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FILED

MAR 13 1991

UNITED STATES DISTRICT COURT
 DISTRICT OF ALASKA

By _____ Deputy

Attorney for the United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No. A90-015-1CR
	)	No. A90-015-2CR
Plaintiff,	)	
	)	MOTION TO PERMIT FILING
v.	)	OF DOCUMENTS TRANSMITTED
	)	VIA FACSIMILE MACHINE
EXXON CORPORATION AND	)	
EXXON SHIPPING COMPANY,	)	
	)	
Defendants.	)	

Comes Now, the United States of America, plaintiff in the above-captioned case, by and through its attorneys, to move this Court to permit the filing of an original Plea Agreement and a Notice of Intent to Change Plea containing faxed signature pages for the reasons set forth in the attached affidavit of counsel.

Respectfully submitted this 13th day of March, 1991, at Anchorage, Alaska.



CHARLES A. De MONACO
 Assistant Chief
 Environmental Crimes Section
 Department of Justice

ERIC NAGLE
 Trial Attorney
 Environmental Crimes U.S.
 Section

MARK B. HARMON
 Trial Attorney
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MARK R. DAVIS
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(202) 272-9879

Attorney for the United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	No. A90-015-1CR
	)	No. A90-015-2CR
Plaintiff,	)	
	)	AFFIDAVIT OF MARK R. DAVIS
v.	)	IN SUPPORT OF MOTION TO
	)	PERMIT FILING OF DOCUMENTS
	)	TRANSMITTED VIA FACSIMILE
EXXON CORPORATION AND	)	MACHINE
EXXON SHIPPING COMPANY,	)	
	)	
Defendants.	)	

Mark R. Davis, being duly sworn, deposes and states as follows:

1. I am a Special Assistant U.S. Attorney assigned to represent the United States in the above-captioned matter.
2. The United States has agreed to execute a plea agreement with both defendants in the above-captioned case.
3. Counsel for both the government and defendants are located at present in three different cities: Washington, D.C., Tucson, AZ, and Anchorage, AK.
4. To permit all necessary counsel to sign the Notice of Intent to Change Plea and the Plea Agreement, they contain separate signature pages. These signature pages will

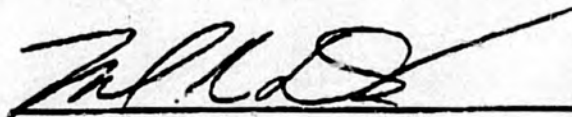
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first be executed in Washington, D.C., then will be transmitted by facsimile machine to Tucson and then faxed to Anchorage.

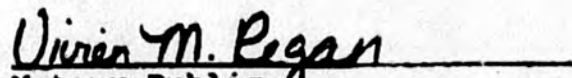
5. Facsimile transmission is the fastest manner available which will permit all counsel to sign the signature page so that the plea agreement can be filed on March 13, 1991.

6. Only the signature pages will be transmitted by facsimile machine. The body of the Notice of Intent to Change Plea and the Plea Agreement are original documents.

Further more, affiant sayeth not.


MARK R. DAVIS

Subscribed and sworn before me on this the 13th day of March, 1991.


Notary Public

My commission expires on 1/21/92.

FILED

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MAR 13 1991

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By _____ Deputy

Attorney for the United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA

Plaintiff,

v.

EXXON CORPORATION

and

EXXON SHIPPING COMPANY,

Defendants.

No. A90-015 CR.

PLEA AGREEMENT

I. INTRODUCTION

This document contains the complete plea agreement between the United States of America, plaintiff in the above-captioned action, and the defendants, EXXON SHIPPING COMPANY ("EXXON SHIPPING") and EXXON CORPORATION ("EXXON").

A. The defendant, EXXON SHIPPING, is charged in Counts One, Two and Three of an indictment filed in the District of Alaska with violations of the Clean Water Act, Title 33, United States Code, Sections 1311(a) and 1319(c)(1)(A); the Refuse

Act, Title 33, United States Code, Sections 407 and 411; and the Migratory Bird Treaty Act, Title 16, United States Code, Sections 703 and 707(a).

B. The defendant, EXXON, is charged in Count Three of an indictment filed in the District of Alaska with a violation of the Migratory Bird Treaty Act, Title 16, United States Code, Sections 703 and 707(a).

C. The defendant, EXXON SHIPPING, agrees to enter a plea of guilty to the Counts in paragraph IA.

D. The defendant EXXON agrees to enter a plea of guilty to the Count in paragraph IB, subject to the factual basis for the plea being that it was oil owned by EXXON, and transported under contract with EXXON SHIPPING, that killed migratory birds, for which EXXON had no permit.

II. DEFENDANTS' AGREEMENT AND UNDERSTANDING

The defendant, EXXON SHIPPING, is represented by James F. Neal, Esq., James F. Sanders, Esq., E. Edward Bruce, Esq., and Robert C. Bundy, Esq. The defendant EXXON, is represented by Patrick Lynch, Esq., Edward J. Lynch, Esq., and John F. Clough, III, Esq. The defendants acknowledge that their attorneys have explained all of the elements of each offense charged against them.

