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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA and  
STATE OF ALASKA,

Plaintiffs,

v.

KUROSHIMA SHIPPING, S.A., and  
UNIQUE TRADING CO., LTD.

Defendants.

No. A02-0057 CV (JWS)

CONSENT DECREE:  
NATURAL RESOURCE DAMAGES

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*APPENDIX A: Draft Restoration Plan and Environmental Assessment for the M/V Kuroshima Oil Spill, Summer Bay, Unalaska, Alaska*

**APPENDIX B: Reimbursements Made By The Responsible Parties To The Natural Resource Trustees For Natural Resource Damage Assessment Activities**

## I. BACKGROUND

A. On or about November 26, 1997 the M/V Kuroshima, a 370-foot refrigerated cargo vessel owned by Kuroshima Shipping, S.A. and operated by Unique Trading Company, Ltd. (collectively, "the Responsible Parties") ran aground at Second Priest Rock in Summer Bay, Unalaska Island, Alaska, said waters constituting navigable waters of the United States. Surf subsequently carried the vessel onto nearby Summer Bay Beach. As a result of the grounding of the vessel, approximately 39,000 gallons of Bunker C fuel oil spilled from the tanks of the M/V Kuroshima into Summer Bay and onto the adjoining shoreline thereof and migrated into the adjacent Summer Bay Lake and Morris and Humpy Coves and onto the adjoining shorelines thereof ("the Kuroshima Spill").

B. Beginning in late November of 1997, the Federal Natural Resource Trustees and the State Natural Resource Trustees <sup>1/</sup> (collectively, "the Natural Resource Trustees"), in consultation with the Qawalangin Tribe of Unalaska, commenced the assessment of natural resource damages, which led to the identification of five categories of natural resources and services injured by the Kuroshima Spill that warrant restoration: (1) birds, (2) shoreline vegetation, (3) shellfish and intertidal biota, (4) salmonids and other Summer Bay Lake resources, and (5) recreational services.

C. The Natural Resource Trustees, in consultation with the Qawalangin Tribe of Unalaska, have developed a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources injured, destroyed, or lost as a result of the Kuroshima Spill and for the restoration, rehabilitation, replacement or acquisition of the equivalent of the lost use of those resources. This plan, entitled *Draft Restoration Plan and Environmental Assessment for the M/V Kuroshima Oil Spill, Summer Bay, Unalaska, Alaska* ("the Restoration Plan"), appears as Appendix A to this *Consent Decree: Natural Resource*

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The terms "Federal Natural Resource Trustees" and "State Natural Resource Trustees" are defined in Section IV below.

*Damages* (“Consent Decree”). The Natural Resource Trustees have proposed to the Responsible Parties a restoration-based settlement of claims by the United States and the State of Alaska for natural resource damages resulting from the Kuroshima Spill. This settlement embodies a commitment by the Natural Resource Trustees to implement the projects identified in the Restoration Plan as the preferred alternatives for restoring, rehabilitating, replacing or acquiring the equivalent of the natural resources injured, destroyed, or lost as a result of the Kuroshima Spill and of the loss of use of those resources (“the Restoration Projects”) and a commitment by the Responsible Parties to fund the Natural Resource Trustees’ implementation of the Restoration Projects. The Responsible Parties have also agreed to reimburse the United States and the State of Alaska for any reasonable, unreimbursed amounts that were expended in assessing the damages to, loss of, destruction of, and the loss of use of natural resources resulting from the Kuroshima Spill.

D. The Responsible Parties have reimbursed the Natural Resource Trustees for some, but not all, of their reasonable costs of assessing natural resource damages resulting from the Kuroshima Spill (“Prior Payments”). A list of these Prior Payments is attached to this Consent Decree as Appendix B.

E. Concurrently with the lodging of this Consent Decree, the United States and the State of Alaska (“Plaintiffs”) have filed an action on behalf of the Federal Natural Resource Trustees and on behalf of the State Natural Resource Trustees, respectively, against Kuroshima Shipping, S.A. and Unique Trading Co., Ltd. (“Defendants”) pursuant to the Oil Pollution Act of 1990 (“OPA”), 33 U.S.C. § 2701 *et seq.*, seeking natural resource damages arising out of the Kuroshima Spill (“the Complaint”).

F. This Consent Decree settles all claims of the Plaintiffs for natural resource damages resulting from the Kuroshima Spill. This Consent Decree expressly does not settle, resolve, or in any way affect, and is wholly without prejudice to, any other claims, rights, actions, and defenses of Plaintiffs for pollution removal costs and other damages resulting

from the Kuroshima Spill, including, but not limited to, any other claims, rights, actions, and defenses arising under OPA, other federal or state statutes, the general maritime law, or otherwise, as against any person, party, or entity, including, but not limited to, Kuroshima Shipping, S.A., Unique Trading Co., Ltd., and the *M/V KUROSHIMA*, *in rem*, said claims and causes of action of Plaintiff United States being expressly subject to that certain "TOLLING AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND KUROSHIMA SHIPPING, S.A., AND UNIQUE TRADING CO., LTD." (the "Tolling Agreement"), effective November 21, 2000, and further expressly subject to any extensions, amendments, or modifications of said Tolling Agreement.

