, Alaska 99501; that service of the Answer of D-2 to Amended and Consolidated Class Action Complaint Dated July 17, 1989 has been made upon all counsel of record based upon the Court's Master Service List of July 20, 1989 on the 15th day of August, 1989 via hand delivery and U.S. Mail, postage prepaid.


Joy C. Steveken

SUBSCRIBED AND SWORN to
before me this 15th day
of August, 1989.


Notary Public for Alaska
My Commission Expires: 1/12/1991

BOGLE & GATES


Anchorage
Avenue
99501
(907) 276-4557

AFFIDAVIT OF SERVICE

-2-

Douglas J. Serdahely
Bogle & Gates
1031 West Fourth Avenue, Suite 600
Anchorage, AK 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 4th Avenue
Seattle, WA 98164
(206) 682-5151

Attorneys for Defendant
Exxon Shipping Company
(D-2)

FILED

AUG 15 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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

Re Case No. A89-140 Civil

D-2's Answer to P-97 through P-111's
Complaint Dated March 31, 1989

Defendant Exxon Shipping Company ("Exxon Shipping")
answers plaintiffs' complaint as follows:

PREFATORY STATEMENT

Exxon Shipping alleges that no answer to plaintiffs'
prefatory statement is required and, if an answer is required,
Exxon Shipping lacks knowledge or information sufficient to

BOGLEY & GATES

te 600
31 West 4th Avenue
Anchorage 99501
(907) 276

Answer of Exxon Shipping Company - 1
Butcher. 140

442

form a belief as to the truth of the allegations in plaintiffs' prefatory statement and, on that basis, denies them.

1-4. Answering paragraphs 1 through 4, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 1 through 4 and, on that basis, denies them.

5. Answering paragraph 5, Exxon Shipping admits the allegations in paragraph 5.

6. Answering paragraph 6, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, consisting of the Amerada Hess Pipeline Corporation, ARCO Pipe Line Company, BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company, who are permittees under the Agreement and Grant of Right-Of-Way for the Trans-Alaska Pipeline System. Exxon Shipping further admits that Alyeska operates the Trans-Alaska Pipeline System, including the terminal at Valdez, Alaska, and that Alyeska loaded the Exxon Valdez with North Slope crude oil at the Valdez terminal. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 and, on that basis, denies them.

7. Answering paragraph 7, Exxon Shipping admits that Exxon Corporation is a corporation organized 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 10021; and that the principal business of Exxon Corporation is energy, including exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits it is a domestic maritime subsidiary of Exxon Corporation, separately incorporated under the laws of the State of Delaware; that its principal place of business is at 800 Bell Street, Houston, TX 77251; and that it is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 8.

9. Answering paragraph 9, Exxon Shipping admits that Exxon Company, U.S.A is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States, with its headquarters at 800 Bell Street, Houston, TX 77251. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and, on that basis, denies them.

CLASS ALLEGATIONS

11-14. Answering paragraphs 11 through 14, Exxon Shipping admits that various plaintiffs purport to bring an action on behalf of classes of persons and entities described in the complaint. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 11 through 14 and, on that basis, denies them.

FACTUAL ALLEGATIONS

15. Answering paragraph 15, Exxon Shipping admits that on Thursday evening, March 23, 1989, the Exxon Valdez, which is approximately 987 feet long and weighs 211,469 deadweight tons, left the Port of Valdez, Alaska, the southern terminal facility of the Trans-Alaska Pipeline System, bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping admits that the Exxon Valdez contained approximately 1.2 million barrels of crude oil that had been shipped from Alaska's North Slope through the Trans-Alaska Pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping admits that the Exxon Valdez passed through the Valdez Narrows under the direction of a pilot, and that Captain Hazelwood was on the

OGLE & GATES

600
West
Storage
276-4557
uc
01

bridge when the pilot disembarked in the Valdez Arm. Exxon Shipping further admits that Captain Hazelwood was employed by Exxon Shipping as Master of the Exxon Valdez and his duties as Master were within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 17.

18. Answering paragraph 18, Exxon Shipping admits that after the harbor pilot disembarked, Captain Hazelwood left the bridge, leaving Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge. Exxon Shipping further admits that Cousins' duties as third mate and Kagan's duties as helmsman were within the scope of their employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 18.

19. Answering paragraph 19, Exxon Shipping admits that the U.S. Coast Guard gave the Exxon Valdez permission to leave the southbound shipping lane for reasons that include earlier reports that it contained ice that had calved from a glacier to the northwest. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 19.

20. Answering paragraph 20, Exxon Shipping admits that while bound for Long Beach, California, the Exxon Valdez travelled through the northbound lane and struck Bligh Reef, which is depicted on charts. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 20.

BOGLE & GATES

Suite
1031 Avenue
Anchorage, AK 99501
(907) 276-4557

21. Answering paragraph 21, Exxon Shipping admits that the Exxon Valdez struck Bligh Reef, which punctured some of the tanks and damaged a portion of the hull. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22-23. Answering paragraphs 22 and 23, Exxon Shipping denies the allegations in paragraphs 22 and 23.

24. Answering paragraph 24, Exxon Shipping admits that the grounding cut open eight of the Exxon Valdez's eleven cargo tanks, resulted in the release of approximately 11 million gallons of crude oil into Prince William Sound, and became the largest oil spill in the United States from a single ship. Except as expressly admitted, Exxon Shipping lacks knowledge or information to form a belief as to the truth of the allegations in paragraph 24 and, on that basis, denies them.

25. Answering paragraph 25, Exxon Shipping admits that on March 26, 1989, the Governor of Alaska declared a disaster emergency. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 25 and, on that basis, denies them.

26. Answering paragraph 26, Exxon Shipping denies the allegations in paragraph 26 insofar as they concern Exxon Corporation, Exxon Shipping and Exxon Company, U.S.A. (the

BOGLE & GATES

Suite 600
1031 Avenue
Anchorage, Alaska 99501
(907) 261-1000

Answer of Exxon Shipping Company - 6

Butcher, 140

Exxon defendants). Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 26 and, on that basis, denies them.

27. Answering paragraph 27, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and, on that basis, denies them.

28-29. Answering paragraphs 28 and 29, Exxon Shipping admits that the oil spill has spread to other areas. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 28 and 29 and, on that basis, denies them.

30. Answering paragraph 30, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 and, on that basis, denies them.

ANSWER TO COUNT I

31. Answering paragraph 31, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 30 as though set forth in full at this place.

32-36. Answering paragraphs 32 through 36, Exxon Shipping is not required to answer the allegations in paragraph 32 through 36 and, if an answer were required, Exxon Shipping

lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 through 36 and, on that basis, denies them.

ANSWER TO COUNT II

37. Answering paragraph 37, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 36 as though set forth in full at this place.

38. Answering paragraph 38, Exxon Shipping admits that Exxon Shipping is the owner and operator of the Exxon Valdez and was the employer of Hazelwood, Cousins and the crew of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 38.

39. Answering paragraph 39, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 and, on that basis, denies them.

40. Answering paragraph 40, Exxon Shipping admits that the damages, if any, alleged by plaintiffs were not caused by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 and, on that basis, denies them.

41. Answering paragraph 41, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

BOGLE & GATES

Suite 600
1031 Avenue
Anch K 99501
(907) 269-4000

truth of the allegations in paragraph 41 and, on that basis, denies them.

42. Answering paragraph 42, Exxon Shipping admits that 43 U.S.C. § 1653(c), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 and, on that basis, denies them.

ANSWER TO COUNT III

43. Answering paragraph 43, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 42 as though set forth in full at this place.

44-56. Answering paragraphs 44 through 56, Exxon Shipping denies the allegations in paragraphs 44 through 56 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraphs 44 through 56 and, on that basis, denies them.

ANSWER TO COUNT IV

57. Answering paragraph 57, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 56 as though set forth in full at this place.

58. Answering paragraph 58, Exxon Shipping admits that public records purport to show that Captain Hazelwood has

OGLE & GATES

File 600
If We: ennc
-chang 9501
7/27/.....

been convicted of driving under the influence of alcohol. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 58.

59. Answering paragraph 59, Exxon Shipping admits that Cousins was on watch when the Exxon Valdez ran aground. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 59.

60-65. Answering paragraphs 60 through 65, Exxon Shipping denies the allegations in paragraphs 60 through 65.

ANSWER TO COUNT V

66. Answering paragraph 66, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 65 as though set forth in full at this place.

67. Answering paragraph 67, Exxon Shipping denies the allegations in paragraph 67 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 67 and, on that basis, denies them.

ANSWER TO COUNT VI

68. Answering paragraph 68, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 67 as though set forth in full at this place.

69. Answering paragraph 69, Exxon Shipping denies the allegations in paragraph 69 insofar as they concern the Exxon

defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 69 and, on that basis, denies them.

ANSWER TO COUNT VII

70. Answering paragraph 70, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 69 as though set forth in full at this place.

71. Answering paragraph 71, Exxon Shipping admits that hazardous substance is defined in AS 46.03.826(4)(B) to include oil and that approximately 11 million gallons of crude oil were released into Prince William Sound as a result of the grounding of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 71.

