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

Re Case No. A89-145 Civil

Answer of D-2 to Complaint
of P-65 through P-67 Dated April 4, 1989

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

ALLEGED NATURE OF CASE

1. Answering paragraph 1, Exxon Shipping admits that
plaintiffs purport to bring a civil action as described in
paragraph 1. Except as expressly admitted, Exxon Shipping
lacks knowledge or information sufficient to form a belief as

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Answer of Exxon Shipping Company - 1
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to the truth of the allegations and therefore denies the allegations in paragraph 1.

JURISDICTION AND VENUE

2. Answering paragraph 2, Exxon Shipping admits that this Court has subject matter jurisdiction over this action, that Exxon Shipping, Exxon Corporation, Alyeska and the Trans-Alaska Pipeline Liability Fund were and are doing business in the State of Alaska, 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 remaining allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that plaintiffs purport to bring a civil action as set forth in paragraph 3 of the Complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 3.

4. Answering paragraph 4, Exxon Shipping admits that a civil action may be brought in this district pursuant to 28 U.S.C. Section 1391. Exxon Shipping admits that Exxon Shipping, Exxon Corporation, Alyeska and the Trans-Alaska Pipeline Liability Fund 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 denies the allegations in paragraph 4.

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PARTIES

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 admits that defendant, Exxon Corporation, is a corporation organized under the laws of the State of New Jersey, with its principal place of business in New York. Exxon Shipping further admits that Exxon Corporation owned the oil and that Exxon Shipping controlled the oil which was transported by the EXXON VALDEZ immediately prior to its discharge into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 6.

7. Answering paragraph 7, 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, with its principal place of business in Texas, and that Exxon Corporation owns all of the stock in Exxon Shipping. Exxon Shipping further admits that it is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies. 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 8.

9. Answering paragraph 9, Exxon Shipping admits that defendant Joseph Hazelwood was an employee of Exxon Shipping and was the master of the EXXON VALDEZ at the time of the grounding of the vessel in Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits that defendant Gregory Cousins was an employee of Exxon Shipping and was the third mate of the EXXON VALDEZ at the time of the grounding of the vessel on Bligh Reef. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 10.

11. Answering paragraph 11, Exxon Shipping admits that defendant Edward Murphy is a licensed pilot who on the night of March 23, 1989, piloted the EXXON VALDEZ from the Port of Valdez through the harbor and Valdez Narrows to the Valdez Arm, where he disembarked. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 11.

12. Answering paragraph 12, Exxon Shipping admits the allegations in paragraph 12.

CLASS ALLEGATIONS

13-19. Answering paragraphs 13 through 19, Exxon Shipping admits that plaintiffs purport to bring an action on behalf of a class 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 13 through 19.

FACTUAL ALLEGATIONS

20. Answering paragraph 20, Exxon Shipping admits that on March 23, 1989, approximately 53,000,000 gallons of crude oil that had been transported through the Trans-Alaska Pipeline were loaded on the EXXON VALDEZ at the Port of Valdez terminal facilities operated by Alyeska; and that Exxon Shipping is the owner and operator of the EXXON VALDEZ, which is a single-hulled vessel approximately 987 feet long. Except as expressly admitted, Exxon Shipping denies the allegations.

21. Answering paragraph 21, Exxon Shipping admits that at approximately 9:15 p.m. on the evening of March 23, 1989, the EXXON VALDEZ left the Port of Valdez loaded with approximately 53,000,000 gallons of crude oil. Exxon Shipping further admits that Captain Hazelwood left the bridge, leaving Exxon Shipping employees Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

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22. Answering paragraph 22, Exxon Shipping admits that, shortly after midnight on March 24, 1989 the EXXON VALDEZ struck Bligh Reef, which is depicted on charts, and that the EXXON VALDEZ had left the normal deep water southbound shipping lane for reasons that include earlier reports that it contained icebergs that had broken from a glacier to the northwest. Exxon Shipping further admits that Hazelwood was not on the bridge at the moment of first impact of the grounding. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

23. Answering paragraph 23, Exxon Shipping admits that Captain Hazelwood has been discharged and has been charged with certain criminal offenses. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that Exxon Shipping was sued in 1982 by a seaman who had served aboard a vessel commanded by Captain Hazelwood and who made certain claims. 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 24.