A. If EXXON SHIPPING pled not guilty, the United States would have to prove beyond a reasonable doubt each and every one of the following charges to the unanimous satisfaction of a jury:

1. That on or about March 24, 1989, in the District of Alaska, and elsewhere, the defendant, EXXON SHIPPING, did negligently cause the discharge of pollutants, namely more than ten million gallons of crude oil, from a point source, namely the tank vessel "EXXON VALDEZ," into Prince William Sound, a navigable water of the United States, without a permit, all of which is in violation of and contrary to Title 33, United States Code, Sections 1311(a) and 1319(c)(1)(A).

2. That on or about March 24, 1989, in the District of Alaska, and elsewhere, the defendant EXXON SHIPPING unlawfully did throw, discharge and deposit, and did cause, suffer, and procure to be thrown, discharged and deposited, refuse matter, namely more than ten million gallons of crude oil, from a ship, namely the "EXXON VALDEZ," into Prince William Sound, a navigable water of the United States, without a permit, all in violation of and contrary to Title 33, United States Code, Sections 407 and 411.

3. That on or about March 24, 1989, in the District of Alaska, and elsewhere, the defendant, EXXON SHIPPING, without being permitted to do so by regulation as required by law, did kill migratory birds in violation of Title 16, United States Code, Sections 703 and 707(a) and Title 50, Code of Federal Regulations, Section 21.11.

B. If EXXON pled not guilty, the United States would have to prove the following charge to the unanimous satisfaction of a jury beyond a reasonable doubt:

That on or about March 24, 1989, in the District of Alaska, the defendant EXXON, without being permitted to do so by regulation as required by law, did kill migratory birds in violation of Title 16, United States Code, Sections 703 and 707(a) and Title 50, Code of Federal Regulations, Section 21.11.

C. Legal Basis for the Fines and Restitution Payment

1. The defendants, EXXON SHIPPING and EXXON, agree, solely for the purpose of this plea agreement and for no other purpose, that there is a legal basis with respect to the offenses charged in the indictment for the Court to impose the fines agreed to in paragraph IIIC.

2. The defendants, EXXON SHIPPING and EXXON, agree, solely for the purpose of this plea agreement and for no other purpose, that there is a legal basis for the Court to impose the payment agreed to in paragraph IV as damages recoverable for compensatory and remedial purposes by the State of Alaska.

D. Consequences of the Plea

1. EXXON SHIPPING understands that by pleading guilty to the Counts under paragraph IC, it is admitting the essential elements of the charges in those Counts.

2. EXXON understands that by pleading guilty to the Count under paragraph ID, it is admitting the essential elements of the charge in that Count on the factual basis set forth in paragraph ID.

3. Each defendant understands that by pleading guilty, it gives up the following rights:

- a. The right to be tried by jury;
- b. The right to challenge and object to the composition or procedures of the grand jury; and
- c. The right to confront and cross-examine witnesses.

E. Upon acceptance of the pleas and imposition of sentence by the Court, the United States will immediately move to dismiss Counts 4 and 5 as to EXXON SHIPPING and Counts 1, 2, 4, and 5 as to EXXON.

III. AGREEMENT OF THE PARTIES REGARDING IMPOSITION OF SENTENCE

A. The United States agrees not to seek additional criminal charges or any civil or administrative penalties, except as provided in paragraph IIIB below, against the defendant EXXON, or any of its present or former officers, directors or employees, or any of its wholly-owned subsidiaries, their present or former officers, directors or employees, or against Alyeska Pipeline Service Company or any of its shareholders or owner companies or present or former shareholder representatives, for any violation of federal law arising out of the grounding of the "EXXON VALDEZ," the resulting oil spill, the containment or cleanup of that spill, or its or their conduct in connection with the preparation or submission of oil spill contingency plans or related documents,

by Alyeska Pipeline Service Company to the federal or state government.

B. The parties agree that nothing in this plea agreement limits the right of any agency of the United States, other than the Department of Justice, to seek and take civil or administrative action against EXXON SHIPPING, EXXON, or any other EXXON subsidiaries, or their employees, or against Alyeska Pipeline Service Company, or any of its shareholders or owner companies or present or former shareholder representatives, including any such action relating to suspension or debarment or listing, but not including the civil or administrative penalties referred to in paragraph IIIA.

C. The parties agree, following the entry of pleas by EXXON SHIPPING and EXXON, and the acceptance by the Court thereof, that the defendants shall be sentenced in accordance with the provisions of Rule 11(e)(1)(C), Fed. R. Crim. P., and that under that procedure the appropriate disposition at the time of sentence is the imposition of fines which total \$100 million, as follows:

1. With respect to EXXON SHIPPING, the fine shall be \$75 million.
2. With respect to EXXON, the fine shall be \$25 million.
3. With respect to EXXON SHIPPING, \$37.5 million shall be remitted, and with respect to EXXON, \$12.5 million

shall be remitted. The remission of these amounts is appropriate in view of the following facts:

(a) The defendants recognized their responsibilities with respect to the grounding of the "EXXON VALDEZ" and the resulting oil spill;

(b) The defendants have expended in excess of \$2 billion in response to and clean up of the oil spill in Prince William Sound and its environs;

(c) The defendants have paid in excess of \$300 million to claimants allegedly injured by the oil spill; and

(d) The defendants cooperated in the federal criminal investigation of the grounding of the "EXXON VALDEZ" and the resulting oil spill.