72. Answering paragraph 72, Exxon Shipping admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72 and, on that basis, denies them.

73. Answering paragraph 73, Exxon Shipping admits that Exxon Corporation owned the oil and Exxon Shipping controlled the oil immediately prior to its release into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 73 insofar as they

concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 73 and, on that basis, denies them.

74. Answering paragraph 74, Exxon Shipping admits that the initial entry of oil into Prince William Sound and the subsequent movement of the oil was not caused solely by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 74 and, on that basis, denies them.

75. Answering paragraph 75, Exxon Shipping denies the allegations in paragraph 75 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraph 75 and, on that basis, denies them.

76. Answering paragraph 76, Exxon Shipping admits that AS 46.03.822, to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 76 and, on that basis, denies them.

OGLE & GATES

te 600
1 Wes enue
horage, NY 03501
2) 276-4557

ANSWER TO COUNT VIII

77. Answering paragraph 77, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 76 as though set forth in full at this place.

78-81. Answering paragraphs 78 through 81, Exxon Shipping denies the allegations in paragraphs 78 through 81 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraphs 78 through 81 and, on that basis, denies them.

ANSWER TO COUNT IX

82. Answering paragraph 82, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 81 as though set forth in full at this place.

83-87. Answering paragraphs 83 through 87, Exxon Shipping denies the allegations in paragraphs 83 through 87 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a basis as to the truth of the allegations in paragraphs 83 through 87 and, on that basis, denies them.

PRAYER FOR RELIEF

88. Exxon Shipping denies that plaintiffs are entitled to the relief they seek.

GENERAL DENIAL

89. Exxon Shipping denies each and every other allegation of plaintiffs' complaint that it has not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by

plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the Exxon Valdez, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

7. Claims by some persons or entities who may be within the purported class have been settled and released, or in the alternative, payments received by such persons or entities operate as an accord and satisfaction of all claims against Exxon Shipping.

8. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

9. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

10. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

11. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

12. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

13. Claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

14. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

15. Certain claims asserted by plaintiffs are not ripe for adjudication.

16. Plaintiffs fail to satisfy the requirements for injunctive relief.

17. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

18. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska

Constitutions and the contract clause of the United States Constitution.

19. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

20. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

22. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and

federal governments with respect to the passage and enforcement of laws.

24. ANILCA, 16 U.S.C. § 3111, et seq., provides the exclusive federal vehicle for Alaskan natives and rural Alaskans to seek protection for federally recognized subsistence interests allegedly harmed by the oil spill, and therefore all other alleged federal bases to recover any such losses are barred.

WHEREFORE, defendant Exxon Shipping prays for judgment against plaintiffs as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment for the costs of suit incurred herein, including attorney's fees; and

DGLE & GATES

600
West
orage, AK 99501
276-4557

Answer of Exxon Shipping Company - 18

Butcher. 140

4. That the court award Exxon Shipping such other and further relief as it may deem just and proper.

DATED this 15th day of August, 1989

BOGLE & GATES
Attorneys for Defendant
Exxon Shipping Company
(D-2)

By: 

Douglas J. Serdahely
1031 West Fourth Avenue
Suite 600
Anchorage, AK 99501

By: 

Richard M. Clinton
J. Peter Shapiro
The Bank of California Center
900 4th Avenue
Seattle, WA 98164

BOGLE & GATES

600
West
Anchorage
276-4557

Douglas J. Serdahely
Bogle & Gates
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 Fourth Avenue
Seattle, Washington 98164
(206) 682-5151

Attorneys for Defendant
Exxon Shipping Company (D-2)

FILED

AUG 15 1989

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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

Re Case No. A89-138 Civil

D-2's Answer to P-81 through P-94's
Amended Complaint Dated July 17, 1989

Defendant Exxon Shipping Company ("Exxon Shipping")
answers plaintiffs' Complaint as follows:

PREFATORY STATEMENT

Exxon Shipping alleges that no answer to plaintiffs' prefatory statement is required and, if an answer is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in plaintiffs' prefatory statement and therefore denies those allegations.

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY - 1

JURISDICTION AND VENUE

1. Answering paragraph 1, Exxon Shipping admits that plaintiffs purport to bring a civil action as set forth in paragraph 1 of the Complaint. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 1.

2. Answering paragraph 2, Exxon Shipping admits that this Court has jurisdiction over plaintiffs' complaints, pursuant to 28 U.S.C. Sections 1331 and 1333(1), which provide for original jurisdiction in the district courts of all civil actions arising under the laws of the United States and admiralty or maritime jurisdiction; and that this Court also has subject matter jurisdiction over this action in accordance with the principles of pendent jurisdiction. Except as expressly admitted, Exxon Shipping lacks knowledge or information as to the truth of the allegations and therefore denies the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that this civil action may be brought in this judicial district under 28 U.S.C. Section 1391. Exxon Shipping further admits that it is and was doing business in this district and that the grounding of the EXXON VALDEZ and the resulting oil spill occurred in this district. Except as expressly admitted, Exxon Shipping lacks

BOGLE & GATES

Suite 600
31 West 4th Avenue
Whorage, AK 99501
(907) 276-4557

knowledge or information as to the truth of the allegations and therefore denies the allegations in paragraph 3.

PARTIES

4. Answering paragraph 4, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 5.

6. Answering paragraph 6, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 6.

7. Answering paragraph 7, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 8.

9. Answering paragraph 9, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

truth of the allegations and therefore denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 10.

11. Answering paragraph 11, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 11.

12. Answering paragraph 12, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 12.

13. Answering paragraph 13, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 13.

14. Answering paragraph 14, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 14.

15. Answering paragraph 15, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

BOGLE & GATES

Suite 600
031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY - 4

truth of the allegations and therefore denies the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 17.

18. Answering paragraph 18, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 19.

20. Answering paragraph 20, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the

DIGLE & GATES

600
West 4th Avenue
Orange, AK 99501
276-4557

ANSWER OF EXXON SHIPPING COMPANY - 5

truth of the allegations and therefore denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that Exxon Shipping is a domestic maritime subsidiary of defendant Exxon Corporation, separately incorporated under the laws of the State of Delaware, and that its principal place of business is at 800 Bell Street, Houston TX 77251, and that it is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

23. Answering paragraph 23, Exxon Shipping admits that Exxon Corporation is a corporation organized under the laws of the State of New Jersey, with its principal place of business at 1251 Avenue of the Americas, New York, NY 10020, and that the principal business of Exxon Corporation is energy, including exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Exxon Shipping admits that Exxon Shipping is a separately incorporated domestic maritime subsidiary of Exxon Corporation. Exxon Shipping further admits the Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States. Exxon Shipping further admits that Exxon Corporation owned the oil and Exxon Shipping controlled the oil being transported on the EXXON VALDEZ immediately prior to its discharge into Prince William Sound on March 24, 1989. Except as

BOGLE & GATES

Suite 600
31 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY - 6

expressly admitted, Exxon Shipping denies the allegations in paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States, and that its principal place of business is at 800 Bell Street, Houston, Texas 77252. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 24.

25. Answering paragraph 25, Exxon Shipping admits that Exxon Shipping is the owner and operator of the EXXON BATON ROUGE, and that Exxon Shipping is a domestic maritime subsidiary of Exxon Corporation. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 25.

26. Answering paragraph 26, Exxon Shipping admits that plaintiffs purport to define certain terms. Except as expressly admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the Complaint is necessarily accurate or appropriate.

27. Answering paragraph 27, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, consisting of the Amerada Hess Pipeline Corporation, ARCO Pipe Line Company, BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company, who are permittees

BOGLE & GATES

Suite 600
331 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY - 7

under the Agreement And Grant Of Right-Of-Way for the Trans-Alaska Pipeline System. Exxon Shipping further admits that Alyeska operates the Trans-Alaska Pipeline System, including the terminal facilities at the Port of Valdez, Alaska, and that Alyeska formulated a certain oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 27.

28. Answering paragraph 28, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 28.

29. Answering paragraph 29, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 29.

30. Answering paragraph 30, Exxon Shipping admits the allegations in paragraph 30.

31. Answering paragraph 31, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 31.

32. Answering paragraph 32, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the

OGLE & GATES

Box 600
1 West 4th Avenue
Barrow, AK 99501
276-4557

truth of the allegations and therefore denies the allegations in paragraph 32.

33. Answering paragraph 33, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 33.

34. Answering paragraph 34, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 34.

35. Answering paragraph 35, Exxon Shipping admits that plaintiffs purport to define certain terms. Except as expressly admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the Complaint is necessarily accurate or appropriate.

36. Answering paragraph 36, Exxon Shipping admits that Captain Joseph J. Hazelwood was Master of the EXXON VALDEZ. Exxon Shipping further admits that Captain Hazelwood was an employee of Exxon Shipping, and that Captain Hazelwood's duties as master of the EXXON VALDEZ were within the scope of his employment by Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 36.

