

FILED

Timothy Petumenos
Counsel for Plaintiffs
Birch, Horton, Bittner & Cherot
1127 W. 7th Avenue
Anchorage, Alaska 99501
(907) 276-1550

JAN 08 1990

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By _____ Deputy

Additional Counsel Listed
on Signature Page

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

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

RE: ALL CASES

**STATEMENT BY NATIVE ALASKAN
CORPORATIONS (P-81 through P-94) REGARDING
CERTAIN DISPUTED PROVISIONS IN THE PROPOSED PRE-TRIAL
ORDER REGARDING DISCOVERY PROCEDURES AND SCHEDULING**

On November 20, 1989, the parties jointly filed a proposed pre-trial order regarding discovery procedures and scheduling (hereafter "discovery plan"). Various parties have already submitted their positions regarding disputed provisions in the proposed plan. This statement is submitted on behalf of the Chugach Alaska Corporation and the Native village corporations of Eyak, Chenega Bay, Tatitlek, Port Graham, and English Bay ("Native Corporations") who, jointly, are the largest private landowners in Prince William Sound. We address two disputed provisions in the proposed discovery plan.

1. Use of Protective Orders.

760

**BIRCH, HORTON,
BITTNER AND CHEROT**
ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-1550

The Native corporations essentially agree with the written position of the plaintiff seafood processors, filed December 18, 1989, that the Court should take appropriate steps to recognize and ensure the protection of sensitive commercial information provided by plaintiffs in discovery.

As is the case with the seafood processors, the Native corporations are also engaged in seafood processing, timber operations and other commercial activities in highly competitive fields. Public disclosure of detailed financial data, bids for contracts, market information and the like would present a substantial risk of competitive damage to these commercial activities. In addition, the Native corporations have a substantial interest in fostering, protecting and preserving the archaeological and historically sensitive sites that have suffered damages as a result of the Exxon Valdez oil spill. It is anticipated that during the discovery process, it may become necessary to disclose the location of some of these sites in order to verify and quantify damages. Public disclosure of archaeological site locations would undoubtedly increase the danger of further destruction of these sites through looting and vandalism, which has already occurred as a result of the increased public knowledge of their location following the oil spill (see attached newspaper article, Exhibit A herewith). Therefore, data relating to such sites should be held in strict confidence.

We respectfully request that, pursuant to Civil Rule 26(c), the trade secrets and other confidential commercial

**BIRCH, HORTON,
BITTNER AND CHEROT**
ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-1550

**BIRCH, HORTON,
BITTNER AND CHEROT**
ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-1550

information of the Native corporations and their subsidiaries is protected. See Tavoulaareas v. The Washington Post Company, 72 F.2d 1010, 1018 (D.C. Cir. 1984). We strongly disagree with the position of certain environmental groups that all discovery in this case should be open to the public or that, if procedures are implemented to protect confidential material, the burden of establishing the confidentiality of certain information in the first instance should be with the party seeking such protection. We believe that if the discovery plan includes a requirement of a good faith basis for the designation for confidential material and the sanction of costs in establishing that certain information is not worthy of such designation should a dispute arise thereon, there would be adequate safeguards to ensure that information which should be publicly available is, in fact, available.

In the Amoco Cadiz Oil Spill Litigation, the parties stipulated to a protective order which provided a mechanism whereby documents and information could be designated confidential in the first instance but any party would have the right to dispute the confidentiality as to the propriety of such designation. Attached for the Court's information as Exhibit B, is a copy of the confidentiality order in that case. We believe the provisions therein can be easily adapted to this case to account for the concerns of the Native corporations.

2. Position Regarding the Predesignation of Documents for Depositions.

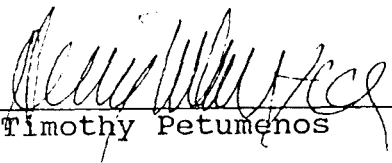
**BIRCH, HORTON,
BITTNER AND CHEROT**
ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-1550

The Native corporations strenuously object to any requirement that the parties be required to predesignate documents to be used at depositions. To allow defendants' counsel the strategic advantage of having in hand well before the deposition all documents upon which their clients will be questioned makes a virtual mockery of our adversarial system. As expressed by the environmental plaintiffs, there is no better way to test the credibility of a witness than to be able to confront self-serving statements with corporate documents which show the contrary. Defendants' concerns regarding the necessity of having extensive numbers of copies of documents available at depositions are unfounded. They assume that traditional techniques of photocopying will be used with the documents produced in this case. Given recent technical advances, it is highly probable that some advanced electronic information technique (such as optical disk, microfilm, or some other process) will be used to store and retrieve information. Even if the lack of predesignation of documents may slow the process down slightly, that factor is far outweighed by the overriding need to ascertain the truth which can only be obtained through searching the examination of a witness who has not had two months to "explain away" facts or opinions set forth in contemporaneous documents. No requirement for the predesignation of documents to be used at depositions should, therefore, be included in the plan.