25. Answering paragraph 25, Exxon Shipping admits that the EXXON VALDEZ passed through the harbor and Valdez Narrows under the direction of pilot Edward Murphy, who subsequently disembarked in the Valdez Arm. Except as

expressly admitted, Exxon Shipping denies the allegations in paragraph 25.

26. Answering paragraph 26, Exxon Shipping admits that the accident punctured some of the vessel's tanks and damaged a portion of the hull, and that approximately 11 million gallons of crude oil were released into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 26.

27. Answering paragraph 27, 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 27.

28. Answering paragraph 28, Exxon Shipping admits that following the spill, certain Exxon officials admitted responsibility for any legal obligations to those who suffered damage. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 28.

29-32. Answering paragraphs 29 through 32, 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. Exxon Shipping denies the remaining allegations in paragraphs 29 through 32.

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ALLEGED DAMAGES TO PLAINTIFFS

33. Answering paragraph 33, 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 33.

34. Answering paragraph 34, Exxon Shipping admits that the State of Alaska has chosen to close certain fisheries. 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 34.

35. Answering paragraph 35, 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.

36. Answering paragraph 36, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of allegations and therefore denies the allegations in paragraph 36.

37. Answering paragraph 37, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of allegations and therefore denies the allegations in paragraph 37.

ALLEGED PUNITIVE AND/OR EXEMPLARY DAMAGES

38. Answering paragraph 38, 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. Exxon Shipping denies the remaining allegations in paragraph 38.

ANSWER TO FIRST 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 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 40.

ANSWER TO SECOND CAUSE OF ACTION

41. Answering paragraph 41, Exxon Shipping adopts and incorporates by this reference its response to paragraph 1 through 38 as though set forth in full at this place.

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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 42.

43. Answering paragraph 43, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against defendants Alyeska and the

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Fund and therefore denies the allegations. Exxon Shipping denies the remaining allegations in paragraph 43.

ANSWER TO THIRD CAUSE OF ACTION

44. Answering paragraph 44, Exxon Shipping adopts and incorporates by this reference its response to paragraph 1 through 38 as though set forth in full at this place.

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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 45.

46. Answering paragraph 46, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 46.

47. Answering paragraph 47, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 47.

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

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

ANSWER TO FOURTH CAUSE OF ACTION

50. Answering paragraph 50, Exxon Shipping adopts and incorporates by this reference its response to paragraph 1 through 38 as though set forth in full at this place.

51. Answering paragraph 51, 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 the 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 defendants Alyeska and the Fund and therefore denies the 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 defendants Alyeska and the Fund and therefore denies the allegations. Exxon Shipping denies the remaining allegations in paragraph 53.

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ANSWER TO FIFTH CAUSE OF ACTION

54. Answering paragraph 54, Exxon Shipping adopts and incorporates by this reference its response to paragraph 1 through 38 as though set forth in full at this place.

55. Answering paragraph 55, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 55.

56. Answering paragraph 56, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 56.

57. Answering paragraph 57, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 57.

58. Answering paragraph 58, 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 the 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

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truth of the allegations against defendants Alyeska and the Fund and therefore denies the allegations. Exxon Shipping denies the remaining allegations in paragraph 59.

60. Answering paragraph 60, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 60.

61. Answering paragraph 61, 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 the allegations. Exxon Shipping denies the remaining allegations in paragraph 61.

RELIEF SOUGHT

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

GENERAL DENIAL

63. 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

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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 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.

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. 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.

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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. This action should abate because plaintiffs have filed and are 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 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

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4. That the Court award 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
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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) Case No. A89-095 Civil
)
the EXXON VALDEZ) (Consolidated)
)

Re Case No. A89-147 Civil

Answer of D-2 to Complaint of
P-114 and P-115 Filed April 5, 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.

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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, and that the EXXON VALDEZ was engaged in the transportation of oil in Alaska waters from the terminal facilities of the Trans-Alaska Pipeline System. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 2.