37. Answering paragraph 37, Exxon Shipping admits that Gregory Cousins was third mate on the EXXON VALDEZ and was on watch when the vessel ran aground. Exxon Shipping further admits

that Mr. Cousins was an employee of Exxon Shipping, and that the performance of his duties was within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 37.

38. Answering paragraph 38, Exxon Shipping admits that defendant Edward Murphy is a harbor pilot under whose direction the EXXON VALDEZ passed through the harbor and Valdez Narrows to the Valdez Arm on March 23, 1989. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 38.

FACTUAL ALLEGATIONS

39. Answering paragraph 39, Exxon Shipping admits that the EXXON VALDEZ is a VLCC approximately 987 feet long and weighing 211,469 deadweight tons, which was built by the National Steel and Shipbuilding Co. of San Diego and is owned and operated by Exxon Shipping. Exxon Shipping further admits that on March 23, 1989, the EXXON VALDEZ was loaded at Valdez, Alaska with approximately 53,000,000 gallons of crude oil that had been transported through the Trans-Alaska Pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 39.

40. Answering paragraph 40, Exxon Shipping admits that oil terminal in Valdez, Alaska is a facility of the Trans-Alaska

BOGLE & GATES

Suite 600
031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

Pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 40.

41. Answering paragraph 41, Exxon Shipping admits that on the evening of March 23, 1989, the EXXON VALDEZ, under Captain Hazelwood's command, departed the Port of Valdez. Exxon Shipping admits that the Exxon Valdez passed through the harbor and Valdez Narrows under the direction of harbor pilot Edward Murphy, who disembarked in the Valdez arm. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 41.

42. Answering paragraph 42, Exxon Shipping admits that Hazelwood sought and received Coast Guard permission to leave the southbound shipping lane and enter the inbound lane. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 42.

43. Answering paragraph 43, Exxon Shipping admits that Captain Hazelwood left the bridge, leaving Mr. Cousins on the bridge. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 43.

44. Answering paragraph 44, Exxon Shipping admits that the EXXON VALDEZ travelled through the northbound lane and subsequently struck Bligh Reef, which is depicted on charts; and that Captain Hazelwood was not on the bridge at the moment of

OGLE & GATES

te 600
1 West 4th Avenue
orage, AK 99501
7) 276-4557

first impact. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 44.

45. Answering paragraph 45, Exxon Shipping denies the allegations in paragraph 45.

46. Answering paragraph 46, Exxon Shipping admits that the grounding damaged a portion of the hull and discharged approximately 11 million gallons of crude oil into Prince William Sound, thereby causing some pollution. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 46.

47. Answering paragraph 47, Exxon Shipping admits that the discharge of crude oil has polluted some areas of Alaska. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 47.

48. Answering paragraph 48, Exxon Shipping denies the allegations in paragraph 48.

49. Answering paragraph 49, Exxon Shipping denies the allegations in paragraph 49.

50. Answering paragraph 50, Exxon Shipping admits that Alyeska published a contingency plan with the approval of the State of Alaska. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 50. Exxon Shipping denies the remaining allegations in paragraph 50.

BOGLE & GATES

Suite 600
31 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

51. Answering paragraph 51, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 51.

52. Answering paragraph 52, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 52.

53. Answering paragraph 53, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 53.

54. Answering paragraph 54, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 54.

55. Answering paragraph 55, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 55.

PUNITIVE AND/OR EXEMPLARY DAMAGES

OGLE & GATES

File 600
31 West 4th Avenue
 Anchorage, AK 99501
7) 276-4557

56. Answering paragraph 56, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 56.

ANSWER TO FIRST CLAIM FOR RELIEF

57. Answering paragraph 57, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 56 as though set forth in full at this place.

58. Answering paragraph 58, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 58.

59. Answering paragraph 59, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 59.

ANSWER TO SECOND CLAIM FOR RELIEF

60. Answering paragraph 60, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 59 as though set forth in full at this place.

61. Answering paragraph 61, Exxon Shipping admits that "hazardous substance" is defined in AS 46.03.826(4)(B) to include oil. Exxon Shipping further admits that the presence of oil in

Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 61.

62. Answering paragraph 62, Exxon Shipping admits that Exxon Corporation owned the oil and that Exxon Shipping controlled the oil immediately prior to its release. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 62. Except as expressly admitted, Exxon Shipping denies the remaining allegations in paragraph 62.

63. Answering paragraph 63, Exxon Shipping admits that AS 46.03.822, if applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 63.

ANSWER TO THIRD CLAIM FOR RELIEF

64. Answering paragraph 64, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 63 as though set forth in full at this place.

65. Answering paragraph 65, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 65.

BOGLE & GATES

Suite 600
31 West 4th Avenue
Anchorage, AK 99501
7) 276-4557

66. Answering paragraph 66, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 66.

ANSWER TO FOURTH CLAIM FOR RELIEF

67. Answering paragraph 67, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 66 as though set forth in full at this place.

68. Answering paragraph 68, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 68.

69. Answering paragraph 69, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 69.

ANSWER TO FIFTH CLAIM FOR RELIEF

70. Answering paragraph 70, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 69 as though set forth in full at this place.

71. Answering paragraph 71, Exxon Shipping denies the allegations in paragraph 71.

BOGLE & GATES

Suite 600
4031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

72. Answering paragraph 72, Exxon Shipping denies the allegations in paragraph 72.

73. Answering paragraph 73, Exxon Shipping denies the allegations in paragraph 73.

74. Answering paragraph 74, Exxon Shipping denies the allegations in paragraph 74.

75. Answering paragraph 75, Exxon Shipping denies the allegations in paragraph 75.

76. Answering paragraph 76, Exxon Shipping denies the allegations in paragraph 76.

77. Answering paragraph 77, Exxon Shipping denies the allegations in paragraph 77.

78. Answering paragraph 78, Exxon Shipping denies the allegations in paragraph 78.

79. Answering paragraph 79, Exxon Shipping is not required to respond to the allegations in paragraph 79 and, if a response is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendant Murphy and therefore denies the allegations in paragraph 79.

80. Answering paragraph 80, Exxon Shipping is not required to respond to the allegations in paragraph 80 and, if a response is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the

LE & GATES

4th Avenue
- AK 99501
4557

allegations against defendant Murphy and therefore denies the allegations in paragraph 80.

ANSWER TO SIXTH CLAIM FOR RELIEF

81. Answering paragraph 81, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 80 as though set forth in full at this place.

82. Answering paragraph 82, Exxon Shipping denies the allegations in paragraph 82.

ANSWER TO SEVENTH CLAIM FOR RELIEF

83. Answering paragraph 83, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 82 as though set forth in full at this place.

84. Answering paragraph 84, Exxon Shipping is not required to respond to the allegations in paragraph 84 and, if a response is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies the allegations in paragraph 84.

85. Answering paragraph 85, Exxon Shipping is not required to respond to the allegations in paragraph 85 and, if a response is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies the allegations in paragraph 85.

E&GATES

Avenue
K 99501

86. Answering paragraph 86, Exxon Shipping is not required to respond to the allegations in paragraph 86 and, if a response is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies the allegations in paragraph 86.

ANSWER TO EIGHTH CLAIM FOR RELIEF

87. Answering paragraph 87, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 86 as though set forth in full at this place.

88. Answering paragraph 88, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 88.

ANSWER TO NINTH CLAIM FOR RELIEF

89. Answering paragraph 89, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 88 as though set forth in full at this place.

90. Answering paragraph 90, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 90.

LE & GATES

4th Avenue
Fairbanks, AK 99701
4557

91. Answering paragraph 91, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 91.

92. Answering paragraph 92, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 92.

93. Answering paragraph 93, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 93.

94. Answering paragraph 94, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 94.

95. Answering paragraph 95, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 95.

E&G GATES

96. Answering paragraph 96, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 96.

ANSWER TO TENTH CLAIM FOR RELIEF

97. Answering paragraph 97, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 96 as though set forth in full at this place.

98. Answering paragraph 98, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 98.

99. Answering paragraph 99, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 99.

100. Answering paragraph 100, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 100.

GLE & GATES

100
West 4th Avenue
Anchorage, AK 99501
64557

101. Answering paragraph 101, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 101.

102. Answering paragraph 102, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 102.

103. Answering paragraph 103, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 103.

104. Answering paragraph 104, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Alyeska defendants and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 104.

ANSWER TO ELEVENTH CLAIM FOR RELIEF

105. Answering paragraph 105, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 104 as though set forth in full at this place.

LE&GATES

4th Avenue
AK 99501
557

ANSWER OF EXXON SHIPPING COMPANY - 22

106. Answering paragraph 106, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 106. Exxon Shipping denies the remaining allegations in paragraph 106.

ANSWER TO TWELFTH CLAIM FOR RELIEF

107. Answering paragraph 107, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 106 as though set forth in full at this place.

108. Answering paragraph 108, Exxon Shipping admits that the tanker EXXON BATON ROUGE was built in 1969 at the Avondale Shipyard, and that it weighs 75,600 deadweight tons and 34,266 gross registered tons. Exxon Shipping further admits that the EXXON BATON ROUGE is owned and operated by Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 108.