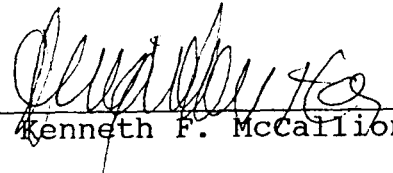
Respectfully submitted this 8th day of January, 1990.

**BIRCH, HORTON,
BITTNER AND CHEROT**
ATTORNEYS AT LAW
1127 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-1550

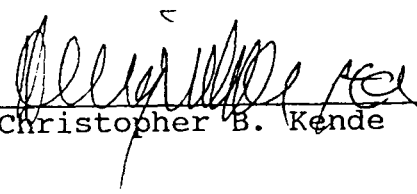
BIRCH, HORTON, BITTNER & CHEROT

By: 
Timothy Petumenos

HILL, BETTS & NASH

By: 
Kenneth F. McCallion

HOLTZMANN, WISE & SHEPARD

By: 
Christopher B. Kende

FILED

JAN 11 1990

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)
_____)	

PRE-TRIAL ORDER NO. 11

Amendments to Pre-Trial Order No. 8
and No. 9; Status Conference Matters

Status Conferences. By Pre-Trial Order No. 8, the court scheduled a status conference for January 8, 1990. A primary purpose for this conference was to discuss the need and frequency for periodic status conferences during the development of this case. The court and counsel are now in agreement that any attempt to schedule regular, periodic status conferences would probably be wasteful. Accordingly, as matters suggesting the need for a status conference are brought to the attention of

7602

1 the court, the court will, in consultation with liaison counsel,
2 determine whether and when to schedule status conferences.

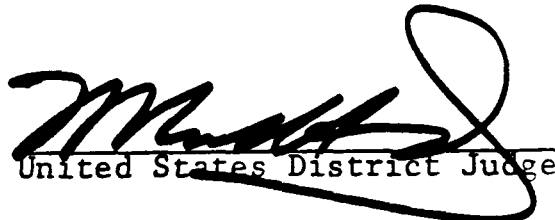
3 Organization of Plaintiff's Counsel. In entering
4 Pre-Trial Order No. 9 concerning the organization of plaintiff's
5 counsel, the court omitted the word "and" after the word
6 "co-chairmen" at line 23, page 2. The court has herewith entered
7 the word "and" by interlineation in Pre-Trial Order No. 9. The
8 clerk of court and liaison counsel need not re-serve Pre-Trial
9 Order No. 9.

10 Housekeeping Matters. It may be necessary and appro-
11 priate from time to time for counsel to participate in court
12 proceedings, both in chambers and in court, by telephone. The
13 court does not have the capability of receiving and tying
14 together several telephone calls into its chambers or courtroom.
15 Accordingly, telephonic participation in these proceedings where
16 more than one caller is involved must be accomplished through a
17 conference call. The court is not in the best position nor does
18 it have the staff to organize such conference calls. They should
19 be arranged by liaison counsel.

20 One or more of the environmental plaintiffs, not a
21 party or parties to this federal litigation, has recently com-
22 menced filing with this court copies of pleadings filed in the
23 state court cases. While the court has no objection to pertinent
24 state court filings being adopted by reference and filed herein
25 by federal parties, the court perceives no good purpose for state
26 parties to simply routinely duplicate their state court filings

1 with a federal cover sheet and file the same in federal court.
2 Liaison counsel will please request that the foregoing instruc-
3 tions be followed by all parties to the state court litigation.