D. The parties agree that the fines described in paragraph IIIC represent the full extent of the criminal sanctions to be imposed upon the defendants pursuant to this agreement, and are in full satisfaction of the criminal charges referred to in the indictment and all criminal charges or claims for civil or administrative penalties referred to in Paragraph IIIA. The payment of \$37.5 million by EXXON SHIPPING and \$12.5 million by EXXON shall fully discharge the criminal sanctions to be imposed pursuant to this agreement.

IV. AGREEMENT OF THE PARTIES REGARDING RESTITUTIONARY PAYMENTS

A. The defendants, EXXON SHIPPING and EXXON, agree to make payments to the State of Alaska which total \$50 million

within 30 days of the acceptance of this plea agreement by the Court. All monies paid by EXXON SHIPPING and EXXON under this paragraph IVA are remedial and compensatory payments. Such monies are to be used by the State of Alaska exclusively for restoration projects relating to the "EXXON VALDEZ" oil spill. Restoration includes restoration, replacement and enhancement of affected resources, acquisition of equivalent resources and services, and long-term environmental monitoring and research programs directed to the prevention, containment, cleanup and amelioration of oil spills.

B. The parties agree that the administration of the monies to be paid under paragraph IVA shall be under the control of the State of Alaska and that upon payment, such monies and any interest which accrues thereon shall be available for use by the State of Alaska for the purposes described in paragraph IVA without objection, challenge, or judicial or administrative review.

C. The parties agree that all payments made under paragraph IVA represent compensation for harm or injury to the State of Alaska. Such payments are intended by the parties to be exclusively remedial, compensatory, and non-punitive and are intended to be separate and distinct from the fines described in paragraph IIIC and from any other criminal, civil, or administrative penalties that could have been imposed upon the defendants.

V. GENERAL PROVISIONS

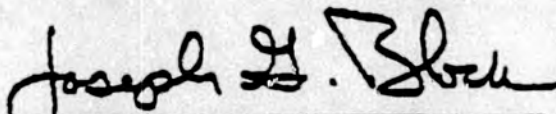
A. EXXON guarantees payment of the fine imposed on EXXON SHIPPING under this plea agreement. In the event that defendant EXXON SHIPPING fails to make timely payment of the fine, EXXON shall, within thirty (30) days of the date of demand, make payment in EXXON SHIPPING's stead.

B. The defendants, EXXON SHIPPING and EXXON, understand that the Court has discretion to accept or reject this plea agreement, and that if the Court rejects the plea agreement or does not dismiss the charges referred to in paragraph IIE, each defendant will be permitted to withdraw its plea of guilty.

C. The parties agree, subject to the decision of the Court, that there is in the record information sufficient to enable the meaningful exercise of sentencing authority, pursuant to Rule 32(c) F.R. Cr. P., and agree that waiver of a presentence investigation and report would be appropriate.

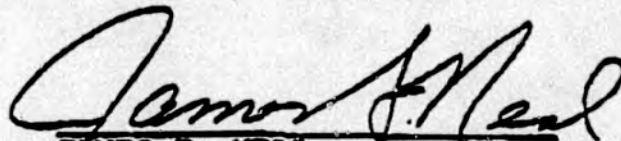
The above-stated terms and conditions comprise the entire plea agreement between the United States of America, defendant EXXON SHIPPING and defendant EXXON, and there are no other terms or conditions, express or implied.

FOR THE UNITED STATES
OF AMERICA:

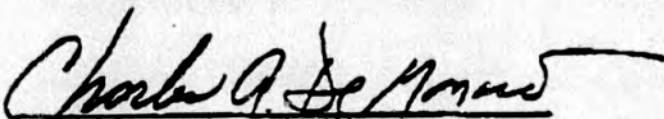


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FOR THE DEFENDANTS:



JAMES F. NEAL
Counsel for Exxon Shipping



CHARLES A. DE MONACO
Assistant Chief

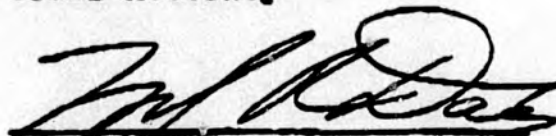


E. EDWARD BRUCE
Counsel for Exxon Shipping



ERIC W. NAGLE
Trial Attorney

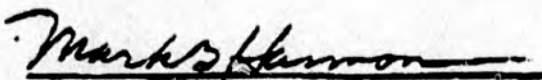
ROBERT C. BUNDY
Counsel for Exxon Shipping



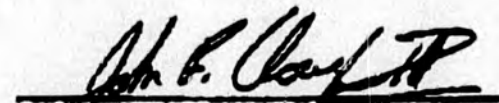
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EDWARD J. LYNCH
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JOHN F. CLOUGH, III
Counsel for Exxon
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DATED THIS 13th day of March, 1991