109. Answering paragraph 109, Exxon Shipping admits that on March 24, 1989, the EXXON BATON ROUGE, with U.S. Coast Guard approval, discharged its ballast while proceeding towards and to lighten the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations to paragraph 109.

110. Answering paragraph 110, Exxon Shipping admits that ballast water discharged from the EXXON BATON ROUGE carried some oil with it into Prince William Sound. Exxon Shipping lacks knowledge or information about further movement of the ballast

water or about the allegations concerning plaintiffs sufficient to form a belief as to the truth of such allegations and therefore denies them. Except as expressly admitted, Exxon Shipping denies the allegations 110.

111. Answering paragraph 111, Exxon Shipping denies the allegations in paragraph 111.

112. Answering paragraph 112, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 112.

113. Answering paragraph 113, Exxon Shipping admits that "hazardous substance" is defined in AS 46.03.826(4)(B) to include oil. Exxon Shipping further admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 113.

114. Answering paragraph 114, Exxon Shipping admits that Exxon Shipping controlled the ballast that was transported on the EXXON BATON ROUGE immediately prior to its discharge into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 114.

115. Answering paragraph 115, Exxon Shipping admits that AS 46.03.822, if applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to

ROGLE & GATES

te 600
1 West 4th Avenue
anchorage, AK 99501
7) 276-4557

the truth of the allegations and therefore denies the allegations in paragraph 115.

116. Answering paragraph 116, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 116.

117. Answering paragraph 117, Exxon Shipping denies the allegations in paragraph 117.

118. Answering paragraph 118, Exxon Shipping denies the allegations in paragraph 118.

119. Answering paragraph 119, Exxon Shipping denies the allegations in paragraph 119.

JURY DEMAND

120. Exxon Shipping asserts that no answer is required to plaintiffs' demand for a trial by jury, but reserves the right to contest such demand.

RELIEF SOUGHT

121. Answering plaintiffs' prayer for relief, Exxon Shipping denies the entitlement of plaintiffs to the relief they seek.

GENERAL DENIAL

122. Exxon Shipping denies each and every other allegation in plaintiffs' complaint that was not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the EXXON VALDEZ, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

LE & GATES

4th Avenue
S.E. AK 99501
4557

7. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

8. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

9. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

10. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

11. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

12. Plaintiffs' claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

13. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon

Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

14. Certain claims asserted by plaintiffs are not ripe for adjudication.

15. Plaintiffs fail to satisfy the requirements for injunctive relief.

16. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

17. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska Constitutions and the contract clause of the United States Constitution.

18. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

19. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

GLE & GATES

200
West 4th Avenue
Anchorage, AK 99501
76-4557

ANSWER OF EXXON SHIPPING COMPANY - 28

20. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs. This action should not proceed in the absence of the Fund's joinder as a defendant.

22. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

23. To the extent that plaintiffs seek recovery pursuant to federal law for alleged damages to subsistence interests, ANILCA, 16 U.S.C. § 3111, et seq., provides the exclusive federal vehicle for Alaskan natives and rural Alaskans to seek protection for federally recognized subsistence interests allegedly harmed by the oil spill, and therefore all other alleged federal bases to recover any such losses are barred.

E&GATES

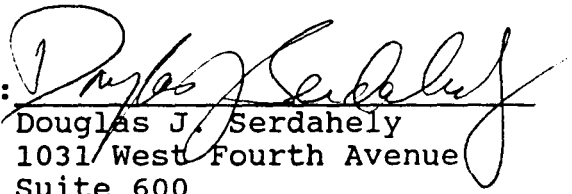
Avenue
K 99501

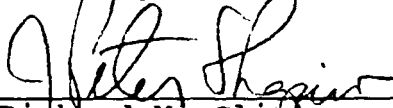
WHEREFORE, defendant Exxon Shipping prays judgment against plaintiffs as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and
4. That the Court award such other and further relief as it may deem just and proper.

DATED this 15th day of August, 1989.

BOGLE & GATES
Attorneys for Defendant
Exxon Shipping Company (D-2)

By: 
Douglas J. Serdahely
1031 West Fourth Avenue
Suite 600
Anchorage, Alaska 99501

By: 
Richard M. Clinton
J. Peter Shapiro
The Bank of California Center
900 Fourth Avenue
Seattle, Washington 98164

BOGLE & GATES

1031 West 4th Avenue
Anchorage, AK 99501
Tel: 645-557

Douglas J. Serdahely
Bogle & Gates
1031 West Fourth Avenue, Suite 600
Anchorage, AK 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 4th Avenue
Seattle, WA 98164
(206) 682-5151

Attorneys for Defendant
Exxon Shipping Company
(D-2)

FILED
AUG 18 1989
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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

Re Case No. A89-144

D-2's Answer to P-113's
Complaint Dated April 18, 1989

Defendant Exxon Shipping Company ("Exxon Shipping")
answers plaintiff's complaint as follows:

PREFATORY STATEMENT

Exxon Shipping alleges that no answer to plaintiff's
prefatory statement is required and, if an answer were required,
Exxon Shipping lacks knowledge or information sufficient to form

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY-1

a belief as to the truth of the allegations in plaintiff's prefatory statement and, on that basis, denies them.

JURY TRIAL DEMAND

1. While no answer is required to plaintiff's demand for trial by jury, Exxon Shipping does not waive its right to contest plaintiff's jury demand.

JURISDICTION AND VENUE

2. Answering paragraph 2, Exxon Shipping admits that plaintiff purports to bring a civil action as set forth in paragraph 2 of the complaint. Exxon Shipping denies that the Exxon Valdez is now within the jurisdiction of the court, and lacks knowledge or information sufficient to form a belief as to the putative class and as to whether the Exxon Valdez will return to this jurisdiction during the pendency of this action. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that this court has jurisdiction over this action pursuant to 28 U.S.C. Sections 1331 and 1333(1), and principles of pendent jurisdiction.

4. Answering paragraph 4, Exxon Shipping admits that plaintiff purports to bring claims for relief pursuant to grounds set forth in paragraph 4 of the complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 4.

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

5. Answering paragraph 5, Exxon Shipping admits that this action may be brought in this district under 28 U.S.C. § 1391(b) and (c), as well as the applicable principles of admiralty and maritime law. Exxon Shipping further admits that the Exxon defendants reside in this district for venue purposes. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and, on that basis, denies them.

THE PARTIES

6. Answering paragraph 6, Exxon Shipping lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 6 and, on that basis, denies them.

7. Answering paragraph 7, Exxon Shipping admits the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, consisting of the Amerada Hess Pipeline Corporation, ARCO Pipe Line Company, BP Pipelines (Alaska) Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company, who are permittees under the Agreement and Grant of Right-Of-Way for the Trans-Alaska Pipeline System. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a

BOGLE & GATES

Suite 600
2031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

belief as to the truth of the allegations in paragraph 8 and, on that basis, denies them.

9. Answering paragraph 9, Exxon Shipping admits that Exxon Corporation is a corporation organized 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 10021; and that the principal business of Exxon Corporation is energy, including exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits that it is a domestic maritime subsidiary of Exxon Corporation, separately incorporated under the laws of the State of Delaware; that its principal place of business is at 800 Bell Street, Houston, TX 77251; and that it is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 10.

11. Answering paragraph 11, Exxon Shipping admits that Exxon Company, USA is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States, with its headquarters at 800 Bell Street, Houston, TX 77251. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 11.

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY-4

DEFINITIONS

12-17. Answering paragraphs 12 through 17, Exxon Shipping admits that plaintiff purports to define certain terms. Except as admitted, Exxon Shipping denies the allegations and further denies that any subsequent use of those terms in the complaint is necessarily accurate or appropriate.

FACTUAL ALLEGATIONS

18. Answering paragraph 18, Exxon Shipping admits that on Thursday evening, March 23, 1989, the Exxon Valdez, which is approximately 987 feet long and weighs 211,469 deadweight tons, left the Port of Valdez, Alaska, the southern terminal facility of the Trans-Alaska Pipeline System, bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping admits that the Exxon Valdez contained approximately 1.2 million barrels of crude oil that had been shipped from Alaska's North Slope through the Trans-Alaska Pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 19.

20. Answering paragraph 20, Exxon Shipping admits that the Exxon Valdez passed through the Valdez Narrows under the direction of a pilot, and that Captain Hazelwood was on the bridge when the pilot disembarked in the Valdez Arm at approximately 11:30 p.m. on March 23, 1989. Exxon Shipping further admits that Captain Hazelwood was employed by Exxon

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

Shipping as Master of the Exxon Valdez, and that his duties as Master were within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping admits on information and belief that Captain Hazelwood had consumed some alcohol while ashore in Valdez. Exxon Shipping further admits that after the pilot disembarked, Captain Hazelwood left the bridge, leaving Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge; and that Cousins' duties as third mate and Kagan's duties as helmsman were within the scope of their employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that the U.S. Coast Guard gave the Exxon Valdez permission to leave the southbound shipping lane for reasons that include earlier reports that it contained ice that had calved from a glacier to the northwest. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

23. Answering paragraph 23, Exxon Shipping admits that the Exxon Valdez travelled through the northbound lane and subsequently struck Bligh Reef, which is depicted on charts. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 23.