4 DATED at Anchorage, Alaska, this 11 day of January,
5 1990.

6 
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In re)
) No. AB9-095 Civil
the EXXON VALDEZ)
) (Consolidated)
)
_____)
RE: All cases

AFFIDAVIT OF SERVICE

On the 11th day of January, 1990, service of Pre-Trial Order No. 11, Amendments to Pre-Trial Order No. 8 and No. 9, Status Conference Matters, has been made upon all counsel of record based upon the court's master service list of November 11, 1989.


Deputy Clerk

FILED

JAN 16 1990

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
By _____ Deputy

Robert L. Richmond
RICHMOND & QUINN
135 Christensen Drive
Anchorage, Alaska 99501
(907) 276-5727

Attorneys for Defendant Gregory T. Cousins (D-8)

IN THE UNITED STATES DISTRICT COURT
THE DISTRICT OF ALASKA

In Re)	Case No. A89-095 CIV
)	(Consolidated)
the EXXON VALDEZ,)	
)	D-8'S ANSWER TO FIRST
This Document Relates to)	AMENDED CONSOLIDATED
Action Nos.)	<u>CLASS ACTION COMPLAINT</u>
)	
A89-135, A89-136, A89-139,)	
A89-144, A89-238, A89-239.)	
)	

COMES NOW defendant Gregory T. Cousins (D-8), by and through his attorneys, Richmond & Quinn, and for answer to plaintiffs' complaint, admits, denies and alleges as follows:

ANSWER TO
JURISDICTION AND VENUE

1

With regard to Paragraph 1 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

LAW OFFICES
RICHMOND & QUINN
A PROFESSIONAL CORPORATION
135 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

773

With regard to Paragraph 2 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

ANSWER TO
PARTIES PLAINTIFF
3 THROUGH 10

With regard to Paragraphs 3 through 10 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO
PARTIES DEFENDANT
11 THROUGH 26

With regard to Paragraphs 11 through 26 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

With regard to Paragraph 27 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 2

With regard to Paragraph 28 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO

CLASS ALLEGATIONS

29 THROUGH 35

With regard to Paragraphs 29 through 35 of plaintiffs' first amended consolidated class action complaint, answering defendant admits that plaintiffs purport to bring a class action, but is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained therein. However, answering defendant specifically denies any allegations of culpable conduct on his part contained therein.

ANSWER TO

OPERATIVE FACTS

HISTORICAL BACKGROUND

36

With regard to Paragraph 36 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

37

With regard to Paragraph 37 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

38

With regard to Paragraph 38 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

39

With regard to Paragraph 39 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

40 THROUGH 43

With regard to Paragraphs 40 through 43 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

44

With regard to Paragraph 44 of plaintiffs' first amended consolidated class action complaint, answering defendant admits that TAPS and the Valdez TAPS terminal began operating in 1977

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 4

under the control of the Alyeska defendants; however, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained therein.

45 THROUGH 49

With regard to Paragraphs 45 through 49 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO

GROUNDING OF THE T/V EXXON VALDEZ AND THE OIL SPILL

50 THROUGH 52

With regard to Paragraphs 50 through 52 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

h

53

With regard to Paragraph 53 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

54 AND 55

With regard to Paragraphs 54 and 55 of plaintiffs' first amended consolidated class action complaint, answering defendant

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 5

denies the allegations contained therein.

56 AND 57

With regard to Paragraphs 56 and 57 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

58

With regard to Paragraph 58 of plaintiffs' first amended consolidated class action complaint, answering defendant admits that Captain Hazelwood left Mr. Cousins at the helm of the EXXON VALDEZ after giving certain instructions to Mr. Cousins; however, answering defendant denies remaining allegations contained therein.

59

With regard to Paragraph 59 of plaintiffs' first amended consolidated class action complaint, answering defendant admits the allegations contained therein.

60

With regard to Paragraph 60 of plaintiffs' first amended consolidated class action complaint, answering defendant admits that the EXXON VALDEZ left the designated vessel traffic lanes; that the EXXON VALDEZ grounded on Bligh Reef shortly after midnight, March 24, 1989; that the grounding resulted in ruptures to several of the vessel's cargo tanks; and that Captain Hazelwood

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 6

was not on the bridge at the time of the grounding; however, answering defendant denies remaining allegations contained therein.

61

With regard to Paragraph 61 of plaintiffs' first amended consolidated class action complaint, answering defendant denies the allegations contained therein.