G. In addition to the provisions of the foregoing paragraph, this Consent Decree expressly does not settle, resolve, or in any way affect, and is wholly without prejudice to, any and all claims, rights, actions and defenses of Kuroshima Shipping, S.A. and Unique Trading Co., Ltd. arising out of the Kuroshima Spill, including, without limitation, their claim for reimbursement from the Oil Spill Liability Trust Fund submitted to the National Pollution Funds Center of the United States Coast Guard ("NPFC") in a letter to Linda F. Burdette from Herbert H. Ray, Jr. dated November 22, 2000 ("Claim For Reimbursement"). Conversely, this Consent Decree is wholly without prejudice to any and all claims, rights, actions, and defenses of the United States with respect to said Claim For Reimbursement.

H. The United States, the State of Alaska, Kuroshima Shipping, S.A., and Unique Trading Co., Ltd. (collectively, "the Parties") agree that the settlement embodied in this Consent Decree is fair, reasonable, in the public interest, and in furtherance of the statutory goals of the statute under which this action was brought and that its adoption will avoid difficult, prolonged and complicated litigation among them regarding natural resource damages arising out of the Kuroshima Spill.

I. The Court, having carefully reviewed the terms of this Consent Decree and all Appendices hereto, together with all other information in its docket, finds that the terms of

the Consent Decree are fair, reasonable, and further the goals of the statutes upon which the claims in the Complaint are based.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter and over the Parties to this action pursuant to 28 U.S.C. §§ 1331, 1333, and 1345 and pursuant to 33 U.S.C. § 2717(b). Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 33 U.S.C. § 2717(b). Plaintiffs' Complaint in this action states claims upon which relief may be granted. Solely for the purposes of this Consent Decree and its enforcement and Plaintiffs' Complaint, Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District and shall not challenge this Court's jurisdiction to enter and enforce this Consent Decree. The Parties agree to be bound by the terms of this Consent Decree and not to contest its validity in any subsequent proceeding arising from it.

## **III. PARTIES BOUND**

2. Except as expressly provided otherwise, this Consent Decree shall apply to and be binding upon and inure to the benefit of the United States, the State of Alaska, Kuroshima Shipping, S.A. and Unique Trading Co., Ltd. and to Defendants' successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Defendants under this Decree.

## **IV. DEFINITIONS**

3. Unless otherwise provided herein, whenever terms that are defined in the OPA or in regulations promulgated under OPA are used in this Consent Decree, they shall have the meaning assigned to them in OPA or in such regulations. Whenever terms listed below are used in this Consent Decree, the following definitions shall apply:

*Consent Decree* shall mean this *Consent Decree: Natural Resource Damages* and all appendices attached hereto. In the event of a conflict between this Consent Decree and any appendix, this Consent Decree shall control.

*Day* shall mean a calendar day.

*Defendants* shall mean Kuroshima Shipping, S.A., Unique Trading Co., Ltd. and their successors and assigns, except that in Paragraphs 8, 9 and 11, the term "Defendants" shall be expanded to include the agents and employees of Kuroshima Shipping, S.A. and Unique Trading Co., Ltd., to the extent that their respective claims, defenses and liabilities arise out of acts taken in their official capacities as agents or employees of Kuroshima Shipping, S.A. and Unique Trading Co., Ltd. and to include The Japan Ship Owners' Mutual Protection & Indemnity Association and The Shipowners Insurance and Guaranty Company, Ltd.

*Department of Justice* shall mean the United States Department of Justice.

*DoI* shall mean the United States Department of the Interior.

*Effective Date* shall mean the date on which this Consent Decree is entered by the Court. In the event that the date of entry by the Court precedes the date of filing by the Clerk of Court, the later date shall serve as the Effective Date.

*Federal Natural Resource Trustees* shall mean NOAA and DoI.

*Kuroshima Spill* shall mean the incident on and after November 26, 1997 during which approximately 39,000 gallons of oil was discharged from the tanks of the *M/V Kuroshima* as a result of its grounding at Second Priest Rock in Summer Bay, Unalaska Island, Alaska into Summer Bay and onto the adjoining shoreline thereof and into Summer Bay Lake and Morris and Humpy Coves and onto the adjoining shorelines thereof.