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276 4557

24. Answering paragraph 24, Exxon Shipping admits that the Exxon Valdez was outside the channel when it struck Bligh Reef, which punctured some of the tanks and damaged a portion of the hull. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 24.

25-26. Answering paragraphs 25 and 26, Exxon Shipping denies the allegations in paragraphs 25 and 26.

27. Answering paragraph 27, Exxon Shipping admits that the grounding cut open eight of the Exxon Valdez's eleven cargo tanks, resulted in the release of approximately 11 million gallons of crude oil into Prince William Sound, and became the largest spill in the United States from a single ship. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and, on that basis, denies them.

28. Answering paragraph 28, Exxon Shipping denies the allegations in paragraph 28.

29-30. Answering paragraphs 29 and 30, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 29 and 30 and, on that basis, denies them.

31. Answering paragraph 31, Exxon Shipping admits that the oil has spread to the Kodiak Archipelago which is a habitat for water birds, sea and land mammals, fish and shellfish. Except as expressly admitted, Exxon Shipping lacks knowledge or

BOGLE & GATES

Suite 600
331 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER OF EXXON SHIPPING COMPANY-7

information sufficient to form a belief as to the truth of the allegations in paragraph 31 and, on that basis, denies them.

32. Answering paragraph 32, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 and, on that basis, denies them.

CLASS ALLEGATIONS

33-41. Answering paragraphs 33 through 41, Exxon Shipping admits that plaintiff purports to bring an action on behalf of classes of persons and entities described in the complaint. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 33 through 41 and, on that basis, denies them.

ANSWER TO COUNT I

42. Answering paragraph 42, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 41 as though set forth in full at this place.

43-47. Answering paragraphs 43 through 47, Exxon Shipping is not required to answer the allegations in paragraphs 43 through 47. If an answer were required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 43 through 47 and, on that basis, denies them.

OGLE & GATES

Box 600
1 West 4th Avenue
Barrow, AK 99501
(907) 276-4557

ANSWER TO COUNT II

48. Answering paragraph 48, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 47 as though set forth in full at this place.

49. Answering paragraph 49, Exxon Shipping admits that Exxon Shipping is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegation in paragraph 49.

50. Answering paragraph 50, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 and, on that basis, denies them.

51. Answering paragraph 51, Exxon Shipping admits that the damages, if any, alleged by plaintiff were not caused by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 and, on that basis, denies them.

52. Answering paragraph 52, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 and, on that basis, denies them.

53. Answering paragraph 53, Exxon Shipping admits that 43 U.S.C. § 1653(c), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted,

Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 and, on that basis, denies them.

ANSWER TO COUNT III

54. Answering paragraph 54, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 53 as though set forth in full at this place.

55-67. Answering paragraphs 55 through 67, Exxon Shipping denies the allegations in paragraphs 55 through 67 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 55 through 67 and, on that basis, denies them.

ANSWER TO COUNT IV

68. Answering paragraph 68, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 67 as though set forth in full at this place.

69. Answering paragraph 69, Exxon Shipping admits that public records purport to show that Captain Hazelwood has been convicted of driving while under the influence of alcohol. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 69.

70-77. Answering paragraphs 70 through 77, Exxon Shipping denies the allegations in paragraphs 70 through 77.

ANSWER OF EXXON SHIPPING COMPANY-10

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

ANSWER TO COUNT V

78. Answering paragraph 78, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 77 as though set forth in full at this place.

79. Answering paragraph 79, Exxon Shipping denies the allegations in paragraph 79 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 and, on that basis, denies them.

ANSWER TO COUNT VI

80. Answering paragraph 80, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 79 as though set forth in full at this place.

81. Answering paragraph 81, Exxon Shipping denies the allegations in paragraph 81 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 and, on that basis, denies them.

ANSWER TO COUNT VII

82. Answering paragraph 82, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 81 as though set forth in full at this place.

OGLE & GATES

Box 600
1 West 4th Avenue
Barrow, AK 99501
7) 276-4557

83. Answering paragraph 83, Exxon Shipping admits that hazardous substance is defined in AS 46.03.826(4)(B) to include oil and that approximately 11 million gallons of crude oil were released into Prince William Sound as a result of the grounding of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 83.

84. Answering paragraph 84, Exxon Shipping admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 84 and, on that basis, denies them.

85. Answering paragraph 85, Exxon Shipping admits that Exxon Corporation owned the oil and that Exxon Shipping controlled the oil immediately prior to its release into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 85.

86. Answering paragraph 86, Exxon Shipping admits that the initial entry of oil into Prince William Sound and the subsequent movement of the oil was not caused solely by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 86 and, on that basis, denies them.

87. Answering paragraph 87, Exxon Shipping denies the allegations in paragraph 87 insofar as they concern the Exxon

DGLE & GATES

• 600
West 4th Avenue
Anchorage, AK 99501
276-4557

defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 87 and, on that basis, denies them.

88. Answering paragraph 88, Exxon Shipping admits that AS 46.03.822, to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 88 and, on that basis, denies them.

ANSWER TO COUNT VIII

89. Answering paragraph 89, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 88 as though set forth in full at this place.

90-93. Answering paragraphs 90 through 93, Exxon Shipping denies the allegations in paragraphs 90 through 93 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 90 through 93 and, on that basis, denies them.

ANSWER TO COUNT IX

94. Answering paragraph 94, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 93 as though set forth in full at this place.

95-98. Answering paragraphs 95 through 98, Exxon Shipping denies the allegations in paragraphs 95 through 98 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 95 through 98 and, on that basis, denies them.

ANSWER TO COUNT X

99. Answering paragraph 99, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 98 as though set forth in full at this place.

100-102. Answering paragraphs 100 through 102, Exxon Shipping denies the allegations in paragraphs 100 through 102 insofar as they concern the Exxon defendants. Insofar as the allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 100 through 102 and, on that basis, denies them.

ANSWER TO COUNT XI

103. Answering paragraph 103, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 102 as though set forth in full at this place.

104-107. Answering paragraphs 104 through 107, Exxon Shipping denies the allegations in paragraphs 104 through 107 insofar as they concern the Exxon defendants. Insofar as the

allegations concern other defendants, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 104 through 107 and, on that basis, denies them.

PRAYER FOR RELIEF

108. Exxon Shipping denies that plaintiff is entitled to the relief he seeks.

GENERAL DENIAL

109. Exxon Shipping denies each and every other allegation of plaintiff's complaint that it has not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiff's claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiff in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

OGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

3. Some or all of plaintiff's claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiff properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiff as a result of the oil spill, the containment or clean up of the oil released from the Exxon Valdez, or other activities or matters related to the oil spill.

6. Each of plaintiff's theories of recovery fails to state a claim upon which relief can be granted.

7. Claims by some persons or entities who may be within the purported class have been settled and released, or in the alternative, payments received by such persons or entities operate as an accord and satisfaction of all claims against Exxon Shipping.

8. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiff for any acts or omissions undertaken with such approval, direction, or supervision.

9. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

10. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or

DGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

all of the same economic loss, and thus would represent a multiple recovery for the same injury.

11. Plaintiff lacks standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

12. Plaintiff's claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

13. Claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

14. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

15. Certain claims asserted by plaintiff are not ripe for adjudication.

16. Plaintiff fails to satisfy the requirements for injunctive relief.

17. Plaintiff's claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

18. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska Constitutions and the contract clause of the United States Constitution.

19. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

20. Some or all of plaintiff's claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiff.

22. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

BOGLE & GATES

Suite 600
331 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

24. ANILCA, 16 U.S.C. § 3111, et seq., provides the exclusive federal vehicle for Alaskan natives and rural Alaskans to seek protection for federally recognized subsistence interests allegedly harmed by the oil spill, and therefore all other alleged federal bases to recover any such losses are barred.

WHEREFORE, defendant Exxon Shipping prays for judgment against plaintiff as follows:

1. That plaintiff takes nothing by his complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment for the costs of suit incurred herein, including attorney's fees; and

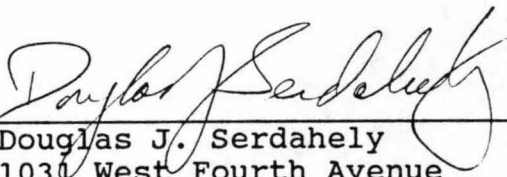
GLE & GATES

00
West 4th Avenue
Anchorage, AK 99501
764-557

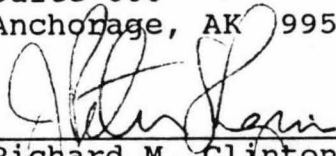
4. That the court award Exxon Shipping such other and further relief as it may deem just and proper.