62

With regard to Paragraph 62 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

63

With regard to Paragraph 63 of plaintiffs' first amended consolidated class action complaint, answering defendant admits that several cargo and ballast tanks were ruptured in the grounding of the EXXON VALDEZ; and that approximately 11 million gallons of crude oil eventually spilled into the waters of Prince William Sound; however, answering defendant denies the remaining allegations contained therein.

64 AND 65

With regard to Paragraph 64 and 65 of plaintiffs' first amended consolidated class action complaint, answering defendant denies the allegations contained therein.

LAW OFFICES
RICHMOND & QUINN
PROFESSIONAL CORPORATION
135 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 7

ANSWER TO
POST SPILL RESPONSE BY THE ALYESKA AND EXXON DEFENDANTS

66 THROUGH 69

With regard to Paragraphs 66 through 69 of plaintiffs' first amended consolidated class action complaint, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO
THE EFFECTS AND DAMAGES TO PLAINTIFFS CAUSED BY THE SPILL
DAMAGES TO COMMERCIAL FISHING CLASS

70 THROUGH 74

With regard to Paragraphs 70 through 74 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO
DAMAGE TO THE MUNICIPAL GOVERNMENT CLASS

75 THROUGH 81

With regard to Paragraphs 75 through 81 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 8

ANSWER TO

DAMAGE TO LANDOWNER CLASS

82 THROUGH 84

With regard to Paragraphs 82 through 84 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO

DAMAGES TO THE AREA BUSINESS CLASS

85 AND 86

With regard to Paragraphs 85 and 86 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO

DAMAGE TO PLAINTIFF KODIAK SALMON PACKERS, INC.

87 AND 88

With regard to Paragraphs 87 and 88 of plaintiffs' first amended consolidated class action complaint, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

ANSWER TO
FIRST CLAIM FOR RELIEF
STRICT LIABILITY

Trans-Alaska Pipeline Liability Fund and Exxon Defendants

89

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 88 of plaintiffs' first amended consolidated class action complaint.

90 AND 91

With regard to Paragraphs 90 and 91 of plaintiffs' first claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO
SECOND CLAIM FOR RELIEF

Negligence of the Exxon Defendants Under TAPAA

92

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 91 of plaintiffs' first amended consolidated class action complaint.

93 THROUGH 95

With regard to Paragraphs 93 through 95 of plaintiffs' second claim for relief, answering defendant states that the

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 10

allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO

THIRD CLAIM FOR RELIEF

Common Law Negligence of Exxon Defendants, Hazelwood, Cousins
and Murphy

96

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 95 of plaintiffs' first amended consolidated class action complaint.

97

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 96 of plaintiffs' first amended consolidated class action complaint.

98 THROUGH 103

With regard to Paragraphs 98 through 103 of plaintiffs' third claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

104 AND 105

With regard to Paragraphs 104 and 105 of plaintiffs' third claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 11

106 AND 107

With regard to Paragraphs 106 and 107 of plaintiffs' third claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

108

With regard to Paragraph 108 of plaintiffs' third claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

FOURTH CLAIM FOR RELIEF

Common Law Negligence of the Alyeska Defendants

109

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 108 of plaintiffs' first amended consolidated class action complaint.

110 THROUGH 113

With regard to Paragraphs 110 through 113 of plaintiffs' fourth claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO

FIFTH CLAIM FOR RELIEF

Common Law Public Nuisance -- All Defendants except TAPS

114

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 113 of plaintiffs' first amended consolidated class action complaint.

115 THROUGH 121

With regard to Paragraphs 115 through 121 of plaintiffs' fifth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

SIXTH CLAIM FOR RELIEF

Statutory Private Nuisance -- All Defendants Except TAPS

122

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 121 of plaintiffs' first amended consolidated class action complaint.

123 THROUGH 126

With regard to Paragraphs 123 through 126 of plaintiffs' sixth claim for relief, answering defendant denies the allegations contained therein.

LAW OFFICES

RICHMOND & QUINN
PROFESSIONAL CORPORATION
135 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 13

ANSWER TO

SEVENTH CLAIM FOR RELIEF

Common Law Private Nuisance -- All Defendants Except TAPS

127

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 126 of plaintiffs' first amended consolidated class action complaint.

128 THROUGH 131

With regard to Paragraphs 128 through 131 of plaintiffs' seventh claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

EIGHTH CLAIM FOR RELIEF

Statutory Public Nuisance -- All Defendants Except TAPS

132

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 131 of plaintiffs' first amended consolidated class action complaint.