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

3. Answering paragraph 3, Exxon Shipping admits that Exxon Shipping, Exxon Corporation and the Trans-Alaska Pipeline Liability Fund have sufficient contacts with the State of Alaska to be subject to the personal jurisdiction of this Court. 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 3.

4. Answering paragraph 4, Exxon Shipping admits that plaintiffs purport to bring claims 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. §

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ANSWER OF EXXON SHIPPING COMPANY - 2

1391. Exxon Shipping admits that Exxon Shipping, Exxon Corporation and the Fund can be served in this district 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 and therefore denies the allegations in paragraph 5.

THE PARTIES

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 adopts and incorporates by this reference its response to paragraph 6 as though set forth in full at this place.

8. Answering paragraph 8, Exxon Shipping adopts and incorporates by this reference its response to paragraph 6 as though set forth in full at this place.

9. Answering paragraph 9, Exxon Shipping adopts and incorporates by this reference its response to paragraph 6 as though set forth in full at this place.

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

11. Answering paragraph 11, 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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ANSWER OF EXXON SHIPPING COMPANY - 3

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. 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 11.

12. Answering paragraph 12, 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. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 12.

13. Answering paragraph 13, Exxon Shipping 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, with its headquarters at 800 Bell Street, Houston, TX 77251. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 13.

ANSWER OF EXXON SHIPPING COMPANY - 4

14. Answering paragraph 14, 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 14.

DEFINITIONS

15. Answering paragraph 15, 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 Complaint is necessarily accurate or appropriate.

16. Answering paragraph 16, Exxon Shipping adopts and incorporates by this reference its response to paragraph 15 as though set forth in full at this place.

17. Answering paragraph 17, Exxon Shipping adopts and incorporates by this reference its response to paragraph 15 as though set forth in full at this place.

18. Answering paragraph 18, Exxon Shipping adopts and incorporates by this reference its response to paragraph 15 as though set forth in full at this place.

19. Answering paragraph 19, Exxon Shipping adopts and incorporates by this reference its response to paragraph 15 as though set forth in full at this place.

20. Answering paragraph 20, Exxon Shipping adopts and incorporates by this reference its response to paragraph 15 as though set forth in full at this place.

FACTUAL ALLEGATIONS

21. Answering paragraph 21, 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 and is one of Exxon Shipping's biggest ships, left the terminal facility of the Trans-Alaska Pipeline System at the Port of Valdez, and was bound for Long Beach, California. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that the vessel's eleven oil tanks were filled with approximately 53,000,000 gallons of North Slope crude oil which had been shipped through the Trans-Alaska Pipeline. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 22.

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

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 by Exxon Shipping.

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

24. Answering paragraph 24, Exxon Shipping admits that, after the pilot disembarked, Captain Hazelwood left the bridge, leaving Exxon Shipping employees Gregory Cousins, the third mate, and Robert Kagan, the helmsman, on the bridge; and that their performance of their duties was within the scope of their employment with Exxon Shipping. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 24.

25. Answering paragraph 25, Exxon Shipping admits that the U.S. Coast Guard gave the EXXON VALDEZ permission to leave the normal deep water southbound shipping lane for reasons that include earlier reports that it contained icebergs that had broken from a glacier to the northwest. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 25.

26. Answering paragraph 26, 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 26.

27. Answering paragraph 27, Exxon Shipping admits that the vessel struck Bligh Reef, which punctured some of its tanks and damaged a portion of the hull. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 27.

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ANSWER OF EXXON SHIPPING COMPANY - 7

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

29. Answering paragraph 29, Exxon Shipping denies the allegations in paragraph 29.

30. Answering paragraph 30, Exxon Shipping admits that the grounding cut open eight oil tanks and discharged approximately 11 million gallons of crude oil into Prince William Sound, becoming the largest oil spill from a single ship in the United States. 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 therefore denies the allegations in paragraph 30.

31. Answering paragraph 31, Exxon Shipping denies the allegations in paragraph 31.

32. Answering paragraph 32, Exxon Shipping admits that Alaska Governor Cowper declared a disaster emergency on or about March 26, 1989. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the remaining allegations and therefore denies the same.