DATED this 15th day of August, 1989

BOGLE & GATES
Attorneys for Defendant
Exxon Shipping Company
(D-2)

By: 

Douglas J. Serdahely
1031 West Fourth Avenue
Suite 600
Anchorage, AK 99501

By: 

Richard M. Clinton
J. Peter Shapiro
The Bank of California Center
900 4th Avenue
Seattle, WA 98164

BOGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

Douglas J. Serdahely
Bogle & Gates
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164
(206) 682-5151

Attorneys for defendant
Exxon Shipping Company (D-2)

FILED
AUG 15 1989
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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

Re: Case No. A89-106 Civil

D-2's Answer to P-30 through P-39's
First Amended Complaint Dated April 7, 1989

Defendant Exxon Shipping Company ("Exxon Shipping")
answers plaintiffs' complaint as follows:

JURISDICTION AND PARTIES

1. Answering paragraph 1, Exxon Shipping admits that certain causes of action that plaintiffs purport to bring are within this Court's admiralty jurisdiction. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 1.

Answer of Exxon Shipping Company - 1

CORES ON. FED

BOGLE & GATES

Suite 600
1031 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

445

2. Answering paragraph 2, Exxon Shipping admits that this Court has federal question jurisdiction over certain aspects of the subject matter of this action. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 3.

4. Answering paragraph 4, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping admits that Exxon Corporation is a corporation organized under the laws of the State of New Jersey and is qualified to do business in the State of Alaska, and that Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation. Exxon Shipping further admits that Exxon Shipping is a corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Alaska. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 5.

6. Answering paragraph 6, Exxon Shipping admits that Exxon Shipping is the owner and operator of the EXXON VALDEZ.

BOGLE & GATES

Suite 600
31 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

Answer of Exxon Shipping Company - 2

GORESON.FED

Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 6.

7. Answering paragraph 7, Exxon Shipping admits that Exxon Corporation owns the stock of Exxon Shipping, and that Exxon Company, U.S.A., is an unincorporated division of Exxon Corporation. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that the EXXON VALDEZ is an oil tanker vessel that is registered as a United States vessel and that Exxon Shipping is the owner of the EXXON VALDEZ. Exxon Shipping denies that the EXXON VALDEZ is now within the jurisdiction of this Court, and Exxon Shipping is without knowledge or information sufficient to form a belief as to whether the EXXON VALDEZ will return to this jurisdiction during the pendency of this action and therefore denies that allegation. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 8.

9. Answering paragraph 9, Exxon Shipping admits that Alyeska Pipeline Service Company, Inc., is a corporation organized under the laws of the State of Delaware and is qualified to do business in the State of Alaska. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits that the Trans-Alaska Pipeline Liability Fund is a non-profit

OGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

corporate entity established pursuant to the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c)(4). Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 10.

FACTUAL ALLEGATIONS

11. Answering paragraph 11, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 10 as though set forth in full at this place.

12. Answering paragraph 12, Exxon Shipping admits that Exxon Shipping is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 12.

13. Answering paragraph 13, Exxon Shipping admits that on Thursday, March 23, 1989, the EXXON VALDEZ left the terminal of the Trans-Alaska Pipeline at the Port of Valdez, Alaska, and was bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 13.

14. Answering paragraph 14, Exxon Shipping admits that Exxon Corporation owned the oil aboard the EXXON VALDEZ and that Exxon Shipping controlled the oil immediately prior to its release into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 14.

LE & GATES

4th Avenue
Pr. AK 99501
4557

Answer of Exxon Shipping Company - 4

GORESON.FED

15. Answering paragraph 15, Exxon Shipping admits that Alyeska operates the Trans-Alaska Pipeline System, including the shipping terminal facilities at the Port of Valdez, Alaska, and further admits that Alyeska formulated a certain oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping admits the EXXON VALDEZ was carrying approximately 53,000,000 gallons of crude oil when it left the Port of Valdez, Alaska on March 23, 1989. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping admits that the EXXON VALDEZ struck Bligh Reef, which damaged a portion of the hull, and that approximately 11 million gallons of crude oil were discharged into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 17.

18. Answering paragraph 18, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 18.

INGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

19. Answering paragraph 19, Exxon Shipping lacks information or knowledge sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 19.

ANSWER TO FIRST CAUSE OF ACTION

20. Answering paragraph 20, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 19 as though set forth in full at this place.

21. Answering paragraph 21, Exxon Shipping admits that Captain Hazelwood's duties as master of the EXXON VALDEZ were within the scope of his employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits it was the employer of Defendant Hazelwood. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

ANSWER TO SECOND CAUSE OF ACTION

23. Answering paragraph 23, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 22 as though set forth in full at this place.

24. Answering paragraph 24, Exxon Shipping denies the allegations in paragraph 24.

25. Answering paragraph 25, Exxon Shipping denies the allegations in paragraph 25.

GLE & GATES

00
est 4th Avenue
age, AK 99501
6-4557

26. Answering paragraph 36, Exxon Shipping denies the allegations in paragraph 26.

ANSWER TO THIRD CAUSE OF ACTION

27. Answering paragraph 27, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 26 as though set forth in full at this place.

28. Answering paragraph 28, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 28. Exxon Shipping denies the remaining allegations in paragraph 28.

29. Answering paragraph 29, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and the Fund and therefore denies those allegations in paragraph 29. Exxon Shipping denies the remaining allegations in paragraph 29.

30. Answering paragraph 30, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and the Fund and therefore denies those allegations in paragraph 30. Exxon Shipping denies the remaining allegations in paragraph 30.

ANSWER TO FOURTH CAUSE OF ACTION

31. Answering paragraph 31, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 30 as though set forth in full at this place.

32. Answering paragraph 32, Exxon Shipping admits that at the time of the spill the EXXON VALDEZ was engaged in the transportation of oil, and further admits that Alyeska operates the Trans-Alaska Pipeline System, through which oil is transported. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 32 pertaining to Alyeska and therefore denies those allegations in paragraph 32. Except as expressly admitted, Exxon Shipping denies all remaining allegations in paragraph 32.

33. Answering paragraph 33, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies those allegations in paragraph 33. Exxon Shipping denies the remaining allegations in paragraph 33.

ANSWER TO FIFTH CAUSE OF ACTION

34. Answering paragraph 34, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 33 as though set forth in full at this place.

35. Answering paragraph 35, Exxon Shipping admits that 43 U.S.C. § 1653(a), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 35.

GLE & GATES

500
West 4th Avenue
Fairbanks, AK 99501
76-4557

ANSWER TO SIXTH CAUSE OF ACTION

36. Answering paragraph 36, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 35 as though set forth in full at this place.

37. Answering paragraph 37, Exxon Shipping is not required to respond to the allegations against defendant Alyeska and, if required to respond, lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies the allegations in paragraph 37.

ANSWER TO SEVENTH CAUSE OF ACTION

38. Answering paragraph 38, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 37 as though set forth in full at this place.

39. Answering paragraph 39, Exxon Shipping is not required to respond to the allegations against defendant Trans-Alaska Pipeline Liability Fund and, if required to respond, lacks knowledge or information sufficient to form a belief as to the truth of the allegations against the Trans-Alaska Pipeline Liability Fund and therefore denies the allegations in paragraph 39.

ANSWER TO EIGHTH CAUSE OF ACTION

40. Answering paragraph 40, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 39 as though set forth in full at this place.

41. Answering paragraph 41, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 41. Exxon Shipping denies the remaining allegations in paragraph 41.

42. Answering paragraph 42, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 42. Exxon Shipping denies the remaining allegations in paragraph 42.

ANSWER TO NINTH CAUSE OF ACTION

43. Answering paragraph 43, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 42 as though set forth in full at this place.

44. Answering paragraph 44, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the Fund and therefore denies those allegations in paragraph 44. Exxon Shipping denies the remaining allegations in paragraph 44.

45. Answering paragraph 45, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the

Fund and therefore denies those allegations in paragraph 45. Exxon Shipping denies the remaining allegations in paragraph 45.

46. Answering paragraph 46, Exxon Shipping submits that no response is required to paragraph 46; however, Exxon Shipping does not waive its right to contest plaintiffs' demand for a trial by jury.

RELIEF SOUGHT

47. Answering plaintiffs' prayer for relief, Exxon Shipping denies the entitlement of plaintiffs to the relief they seek.

GENERAL DENIAL

48. Exxon Shipping denies each and every other allegation in plaintiffs' complaint that was not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in

such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the EXXON VALDEZ, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

7. Exxon Shipping has acted pursuant to government approval, direction, and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

8. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

9. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

10. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

11. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

12. Plaintiffs' claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including, without limitation, Article 1, Section 7; and Article 1, Section 12.

13. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

14. Certain claims asserted by plaintiffs are not ripe for adjudication.

15. Plaintiffs fail to satisfy the requirements for injunctive relief.

16. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

LE & GATES

4th Avenue
- AK 99501

#557

Answer of Exxon Shipping Company - 13

GORESON.FED

17. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the United States and Alaska Constitutions and the contract clause of the United States Constitution.

18. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

19. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

20. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

21. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

GLE & GATES

500
West 4th Avenue
Anchorage, AK 99501
76-4557

22. This Court lacks in rem jurisdiction over the vessel EXXON VALDEZ.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

WHEREFORE, Defendant Exxon Shipping prays for judgment against plaintiffs as follows:

1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and

GLE & GATES

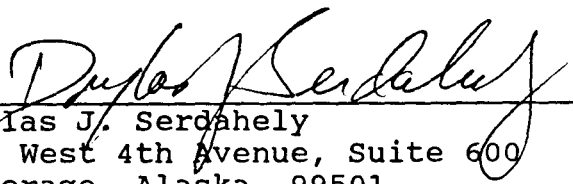
400
West 4th Avenue
Anchorage, AK 99501
76-4557

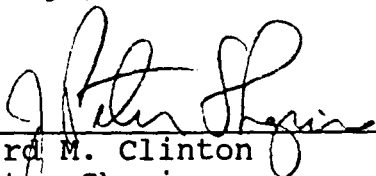
Answer of Exxon Shipping Company - 15
GORESON, FED

4. That the Court award such other and further relief as it may deem just and proper.

Dated this 15th day of August, 1989.

BOGLE & GATES
Attorneys for Defendant
Exxon Shipping Company (D-2)

By: 
Douglas J. Serdahely
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501

By: 
Richard M. Clinton
J. Peter Shapiro
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164

BOGLE & GATES

10
1031 4th Avenue
Anchorage, AK 99501
4557

Answer of Exxon Shipping Company - 16

GORESON, FED

Douglas J. Serdahely
Bogle & Gates
1031 West 4th Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

Richard M. Clinton
J. Peter Shapiro
Bogle & Gates
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164
(206) 682-5151

Attorneys for defendant
Exxon Shipping Company (D-2)

FILED

AUG 15 1989
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

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

Re: Case No. A89-264 Civil

D-2's Answer to P-170 through P-188's
Complaint Dated June 23, 1989

Defendant Exxon Shipping Company ("Exxon Shipping")
answers plaintiffs' complaint as follows:

SUMMARY

1. Answering paragraph 1, Exxon Shipping admits that plaintiff purports to bring a civil action as set forth in paragraph 1 of the complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 1 insofar as they apply to Exxon Shipping, Exxon Corp. and Exxon Company,

BOGLE & GATES

ite 600
31 West 4th Avenue
anchorage, AK 99501
(907) 276-4557

U.S.A. Except as expressly admitted or denied, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 and, on that basis, denies them.

2. Answering paragraph 2, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 2.

JURISDICTION AND VENUE

3. Answering paragraph 3, Exxon Shipping denies the allegations in paragraph 3 insofar as they apply to Exxon Shipping, Exxon Corp. and Exxon Company, U.S.A. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3 and, on that basis, denies them.

4. Answering paragraph 4, Exxon Shipping admits that 28 U.S.C. §1331 provides for original jurisdiction in the district courts of civil actions arising under the laws of the United States, and that this court has subject matter jurisdiction over this action under the principles of pendent jurisdiction. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 and, on that basis, denies them.

5. Answering paragraph 5, Exxon Shipping admits that this action may be brought in this judicial district

pursuant to 28 U.S.C. Sections 1391(b). Exxon Shipping also admits that defendants reside in this district for venue purposes and that certain claims for injuries caused by the oil spill arose in this district. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and, on that basis, denies them.

PARTIES

6-14. Answering paragraphs 6 through 14, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraphs 6 through 14.

15. Answering paragraph 15, Exxon Shipping admits the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping admits that Alyeska Pipeline Service Company ("Alyeska") is a Delaware corporation owned by seven companies, which are permittees under the Agreement and Grant of Right-of-Way. Exxon Shipping admits that Alyeska operates the Trans-Alaska Pipeline System ("TAPS"), including the terminal at Valdez, Alaska, and that Alyeska loaded the EXXON VALDEZ with North Slope crude oil at the Valdez terminal. Exxon Shipping admits that Alyeska formulated an oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping lacks knowledge or information

BOGLE & GATES

Suite 600
31 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping admits that Exxon Corporation is a New Jersey corporation, with its principal place of business in New York, NY. Exxon Shipping admits that the principal business of Exxon Corporation is energy, including exploration for and production of crude oil, natural gas and petroleum products and exploration for and mining and sale of coal. Exxon Shipping further admits that Exxon Corporation owned the oil immediately prior to its release into Prince William Sound. Exxon Shipping admits that Exxon Company, U.S.A. is an unincorporated division of Exxon Corporation, with its headquarters in Houston, Texas, responsible for the operation of Exxon Corporation's energy business within the United States. Exxon Shipping admits that it is a domestic maritime subsidiary of defendant Exxon Corporation, separately incorporated in Delaware, and has its principal place of business in Houston, Texas. Exxon Shipping admits that it is the owner and operator of the EXXON VALDEZ and that it controlled the oil immediately prior to its release into Prince William Sound. Exxon Shipping further admits that plaintiffs purport to define certain terms. Except as expressly admitted, Exxon Shipping denies that any subsequent use of those terms is necessarily accurate or appropriate and further denies the remaining allegations in paragraph 17.

GLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
76-4557

ALLEGED FACTS

18. Answering paragraph 18, Exxon Shipping admits that on Thursday evening, March 23, 1989, the EXXON VALDEZ, which is an approximately 987 feet long very large crude carrier ("VLCC"), left the port of Valdez, Alaska, the Southern terminal facility of the Trans-Alaska Pipeline System, bound for Long Beach, California. Exxon Shipping admits that the oil tanks of the EXXON VALDEZ had been loaded with approximately 53 million gallons of crude oil that had passed through the Trans-Alaska pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping admits that the Exxon Valdez passed through the harbor and Valdez Narrows under the direction of a harbor pilot. Exxon Shipping further admits that Captain Joseph J. Hazelwood was employed by Exxon Shipping as Master of the EXXON VALDEZ and that his duties as Master were within the scope of his employment by Exxon Shipping. Exxon Shipping further admits that Captain Hazelwood was on the bridge of the vessel when the harbor pilot disembarked in Valdez Arm at approximately 11:30 p.m., Thursday evening, March 23, 1989. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 19.

20. Answering paragraph 20, Exxon Shipping admits that Captain Hazelwood left the bridge after the harbor pilot disembarked, leaving Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge. Exxon Shipping

admits that it employed Messrs. Cousins and Kagan and that Mr. Cousins' duties as Third Mate on the EXXON VALDEZ, and Mr. Kagan's duties as her helmsman, were within the scope of their employment by Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping admits that the U.S. Coast Guard gave the EXXON VALDEZ permission to leave the deep water southbound shipping lane and that the EXXON VALDEZ travelled through the northbound lane and into the vicinity of Bligh Reef, which is depicted on charts. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that the EXXON VALDEZ struck Bligh Reef, which punctured eight of her cargo tanks and damaged a portion of her hull. Exxon Shipping further admits that Captain Hazelwood was not on the bridge when the EXXON VALDEZ first struck Bligh Reef and that Mr. Cousins was on watch. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

23. Answering paragraph 23, Exxon Shipping denies the allegations in paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that the grounding punctured eight of the EXXON VALDEZ's cargo tanks, discharged approximately 11 million gallons of crude oil into Prince William Sound, and became the largest oil spill from a single ship in the United States. Exxon Shipping

BOGLE & GATES

Suite 600
331 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

further admits that the oil has spread from Prince William Sound to some portions of Cook Inlet and Kodiak. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 and, on that basis, denies them.

25. Answering paragraph 25, Exxon Shipping admits that Alyeska has formulated an oil spill contingency plan and has certain responsibilities pursuant thereto. Exxon Shipping further admits that it was prepared to respond in the event of an oil spill. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 25 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the remaining allegations in paragraph 25 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 25.

FIRST CLAIM

26. Answering paragraph 26, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 25 as though set forth in full at this place.

27-30. Answering paragraphs 27 through 30, Exxon Shipping alleges that no answer to the allegations in paragraphs 27 through 30 is required and, if an answer is required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations

DGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

and, on that basis, denies the allegations in paragraphs 27 through 30.

SECOND CLAIM

31. Answering paragraph 31, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 30 as though set forth in full at this place.

32. Answering paragraph 32, Exxon Shipping admits that it is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 32.

33. Answering paragraph 33, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 33.

34. Answering paragraph 34, Exxon Shipping admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 34.

35. Answering paragraph 35, Exxon Shipping admits that 43 U.S.C. §1653(c)(1) and (3), to the extent applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the

DGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

allegations and, on that basis, denies the allegations in paragraph 35.

THIRD CLAIM

36. Answering paragraph 36, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 35 as though set forth in full at this place.

37. Answering paragraph 37, Exxon Shipping denies the allegations in paragraph 37 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 37 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 37.

38. Answering paragraph 38, Exxon Shipping admits that Alyeska has formulated an oil spill contingency plan and had certain responsibilities pursuant thereto. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 38 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the remaining allegations in paragraph 38 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 38.

39. Answering paragraph 39, Exxon Shipping denies the allegations in paragraph 39 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar

as the allegations in paragraph 39 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 39.

40. Answering paragraph 40, Exxon Shipping denies the allegations in paragraph 40 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 40 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 40.