133 THROUGH 138

With regard to Paragraphs 133 through 138 of plaintiffs' eighth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 14

ANSWER TO

NINTH CLAIM FOR RELIEF

Trespass -- All Defendants Except TAPS

139

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 138 of plaintiffs' first amended consolidated class action complaint.

140 AND 141

With regard to Paragraphs 140 and 141 of plaintiffs' ninth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

TENTH CLAIM FOR RELIEF

Restitution -- All Defendants Except TAPS

142

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 141 of plaintiffs' first amended consolidated class action complaint.

143 THROUGH 146

With regard to Paragraphs 143 through 146 of plaintiffs' tenth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

ELEVENTH CLAIM FOR RELIEF

Negligent Misrepresentation -- Exxon and Alyeska Defendants

147

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 146 of plaintiffs' first amended consolidated class action complaint.

148 THROUGH 154

With regard to Paragraphs 148 through 154 of plaintiffs' eleventh claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO

TWELFTH CLAIM FOR RELIEF

Fraud -- Exxon and Alyeska Defendants

155

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 154 of plaintiffs' first amended consolidated class action complaint.

156 THROUGH 165

With regard to Paragraphs 156 through 165 of plaintiffs' twelfth claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so

LAW OFFICES
RICHMOND & QUINN
A PROFESSIONAL CORPORATION
135 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 16

he is not required to plead in response thereto.

ANSWER TO

THIRTEENTH CLAIM FOR RELIEF

Strict Liability under AS 46.03.822 -- Exxon Defendants

166

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 165 of plaintiffs' first amended consolidated class action complaint.

167 THROUGH 172

With regard to Paragraphs 167 through 172 of plaintiffs' thirteenth claim for relief, answering defendant states that the allegations contained therein are directed at other parties and so he is not required to plead in response thereto.

ANSWER TO

FOURTEENTH CLAIM FOR RELIEF

Strict Liability for Ultra Hazardous Activity

All Defendants Except TAPS

173

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 172 of plaintiffs' first amended consolidated class action complaint.

174 AND 175

With regard to Paragraphs 174 and 175 of plaintiffs' fourteenth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

FIFTEENTH CLAIM FOR RELIEF

Negligent or Intentional Failure to Contain Oil Spill

All Defendants Except TAPS

176

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 175 of plaintiffs' first amended consolidated class action complaint.

177 THROUGH 183

With regard to Paragraphs 177 through 183 of plaintiffs' fifteenth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

SIXTEENTH CLAIM FOR RELIEF

Right to Reimbursement under AS 46.09.060

Municipal Plaintiffs Only vs. All Defendants Except TAPS

184

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 183 of plaintiffs'

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 18

first amended consolidated class action complaint.

185 AND 186

With regard to Paragraphs 185 and 186 of plaintiffs' sixteenth claim for relief, answering defendant is without knowledge and information sufficient to form a belief as to the truth of the allegations contained therein.

187

With regard to Paragraph 187 of plaintiffs' sixteenth claim for relief, answering defendant denies the allegations contained therein.

ANSWER TO

SEVENTEENTH CLAIM FOR RELIEF

Intentional or Negligent Infliction of Emotional Distress

All Defendants Except TAPS

188

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 187 of plaintiffs' first amended consolidated class action complaint.

189 THROUGH 191

With regard to Paragraphs 189 through 191 of plaintiffs' seventeenth claim for relief, answering defendant denies the allegations contained therein.

LAW OFFICES
CHMOND & QUINN
PROFESSIONAL CORPORATION
35 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 19

ANSWER TO
EIGHTEENTH CLAIM FOR RELIEF

Punitive Damages

All Defendants Except TAPS

192

Answering defendant realleges and incorporates herein by reference his answers to Paragraphs 1 through 191 of plaintiffs' first amended consolidated class action complaint.

193

With regard to Paragraph 193 of plaintiffs' eighteenth claim for relief, answering defendant denies the allegations contained therein.

GENERAL DENIAL

194

Answering defendant denies each and every allegation of plaintiffs' complaint not specifically admitted herein, and specifically denies any culpable conduct which would result in plaintiffs' recovery of money damages or other relief from answering defendant.

AFFIRMATIVE AND ADDITIONAL DEFENSES

By way of further answer and by way of:

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 20

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

Plaintiffs lack standing to claim or recover damages based on the allegations of the complaint.