33. Answering paragraph 33, 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 33.

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34. Answering paragraph 34, 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 34.

35-36. Answering paragraphs 35 and 36, Exxon Shipping admits that on Monday, March 27, 1989, gale force winds pushed the oil into the vicinity of Naked and Knight Islands in the southern end of Prince William Sound, which area is a habitat for water fowl and sea mammals. Except as expressly admitted, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 35 and 36 and therefore denies them.

37. Answering paragraph 37, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 and therefore denies the allegations in paragraph 37.

CLASS ALLEGATIONS

38-46. Answering paragraphs 38 through 46, Exxon Shipping admits that plaintiffs purport to bring an action on behalf of a class of persons and entities described in their 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 38 through 46 and therefore denies them.

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ANSWER TO COUNT I

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

48. Answering paragraph 48, Exxon Shipping is not required to respond to the allegations against Alyeska in paragraph 48 and, if a response is required, 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 48.

49. Answering paragraph 49, Exxon Shipping is not required to respond to the allegations against Alyeska in paragraph 49 and, if a response is required, 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 49.

50. Answering paragraph 50, Exxon Shipping is not required to respond to the allegations against Alyeska in paragraph 50 and, if a response is required, 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 50.

51. Answering paragraph 51, Exxon Shipping is not required to respond to the allegations against Alyeska in paragraph 51 and, if a response is required, Exxon Shipping lacks

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knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 51.

52. Answering paragraph 52, Exxon Shipping is not required to respond to the allegations against Alyeska in paragraph 52 and, if a response is required, 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 52.

ANSWER TO COUNT II

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 admits that Exxon Shipping is the owner and operator of the EXXON VALDEZ. Except as expressly admitted, Exxon Shipping denies the 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 and therefore denies the allegations in paragraph 55.

56. Answering paragraph 56, Exxon Shipping admits that the damages, if any, were not caused by an act of war. Except as expressly admitted, Exxon Shipping lacks knowledge or information

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sufficient to form a belief as to the truth of the allegations and therefore denies the allegations in paragraph 56.

57. Answering paragraph 57, 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 57.

58. Answering paragraph 58, 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 allegations and therefore denies the allegations in paragraph 58.

ANSWER TO COUNT III

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 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 60.

61. Answering paragraph 61, 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 61.

62. Answering paragraph 62, 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 62.

63. Answering paragraph 63, 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 63.

64. Answering paragraph 64, 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 64.

65. Answering paragraph 65, 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 65.

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.

67. Answering paragraph 67, 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 67.

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.

70. Answering paragraph 70, 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 70.

71. Answering paragraph 71, 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 71.

72. Answering paragraph 72, 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 72.

ANSWER TO COUNT IV

73. Answering paragraph 73, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 72 as though set forth in full at this place.

74. Answering paragraph 74, 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 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.

ANSWER OF EXXON SHIPPING COMPANY - 15

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79. Answering paragraph 79, Exxon Shipping denies the allegations in paragraph 79.

80. Answering paragraph 80, Exxon Shipping denies the allegations in paragraph 80.

81. Answering paragraph 81, Exxon Shipping denies the allegations in paragraph 81.

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

ANSWER TO COUNT V

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 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 84.

ANSWER TO COUNT VI

85. Answering paragraph 85, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 84 as though set forth in full at this place.

86. Answering paragraph 86, 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 86.

ANSWER TO COUNT VII

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 admits that "hazardous substance" is defined in AS 46.03.826(4)(B) to include oil. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 88.

89. Answering paragraph 89, 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 89.

90. Answering paragraph 90, Exxon Shipping admits that Exxon Corporation is the owner of 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 90. Except as expressly admitted, Exxon Shipping denies the remaining allegations in paragraph 90.

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91. Answering paragraph 91, 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 or information sufficient to form a belief as to the allegations and therefore denies the 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 Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 92.

93. Answering paragraph 93, 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 93.

ANSWER TO COUNT VIII

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

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

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those allegations. Exxon Shipping denies the remaining allegations in paragraph 95.

