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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. A89-239

D-2's Answer to P-80's
Complaint Dated May 30, 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 a belief as to the truth of the allegations

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Answer of Exxon Shipping Company - 1
EXXODIAK.239

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in plaintiff's prefatory statement and, on that basis, denies them.

JURISDICTION

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 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 admits that plaintiff purports to bring claims for relief pursuant to grounds set forth in paragraph 2 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 in paragraph 2 and, on that basis, denies them.

THE PARTIES

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

4. Answering paragraph 4, Exxon Shipping admits the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, consisting of the Amerada Hess Pipeline Corporation, ARCO Pipe

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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 belief as to the truth of the allegations in paragraph 5 and, on that basis, denies them.

6. Answering paragraph 6, 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 6.

7. Answering paragraph 7, 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 7.

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8. Answering paragraph 8, Exxon Shipping admits that Exxon Co., USA is an unincorporated division of Exxon Corporation responsible for the operation of Exxon Corporation's energy business within the United States; and that it has its headquarters at 800 Bell Street, Houston, TX 77251. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 8.

9. Answering paragraph 9, Exxon Shipping admits that Captain Hazelwood was an employee of Exxon Shipping and the Master of the Exxon Valdez. Exxon Shipping further 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 9.

10. Answering paragraph 10, Exxon Shipping admits that Edward Murphy piloted the Exxon Valdez from the Port of Valdez to Rocky Point on the night of 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 in paragraph 10 and, on that basis, denies them.

DEFINITIONS

11-16. Answering paragraphs 11 through 16, Exxon Shipping admits that plaintiff purports 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.

FACTUAL ALLEGATIONS

17. Answering paragraph 17, 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 17.

18. Answering paragraph 18, Exxon Shipping admits 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 18.

19. Answering paragraph 19, Exxon Shipping admits that the Exxon Valdez passed through the Valdez Narrows under the direction of defendant Murphy; and that Captain Hazelwood was on the bridge when Murphy disembarked in the Valdez Arm at approximately 11:30 p.m. on March 23, 1989. Exxon Shipping further 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 19.

20. Answering paragraph 20, 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 20.

21. Answering paragraph 21, 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 21.

22. Answering paragraph 22, 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 22.

23. Answering paragraph 23, 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

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

24-25. Answering paragraphs 24 and 25, Exxon Shipping denies the allegations in paragraphs 24 and 25.

26. Answering paragraph 26, 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 the 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 26 and, on that basis, denies them.

27. Answering paragraph 27, Exxon Shipping denies the allegations in paragraph 27.

28-29. Answering paragraphs 28 and 29, 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 admits that some of 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 information sufficient to form a belief as to the

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truth of the allegations in paragraph 30 and, on that basis, denies them.

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

CLASS ALLEGATIONS

32-40. Answering paragraphs 32 through 40, 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 and information sufficient to form a belief as to the truth of the allegations in paragraphs 32 through 40 and, on that basis, denies them.

ANSWER TO COUNT I

41. Answering paragraph 41, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 40 as though set forth in full at this place.

42-46. Answering paragraphs 42 through 46, Exxon Shipping is not required to answer the allegations in paragraphs 42 through 46. If an answer were required, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegation in paragraphs 42 through 46 and, on that basis, denies them.

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ANSWER TO COUNT II

47. Answering paragraph 47, Exxon Shipping adopts and incorporates by this reference its responses to paragraphs 1 through 46 as though set forth in full at this place.

48. Answering paragraph 48, 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 48.

49. Answering paragraph 49, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and, on that basis, denies them.

50. Answering paragraph 50, 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 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 lacks knowledge or information 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 admits that 43 U.S.C. § 1653(c), to the extent applicable, may impose strict liability for certain damages. Except as expressly

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admitted, 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.

ANSWER TO COUNT III

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

54-66. Answering paragraphs 54 through 66, Exxon Shipping denies the allegations in paragraphs 54 through 66 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 54 through 66 and, on that basis, denies them.

ANSWER TO COUNT IV

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

68. Answering paragraph 68, 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 68.

69-77. Answering paragraphs 69 through 77, Exxon Shipping denies the allegations in paragraphs 69 through 77.

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.

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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 the Prince William Sound as a result of the grounding of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 83.

84. Answering paragraph 84, Exxon Shipping admits that the presence of oil in the 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 the Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 85.

86. Answering paragraph 86, Exxon Shipping admits that the oil spill and the subsequent movement of the oil was not caused solely 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 86 and, on that basis, denies them.

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87. Answering paragraph 87, Exxon Shipping denies the allegations in paragraph 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 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.

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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 and Hazelwood. 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.

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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 it 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

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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.

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 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

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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

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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 plaintiff.