41. Answering paragraph 41, Exxon Shipping denies the allegations in paragraph 41 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 41 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 41.

42. Answering paragraph 42, Exxon Shipping admits that public records purport to show that Captain Hazelwood has been convicted of driving while under the influence of alcohol. Exxon Shipping further admits that when the EXXON VALDEZ first struck Bligh Reef, which is depicted on charts, Captain Hazelwood was not on deck and Mr. Cousins was on watch. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 42.

43. Answering paragraph 43, Exxon Shipping admits that Captain Hazelwood's duties as Master of the EXXON VALDEZ and Mr. Cousins' duties as her Third Mate were within the scope of their employment by Exxon Shipping. Exxon Shipping further admits that public records purport to show that Captain Hazelwood has been convicted of driving while under the influence of alcohol. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 43.

44. Answering paragraph 44, Exxon Shipping denies the allegations in paragraph 44.

45. Answering paragraph 45, Exxon Shipping denies the allegations in paragraph 45 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 45 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 45.

FOURTH CLAIM

46. Answering paragraph 46, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 45 as though set forth in full at this place.

47. Answering paragraph 47, Exxon Shipping denies the allegations in paragraph 47 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 47 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a

BOGLE & GATES

Suite 600
131 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 47.

FIFTH CLAIM

48. Answering paragraph 48, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 47 as though set forth in full at this place.

49. Answering paragraph 49, Exxon Shipping admits that the EXXON VALDEZ released crude oil are a result of the grounding and that "hazardous substance" is defined by AS 46.03.826(4)(B) to include oil. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 49.

50. Answering paragraph 50, Exxon Shipping admits that the presence of oil in Prince William Sound has caused damage to certain property and to certain animals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 50.

51. Answering paragraph 51, Exxon Shipping admits that Exxon Corporation owned the oil and Exxon Shipping controlled the oil immediately prior to its release into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 51 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 51 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to

form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 51.

52. Answering paragraph 52, Exxon Shipping admits that AS 46.03.822, if applicable, may impose strict liability for certain damages. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 52.

SIXTH CLAIM

53. Answering paragraph 53, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 52 as though set forth in full at this place.

54. Answering paragraph 54, Exxon Shipping denies the allegations in paragraph 54 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 54 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 54.

55. Answering paragraph 55, Exxon Shipping denies the allegations in paragraph 55 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 55 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 55.

BOGLE & GATES

ite 600
31 West 4th Avenue
Anchorage, AK 99501
(907) 276-4557

SEVENTH CLAIM

56. Answering paragraph 56, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 55 as though set forth in full at this place.

57. Answering paragraph 57, Exxon Shipping denies the allegations in paragraph 57 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 57 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 57.

58. Answering paragraph 58, Exxon Shipping denies the allegations in paragraph 58 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 58 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 58.

EIGHTH CLAIM

59. Answering paragraph 59, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 58 as though set forth in full at this place.

60. Answering paragraph 60, Exxon Shipping denies the allegations in paragraph 60 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 60 apply to Alyeska, Exxon

Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 60.

61. Answering paragraph 61, Exxon Shipping denies the allegations in paragraph 61 insofar as they apply to Exxon Shipping, Exxon Corporation and Exxon Company, U.S.A. Insofar as the allegations in paragraph 61 apply to Alyeska, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the allegations in paragraph 61.

NINTH CLAIM

62. Answering paragraph 62, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 61 as though set forth in full at this place.

63. Answering paragraph 63, Exxon Shipping denies the allegations in paragraph 63.

RELIEF SOUGHT

64. Answering paragraph 64, Exxon Shipping denies plaintiffs' entitlement to the relief they seek.

GENERAL DENIAL

65. Exxon Shipping denies each and every other allegation in plaintiffs' complaint that was not expressly admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Independent of any legal obligation to do so, Exxon Shipping and Exxon Corporation are voluntarily paying

many claims for economic loss allegedly caused by the oil spill, and incurring other expenses in connection with the oil spill. Exxon Shipping is entitled to a set-off in the full amount of all such payments in the event plaintiffs' claims encompass such expenditures.

2. Numerous persons and entities have filed lawsuits relating to the oil spill, some of whom purport to represent the plaintiffs in this action. In the event of any recovery in such other lawsuits by persons whose claims therein are encompassed by this action, Exxon Shipping is entitled herein to a set-off in the full amount of such payments.

3. Some or all of plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

4. Exxon Shipping is entitled to a set-off to the extent of any failure of plaintiffs properly to mitigate damages.

5. Unless otherwise agreed, Exxon Shipping is entitled to a set-off in the amount of any payment received by plaintiffs as a result of the oil spill, the containment or clean up of the oil released from the EXXON VALDEZ, or other activities or matters related to the oil spill.

6. Each of plaintiffs' theories of recovery fails to state a claim upon which relief can be granted.

E&GATES

4th Avenue
AK 99501
557

7. Payments received by plaintiffs may operate as an accord and satisfaction of all claims against Exxon Shipping.

8. Exxon Shipping has acted pursuant to government approval, direction and supervision, and has no liability to plaintiffs for any acts or omissions undertaken with such approval, direction, or supervision.

9. The amount of any liability for the acts alleged is controlled by statute including, without limitation, 43 U.S.C. § 1653(c), and AS 09.17.010, .060 and .080(d).

10. Claims are barred to the extent they would represent recovery by two or more persons or entities for part or all of the same economic loss, and thus would represent a multiple recovery for the same injury.

11. Plaintiffs lack standing to assert certain theories of recovery or to claim or recover damages based on the allegations of the complaint.

12. Plaintiffs' claims are based on an alleged maritime tort and therefore are subject to applicable federal admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

13. Plaintiffs' claims for punitive damages are unconstitutional under the United States Constitution including, without limitation, Article 1, Section 8; Amendment V; and Amendment XIV; and the Alaska Constitution including,

without limitation, Article 1, Section 7; and Article 1, Section 12.

14. If punitive damages were to be awarded or civil or criminal penalties assessed in any other lawsuit against Exxon Shipping relating to the oil spill, such award bars imposition of punitive damages in this action.

15. Certain claims asserted by plaintiffs are not ripe for adjudication.

16. Plaintiffs fail to satisfy the requirements for injunctive relief.

17. Plaintiffs' claims for punitive damages are precluded by the Alaska statutory scheme for civil and criminal penalties relevant to the oil spill.

18. Exxon Shipping expressly reserves the full six months provided by 46 U.S.C. § 185 within which it may elect to assert its rights under 46 U.S.C. § 183.

19. Some or all of plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive system of federal statutes and regulations, including its system of criminal and civil penalties, sanctions and compensatory and other remedies relevant to the oil spill, and its scheme relevant to the protection of subsistence interests.

20. Those portions of AS 46.03 that were enacted after the oil spill constitute an unlawful bill of attainder violative of Article 1, Section 10 of the United States

Constitution, and if applied to Exxon Shipping would also violate the due process clauses of the state and federal constitutions and the contract clause of the United States Constitution.

21. The damages alleged, if any, were caused, in part, by the actions of others not joined as defendants herein as to whom a right of contribution or indemnity should exist as to Exxon Shipping. Exxon Shipping may seek leave of Court to join such additional persons as third party defendants on the basis of further discovery.

22. The Fund, established under the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. § 1653(c), may be strictly liable for some or all of the damages alleged by plaintiffs.

23. Certain theories of relief may not be maintained because those theories are based upon the exercise of the state and federal constitutional right to petition the state and federal governments with respect to the passage and enforcement of laws.

24. The corporate plaintiffs herein lack the capacity to commence and maintain this action insofar as they have failed to allege and prove that they have paid their Alaska biennial corporate taxes last due and have filed biennial reports for the last reporting period.

WIGLE & GATES

600
West 4th Avenue
Anchorage, AK 99501
276-4557

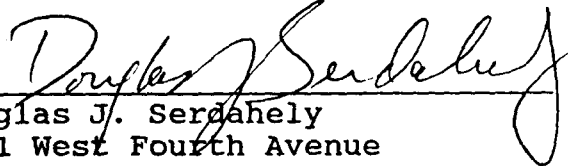
WHEREFORE, defendant Exxon Shipping prays judgment against plaintiff as follows:

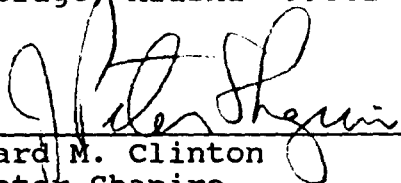
1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and
4. That the Court award such other and further relief as it may deem just and proper.

DATED this 15th day of August, 1989.

BOGLE & GATES

Attorneys for Defendant
Exxon Shipping Company (D-2)

By: 
Douglas J. Serdahely
1031 West Fourth Avenue
Suite 600
Anchorage, Alaska 99501

By: 
Richard M. Clinton
J. Peter Shapiro
The Bank of California Center
900 4th Avenue
Seattle, Washington 98164

BOGLE & GATES

1
4th Avenue
Anchorage, AK 99501
4557