96. Answering paragraph 96, 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 96.

97. Answering paragraph 97, 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 97.

98. Answering paragraph 98, 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 98.

ANSWER TO COUNT IX

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

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

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those allegations. Exxon Shipping denies the remaining 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 against Alyeska 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 Alyeska 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 Alyeska and therefore denies those allegations. Exxon Shipping denies the remaining allegations in paragraph 103.

ANSWER TO COUNT X

104. Answering paragraph 104, Exxon Shipping adopts and incorporates by this reference its response to paragraphs 1 through 103 as though set forth in full at this place.

105. Answering paragraph 105, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies

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ANSWER OF EXXON SHIPPING COMPANY - 20

those allegations. Exxon Shipping denies the remaining allegations in paragraph 105.

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. Exxon Shipping denies the remaining allegations in paragraph 106.

107. Answering paragraph 107, 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 107.

ANSWER TO COUNT XI

108. Answering paragraph 108, Exxon Shipping adopts and incorporates by this reference its response to paragraph 1 through 107 as though set forth in full at this place.

109. Answering paragraph 109, 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 109.

110. Answering paragraph 110, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations against Alyeska and therefore denies

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those allegations. Exxon Shipping denies the remaining allegations in paragraph 110.

111. Answering paragraph 111, 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 111.

112. Answering paragraph 112, Exxon Shipping admits that plaintiffs seek the relief they claim. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 112.

RELIEF SOUGHT

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

GENERAL DENIAL

114. 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

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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 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.

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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.

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

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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.

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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.

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

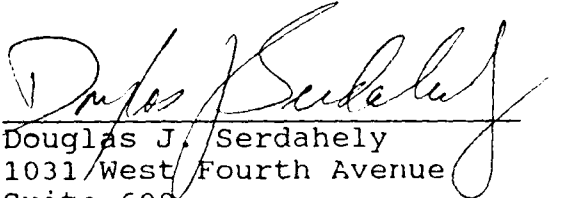
1. That plaintiffs take nothing by their complaint;
2. That the complaint be dismissed with prejudice;
3. That Exxon Shipping receive payment of costs of suit incurred herein, including attorney's fees; and
4. That the Court award such other and further relief as it may deem just and proper.

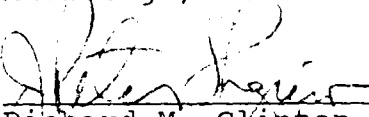
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DATED this 15th day of August, 1989.

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Exxon Shipping Company

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ANSWER OF EXXON SHIPPING COMPANY - 27

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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. A89-118

D-2's Answer to P-68 through P-70's
Complaint Dated April 7, 1989

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

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ALLEGED NATURE OF CASE

1. Answering paragraph 1, Exxon Shipping admits that plaintiffs purport to bring an 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.

JURISDICTION AND VENUE

2. Answering paragraph 2, Exxon Shipping admits the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that plaintiffs purport to bring claims for relief pursuant to grounds set forth in paragraph 3 of the complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 3.

4. Answering paragraph 4, Exxon Shipping admits that this action may be brought in this district; that Exxon Shipping, Exxon Corporation, and Alyeska do business in this district; and that the 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 4 and, on that basis, denies them.

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THE PARTIES

5-7. Answering paragraphs 5 through 7, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 5 through 7 and, on that basis, denies them.

8. Answering paragraph 8, 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 in New York. Exxon Shipping further admits that Exxon Corporation was the owner of the crude oil that was transported by the Exxon Valdez and released into Prince William Sound. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 8.

9. Answering paragraph 9, 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 in Texas; and that it is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, including Exxon Pipeline Company; that Alyeska operates the Trans-Alaska Pipeline System; and that Alyeska published an 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 10 and, on that basis, denies them.

11. Answering paragraph 11, Exxon Shipping admits that at the time of the grounding defendant Joseph Hazelwood was an employee of Exxon Shipping and the Master of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 11.