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. This action should abate because plaintiff has filed and is currently maintaining a parallel, duplicative action against Exxon Shipping in this Court that is based on the same facts alleged in the complaint herein.

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


1. That plaintiff takes nothing by its complaint;
2. That the complaint be dismissed with prejudice;

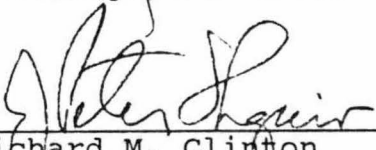
3. That Exxon Shipping receive payment for the costs of suit incurred herein, including attorney's fees; and

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

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Attorneys for Defendant
Exxon Shipping Company

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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. A89-136

D-2's Answer to P-80's
Complaint Dated April 16, 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
a belief as to the truth of the allegations in plaintiff's
prefatory statement and, on that basis, denies them.

ANSWER OF EXXON SHIPPING COMPANY-1

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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.

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

ANSWER OF EXXON SHIPPING COMPANY-2

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the Exxon defendants reside in this district for venue purposes. Except as expressly admitted, Exxon Shipping lacks knowledge or information 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 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

ANSWER OF EXXON SHIPPING COMPANY-3

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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.

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.

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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 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.

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

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ANSWER OF EXXON SHIPPING COMPANY-6

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 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

ANSWER OF EXXON SHIPPING COMPANY-7

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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.

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.

ANSWER OF EXXON SHIPPING COMPANY-8

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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

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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 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.

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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.

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 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.

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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.

ANSWER OF EXXON SHIPPING COMPANY-13

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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.

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.

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ANSWER OF EXXON SHIPPING COMPANY-15

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 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

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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.

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.

25. This action should abate because plaintiff has filed and is currently maintaining a parallel, duplicative action against Exxon Shipping in this Court that is based on the same facts alleged in the complaint herein.

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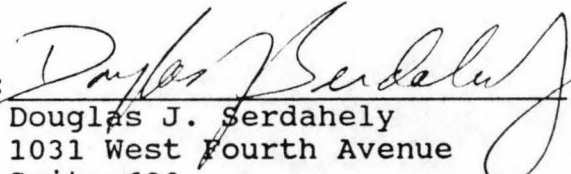
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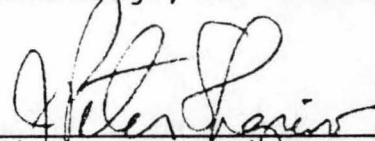
WHEREFORE, defendant Exxon Shipping prays for judgment against plaintiff as follows:

1. That plaintiff take nothing from its 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
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

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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. A89-149

D-2's Answer to P-36, P-38 and P-39's
Complaint Dated April 4, 1989

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

THE PARTIES

1-3. Answering paragraphs 1 through 3, Exxon Shipping
lacks knowledge or information sufficient to form a belief as

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to the truth of the allegations and, on that basis, denies the allegations in paragraphs 1 through 3.

4. Answering paragraph 4, Exxon Shipping admits that Exxon Corporation is a foreign corporation qualified to do business in the State of Alaska. Exxon Shipping further 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 denies the allegations in paragraph 4.

5. Answering paragraph 5, Exxon Shipping admits that it is a corporation organized under the laws of the State of Delaware and qualified to do business in the State of Alaska. Exxon Shipping further 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

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principles of pendent jurisdiction. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 5.

6. Answering paragraph 6, Exxon Shipping admits that Alyeska Pipeline Service Company ("Alyeska"), is a foreign corporation organized under the laws of Delaware and that it is qualified to do business, and is doing business, in Alaska. Exxon Shipping further 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 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 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 7.

FACTUAL ALLEGATIONS

8. Answering paragraph 8, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 7 as though set forth in full at this place.

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9. Answering paragraph 9, Exxon Shipping admits the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits the allegations in paragraph 10.

11. Answering paragraph 11, Exxon Shipping admits that Exxon Corporation owns the oil that was transported by the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 11.

12. Answering paragraph 12, Exxon Shipping 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. Exxon Shipping also admits that Alyeska has published an oil spill contingency plan for emergency response to spills in Prince William Sound and has 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, on that basis, denies the allegations in paragraph 12.

13. Answering paragraph 13, Exxon Shipping admits the allegations in paragraph 13.

14. Answering paragraph 14, Exxon Shipping admits that the EXXON VALDEZ ran aground on Bligh Reef and that, at the time she ran aground, the vessel was outside the shipping lane. Exxon Shipping further admits that as a result of

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running aground, the EXXON VALDEZ sustained damages and approximately 11 million gallons of oil leaked from the vessel into some of the waters and onto some of the shores of Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 14.

15. Answering paragraph 15, Exxon Shipping 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 by Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 15.