THIRD AFFIRMATIVE DEFENSE

Upon information and belief, some or all of the plaintiffs herein have received payments for economic losses allegedly caused by the oil spill. Answering defendant is entitled to a set off in the full amount of all such payments should plaintiffs be awarded damages.

FOURTH AFFIRMATIVE DEFENSE

Upon information and belief, claims by some persons or entities that may be within the purported classes herein have been settled and released or in the alternative, payments received by such persons or entities operate as an accord and satisfaction of claims against answering defendant.

FIFTH AFFIRMATIVE DEFENSE

Some persons or entities that may be within the purported classes herein have been engaged or employed in connection with activities related to containment and cleanup of the oil released from the EXXON VALDEZ and were thereby able to avoid or mitigate

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 21

damages from the interruption of fishery and other activities. Answering defendant is entitled to a set off in the amount of any such payments against losses, if any, resulting from the interruption of fishery and other activities.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages.

SEVENTH AFFIRMATIVE DEFENSE

To the extent plaintiffs have asserted claims for punitive damages against answering defendant, those claims are unconstitutional under the United State Constitution, including, without limitation, Article I, § 8; Amendment V; and Amendment XIV; and the Alaska Constitution, including, without limitation, Article I, § 7; and Article I, § 12.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' damages were caused in part by the negligence or culpable conduct of other parties not joined as defendants herein.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims sound in maritime tort and are subject to applicable admiralty limits on recovery of damages for remote economic loss unaccompanied by physical injury to person or property.

TENTH AFFIRMATIVE DEFENSE

Numerous persons and entities, some of whom purport to represent or may be among the plaintiffs in this action, have filed lawsuits against answering defendant relating to the oil spill. In the event of any judgment or judgments in such other lawsuits against answering defendant and in favor of persons whose claims are encompassed in these actions, such judgment or judgments will be res judicata as to the claims of such persons herein. Additionally, to the extent there is a recovery in such other lawsuits encompassing claims made by plaintiffs herein, recovery on the claims herein is barred to the extent that it would represent a multiple recovery for the same injury.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims for damages may be barred or reduced by the doctrine of comparative negligence.

TWELFTH AFFIRMATIVE DEFENSE

The nature and amount of liability, if any, 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). Plaintiffs' claims, including claims for punitive damages, are preempted by the comprehensive scheme of Federal statutes and regulations, including its system of criminal and civil penalties, sanctions and remedies relevant to the oil spill, and its scheme

LAW OFFICES
COND & QUINN
SIONAL CORPORATION
RISTENSEN DRIVE
RAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 23

relevant to the protection of subsistence interests.

THIRTEENTH AFFIRMATIVE DEFENSE

To the extent plaintiffs assert claims for punitive damages against answering defendant, such claims are precluded by the Alaska statutory scheme for civil and criminal penalties.

FOURTEENTH AFFIRMATIVE DEFENSE

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 the plaintiffs.

FURTHER AFFIRMATIVE DEFENSES

Defendant reserves the right to assert whatever further affirmative defenses and/or counterclaims that may become available as discovery progresses.

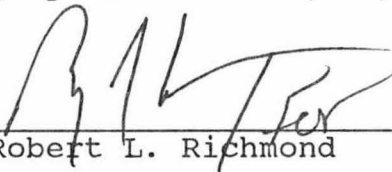
WHEREFORE, having answered plaintiffs' first amended consolidated class action complaint, answering defendant prays that the same be dismissed with prejudice; that he be awarded his costs and attorney's fees incurred in defending this action; and for such other and further relief as the court deems just and equitable.

LAW OFFICES
RICHMOND & QUINN
A PROFESSIONAL CORPORATION
135 CHRISTENSEN DRIVE
ANCHORAGE, AK 99501
(907) 276-5727

ANSWER TO FIRST AMENDED
CONSOLIDATED
CLASS ACTION COMPLAINT
PAGE 24


DATED this 16th day of January, 1990, at Anchorage,
Alaska.

RICHMOND & QUINN
Attorneys for Defendant
Gregory T. Cousins (D-8)

By: 
Robert L. Richmond

I HEREBY CERTIFY that a copy of
the foregoing was mailed this
16th day of January, 1990 to:

Matthew D. Jamin, Esq.


RICHMOND & QUINN