12. Answering paragraph 12, Exxon Shipping admits that at the time of the grounding defendant Gregory Cousins was an employee of Exxon Shipping and the third mate of the Exxon Valdez. Except as expressly admitted, Exxon Shipping 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 in paragraph 13 and, on that basis, denies them.

CLASS ALLEGATIONS

14-19. Answering paragraphs 14 through 19, Exxon Shipping admits that plaintiffs purport to bring a class action on behalf of classes of persons and entities described in their complaint. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 14 through 19 and, on that basis, denies them.

FACTUAL ALLEGATIONS

20. Answering paragraph 20, Exxon Shipping admits the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping admits that the Exxon Valdez left the Port of Valdez and passed through the Valdez Narrows under the direction of a pilot. Exxon Valdez further admits that shortly after the pilot disembarked Captain Hazelwood left the bridge, leaving Gregory Cousins and Robert Kagan on the bridge. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that on March 24, 1989, the Exxon Valdez 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 Hazelwood has been discharged from his employment by Exxon Shipping and that he has been charged with criminal offenses. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that Exxon Shipping is the owner of the Exxon Valdez and that Exxon Shipping was sued in 1982 by a seaman who had served aboard a vessel commanded by Captain Hazelwood and who subsequently made certain claims. Exxon Shipping further

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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 24.

25. Answering paragraph 25, Exxon Shipping admits that the grounding of the Exxon Valdez released approximately 11 million gallons of crude oil. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 25.

26. Answering paragraph 26, Exxon Shipping admits that following the oil spill, certain Exxon officials admitted responsibility for any legal obligations to those who suffered damage.

27-30. Answering paragraphs 27 through 30, Exxon Shipping it is not required to answer the allegations in paragraphs 27 through 30. 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 27 through 30 and, on that basis, denies them.

ALLEGED DAMAGES

31-32. Answering paragraphs 31 and 32, Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 31 and 32 and, on that basis, denies them.

33. Answering paragraph 33, Exxon Shipping denies the allegations in paragraph 33 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 33 and, on that basis, denies them.

CAUSES OF ACTION

34. Answering paragraph 34 a, c, d, e and f, Exxon Shipping denies the allegations in paragraph 34 a, c, d, e and f, 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 34 a, c, d, e and f, and, on that basis, denies them.

34b. Answering paragraph 34b, 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 and information sufficient to form a belief as to the truth of the allegations in paragraph 34b and, on that basis, denies them.

JURY DEMAND

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

PRAYER FOR RELIEF

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

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GENERAL DENIAL

37. 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.

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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.

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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

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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. This action should not proceed in the absence of the Fund's joinder as a defendant.

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

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Exs 101-118

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. This action should abate because plaintiffs have filed and are 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 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

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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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Answer of Exxon Shipping Company - 13
Exsister 118

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Exxon Shipping Company
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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. A89-117

D-2's Answer to P-68 through P-72's
Complaint Dated April 7, 1989

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

ALLEGED NATURE OF CASE

1. Answering paragraph 1, Exxon Shipping admits
that plaintiffs purport to bring an action as set forth in
paragraph 1 of the complaint. Except as expressly admitted,
Exxon Shipping lacks knowledge or information sufficient to

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form a belief as to the truth of the allegations in paragraph 1 and, on that basis, denies them.

JURISDICTION AND VENUE

2. Answering paragraph 2, Exxon Shipping admits the allegations in paragraph 2.

3. Answering paragraph 3, Exxon Shipping admits that plaintiffs purport to bring claims for relief pursuant to grounds set forth in paragraph 3 of the complaint. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 3.

4. Answering paragraph 4, Exxon Shipping admits that this action may be brought in this district; that Exxon Shipping, Exxon Corporation, and Alyeska do business in this district; and that the 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 4 and, on that basis, denies them.

THE PARTIES

5. Answering paragraph 5, 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

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business in New York. Exxon Shipping further admits that Exxon Corporation was the owner of the crude oil that was transported by the Exxon Valdez and released into Prince William Sound. 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 in Texas; and that it is the owner and operator of the Exxon Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 7.