16. Answering paragraph 16, Exxon Shipping admits that Captain Hazelwood was in command of the EXXON VALDEZ prior to and at the time of the grounding. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 16.

17. Answering paragraph 17, Exxon Shipping admits that at the time the EXXON VALDEZ first struck Bligh Reef Captain Hazelwood was not at the helm of the vessel. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 17.

18. Answering paragraph 18, Exxon Shipping admits that the State of Alaska has closed or restricted fishing for certain species of seafood. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the

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remaining allegations in paragraph 18 and, on that basis, denies them.

19. Answering paragraph 19, 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 19.

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.

21-23. Answering paragraphs 21 through 23, Exxon Shipping denies the allegations in paragraphs 21 through 23.

SECOND CAUSE OF ACTION

24. Answering paragraph 24, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 23 as though set forth in full at this place.

25-27. Answering paragraphs 25 through 27, Exxon Shipping denies the allegations in paragraphs 25 through 27.

THIRD CAUSE OF ACTION

28. Answering paragraph 28, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 27 as though set forth in full at this place.

29-31. Answering paragraphs 29 through 31, Exxon Shipping denies the allegations in paragraphs 29 through 31 insofar as they apply to Exxon Corporation and Exxon Shipping.

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Insofar as the allegations in paragraphs 29 through 31 apply to Alyeska or the State of Alaska Department of Environmental Conservation, 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 29 through 31.

FOURTH CAUSE OF ACTION

32. Answering paragraph 32, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 31 as though set forth in full at this place.

33-34. Answering paragraphs 33 through 34, Exxon Shipping denies the allegations in paragraphs 33 through 34 insofar as they apply to Exxon Corporation and Exxon Shipping. Insofar as the allegations in paragraph 33 through 34 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 paragraphs 33 through 34.

FIFTH CAUSE OF ACTION

35. Answering paragraph 35, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 34 as though set forth in full at this place.

36. Answering paragraph 36, Exxon Shipping admits that it is the owner and operator of the EXXON VALDEZ and that 43 U.S.C. §1653(a), to the extent applicable, may impose strict

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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 36 and, on that basis, denies them.

SIXTH CAUSE OF ACTION

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

38. Answering paragraph 38, Exxon Shipping alleges that no answer to the allegations 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 38 and, on that basis, denies them.

SEVENTH CAUSE OF ACTION

39. Answering paragraph 39, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 38 as though set forth in full at this place.

40. Answering paragraph 40, Exxon Shipping alleges that no answer to the allegations 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 40 and, on that basis, denies them.

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EIGHTH CAUSE OF ACTION

41. Answering paragraph 41, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 40 as though set forth in full at this place.

42-49. Answering paragraphs 42 through 49, Exxon Shipping alleges that no answer to paragraphs 42 through 49 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 paragraphs 42 through 49 and, on that basis, denies them.

NINTH CAUSE OF ACTION

50. Answering paragraph 50, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 49 as though set forth in full at this place.

51-52. Answering paragraphs 51 through 52, Exxon Shipping denies the allegations in paragraphs 51 through 52 insofar as they apply to Exxon Corporation and Exxon Shipping. Insofar as the allegations in paragraphs 51 through 52 apply to Alyeska or the State of Alaska Department of Environmental Conservation, 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 51 through 52.

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TENTH CAUSE OF ACTION

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 Corporation and Exxon Shipping. Insofar as the allegations in paragraph 54 apply to Alyeska or the State of Alaska Department of Environmental Conservation, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies them.

PRAYER FOR RELIEF

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

GENERAL DENIAL

56. Exxon Shipping denies each and every 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

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

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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.

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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

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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. 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.

25. Claims by some persons or entities who may be designated as JOHN DOE plaintiffs may 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.

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

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Attorneys for Defendant
Exxon Shipping Company (D-2)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re:)
) Case No. A89-095 Civil
the Exxon Valdez) (Consolidated)
)
_____)

Re: Case No. A89-149

AFFIDAVIT OF SERVICE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

JULIE E. MORRIS, being first 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 D-2's Answer to P-36, P-38 and P-39's Complaint Dated April 4, 1989, has been made upon all counsel according to the Master Service List dated July 20, 1989 on the 15th day of August, 1989 by regular U.S. Mail or hand-delivery.

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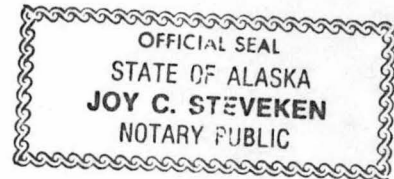
AFFIDAVIT OF SERVICE
DJS371AM

Julie Morris
Julie Morris

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

Joy C. Steveken

Notary Public
My Commission Expires: 3-29-93



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