

October 16, 2015

Honorable H. Russell Holland
U.S. District Court
222 West 7th Ave., #4
Anchorage, AK 99513

RE: violation of 4-17-15 Court Order (Doc. 446) in 3:91-cv-0082-HRH

Dear Judge Holland,

I am writing to alert you to a significant violation of the Court Order issued April 17, 2015, regarding the Exxon Valdez Reopener for Unknown Injury claim, and request that the violation be immediately remedied.

The Court Order denying my March motion to file an amicus brief and present oral argument at the planned hearing, stated (*inter alia*) as follows:

*Professor Steiner may rest assured that if it should come to pass that the parties are in a position to propose the disposition of the potential "re-opener" claim at the September status hearing, **the court will be soliciting public comment.** At that time and in that fashion, Professor Steiner may express his views on whatever is then before the court. (Emphasis added)*

Clearly, the parties proposed a final disposition of the case at the status hearing.

However, the court did not and has not solicited public comment before or at the hearing. As such, this constitutes a significant error, indeed a violation by the Court of its own Order.

I also note that the government parties did not solicit public comment either on this historic decision.

Further, in the 10-06-15 Court Order (Doc. 460) denying my September motion, the court stated as follows:

The court does not expect anything to be before the court at the status conference as to which the court would benefit from input from non-parties.

Subsequent to this Order, the government parties filed on 10-14-15 their Status Report in which they assert they are not pursuing the claim. This action was not before the Court when it issued the 10-06-15 Order.

Steiner-Holland
Page 2.

Further, I note that in the 10-15-15 Status Conference you stated that you lacked a full understanding of many of the scientific and technical details of the government's Status Reports. This is understandable. It is obvious to many of us that counsel representing the parties also lacked an understanding of the full range and relevance of the science. They are lawyers, not scientists.

Thus, in disposing of this historic case, the Court has so far relied solely on the policy determination and interpretation of the science by counsel for the recalcitrant parties themselves. This is clearly not in the Court or public interest.

This is precisely the situation I had anticipated in which the Court would benefit from non-party, expert perspective.

For a case with such public profile and historic importance, the omission of public comment in this final stage constitutes a significant breach in the Court's responsibility to the public, indeed a violation of the Court's own Order.

It is our position that, although the government parties have at this point determined they will not pursue the claim, the ability for them to do so remains open, at least until June 2016.

I respectfully ask that the Court remedy the violation of its 04-17-15 Order, and solicit broad public and expert comment on the government decision, in whatever manner the Court deems most effective.

I look forward to hearing from you on this.

Respectfully,



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cc. via email to counsel for the parties