8. Answering paragraph 8, Exxon Shipping admits that Alyeska is a Delaware corporation owned by seven companies, including Exxon Pipeline Company; that Alyeska operates the Trans-Alaska Pipeline System; and that Alyeska published an 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 8 and, on that basis, denies them.

9. Answering paragraph 9, Exxon Shipping admits that at the time of the grounding defendant Joseph Hazelwood was an employee of Exxon Shipping and the Master of the Exxon

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Valdez. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 9.

10. Answering paragraph 10, Exxon Shipping admits that at the time of the grounding defendant Gregory Cousins was an employee of Exxon Shipping and the third mate of the Exxon Valdez. Except as expressly admitted, Exxon Shipping 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 in paragraph 11 and, on that basis, denies them.

CLASS ALLEGATIONS

12-17. Answering paragraphs 12 through 17, Exxon Shipping admits that plaintiffs purport to bring a class action on behalf of classes of persons and entities described in their complaint. Exxon Shipping lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 12 through 17 and, on that basis, denies them.

FACTUAL ALLEGATIONS

18. Answering paragraph 18, Exxon Shipping admits the allegations in paragraph 18.

19. Answering paragraph 19, Exxon Shipping admits that the Exxon Valdez left the Port of Valdez and passed through the Valdez Narrows under the direction of a pilot. Exxon Valdez further admits that shortly after the pilot

disembarked Captain Hazelwood left the bridge, leaving Gregory Cousins and Robert Kagan on the bridge. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 19.

20. Answering paragraph 20, Exxon Shipping admits that on March 24, 1989, the Exxon Valdez struck Bligh Reef, which is depicted on charts. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 20.

21. Answering paragraph 21, Exxon Shipping admits that Hazelwood has been discharged from his employment by Exxon Shipping and that he has been charged with criminal offenses. Except as expressly admitted, Exxon Shipping denies the allegations in paragraph 21.

22. Answering paragraph 22, Exxon Shipping admits that Exxon Shipping is the owner of the Exxon Valdez and that Exxon Shipping was sued in 1982 by a seaman who had served aboard a vessel commanded by Captain Hazelwood and who subsequently made certain claims. 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 22.

23. Answering paragraph 23, Exxon Shipping admits that the grounding of the Exxon Valdez released approximately

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11 million gallons of crude oil. Except as expressly admitted, Exxon Shipping denies the allegations of paragraph 23.

24. Answering paragraph 24, Exxon Shipping admits that following the oil spill, certain Exxon officials admitted responsibility for any legal obligations to those who suffered damage.

25-28. Answering paragraphs 25 through 28, Exxon Shipping it is not required to answer the allegations in paragraphs 25 through 28. 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 25 through 28 and, on that basis, denies them.

ALLEGED DAMAGES

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 denies the allegations in paragraph 31 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 31 and, on that basis, denies them.

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CAUSES OF ACTION

32. Answering paragraph 32a, c, d, e and f, Exxon Shipping denies the allegations in paragraph 32a, c, d, e and f 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 32a, c, d, e and f, and, on that basis, denies them.

32b. Answering paragraph 32b, 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 in paragraph 32b and, on that basis, denies them.

JURY DEMAND

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

PRAYER FOR RELIEF

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

GENERAL DENIAL

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

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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.

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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.

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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.

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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. This action should not proceed in the absence of the Fund's joinder as a defendant.

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

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

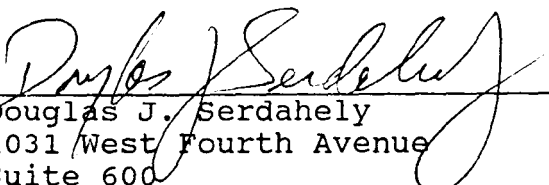
24. This action should abate because plaintiffs have filed and are currently maintaining a parallel, duplicative action against Exxon Shipping in this Court that is based on the same facts alleged in the complaint herein.

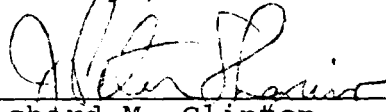
WHEREFORE, defendant Exxon Shipping prays for judgment against plaintiffs as follows:

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
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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