*Natural Resource Trustees* shall mean the Federal Natural Resource Trustees and the State Natural Resource Trustees as those terms are defined elsewhere in this Section.

*NOAA* shall mean the National Oceanic and Atmospheric Administration of the United States Department of Commerce.

*NPFC* shall mean the National Pollution Funds Center of the United States Coast Guard.

*Paragraph* shall mean a portion of this Decree identified by an arabic numeral or an upper case letter.

*Parties* shall mean the United States, the State of Alaska, Kuroshima Shipping, S.A., and Unique Trading Co., Ltd.

*Plaintiffs* shall mean the United States and the State of Alaska.

*Prior Payments* shall mean payments made by the Defendants, prior to the date this Consent Decree is lodged with the Court, to the Natural Resource Trustees to reimburse them for reasonable costs incurred to assess natural resource damages. Such Prior Payments are specifically identified in Appendix B. The term "Prior Payments" does not include previous payments made by the Defendants to the NPFC to reimburse it for payments it has made to the Natural Resource Trustees.

*Reasonable Assessment Costs* shall have the meaning ascribed to that term by 15 C.F.R. § 990.30.

*Restoration Plan* shall mean the *Draft Restoration Plan and Environmental Assessment for the M/V Kuroshima Oil Spill, Summer Bay, Unalaska, Alaska*. The Restoration Plan appears as Appendix A to this Consent Decree.

*Restoration Projects* shall mean those activities identified in the Restoration Plan as the preferred alternatives for restoring, rehabilitating, replacing or acquiring the equivalent of the natural resources injured, destroyed, or lost as a result of the Kuroshima Spill and of the loss of use of those resources.

*Section* means a portion of this Decree identified by a Roman numeral.

*State* shall mean the State of Alaska.



*State Natural Resource Trustees* shall mean the Alaska Department of Fish and Game, the Alaska Department of Natural Resources, and the Alaska Department of Law.

*United States* shall mean the United States of America.

#### **V. OBJECTIVES**

4. The objectives of the Parties in entering into this Consent Decree are to provide for:  
a) the funding by the Defendants of the Natural Resource Trustees' implementation of the Restoration Plan; and b) the continued reimbursement to the Natural Resource Trustees by the Defendants of any unreimbursed Reasonable Assessment Costs incurred in assessing natural resource damages resulting from the Kuroshima Spill.

#### **VI. PAYMENT OF NATURAL RESOURCE DAMAGES**

##### **5. Past Assessment Costs**

a. The Natural Resource Trustees stipulate that all Prior Payments were for Reasonable Assessment Costs incurred by them to assess natural resource damages resulting from the Kuroshima Spill.

b. Within thirty days of the Effective Date, Defendants shall pay \$57,145.57 as Past Assessment Costs incurred by NOAA on or before July 14, 2001 by Fedwire Electronic Funds Transfer to the Department of Justice in accordance with instructions provided to them by the Financial Litigation Unit of the Office of the United States Attorney for the District of Alaska following entry of this Consent Decree. Any payments received after 4:00 p.m. Eastern Time shall be credited on the next business day. This transfer shall refer to United States Attorney's Office TALON File # 2001Z0094/00, Department of Justice Case Number 90-5-1-1-06147. It shall also state that it is made in reimbursement of Past Assessment Costs incurred in connection with the Kuroshima Spill at Summer Bay, Alaska and refer to Kuroshima Oil Spill Account # RK3B97. Defendants shall provide notice of this payment to the Department of Justice and to NOAA as provided in Section IX and to:

NOAA/NOS/OR&R  
ATTN: Kathy Salter, DARRF Manager  
1305 East West Highway  
SSMC 4, Room 9331  
Silver Spring, Maryland 20910-3281

c. Defendants shall reimburse NOAA for all Reasonable Assessment Costs incurred during the period commencing on July 15, 2001 and ending on the Effective Date. Within sixty days after the Effective Date, NOAA will submit a bill to the Defendants setting forth such costs. Defendants shall pay the undisputed portion of the amount appearing in said bill within thirty days of receipt thereof. Defendants shall make the payment(s) required by this subparagraph in the same manner, including notification, as that required of the payment referred to in subparagraph b of this Paragraph. Defendants shall include with the payment of the undisputed portion of said bill a notice to NOAA and the Department of Justice identifying any amounts of said bill that they dispute and the reasons therefor. Any such disputes shall first be the subject of informal negotiations between NOAA and the Defendants for a period of thirty days following NOAA's receipt of said notice. Defendants shall pay the amounts agreed upon during said negotiation within ten days. If any disputes regarding NOAA's bill remain, the United States may petition the Court for resolution.

d. Within thirty days of the Effective Date, Defendants shall pay \$9,012.52 as Past Assessment Costs incurred by DoI on or before February 28, 2001 by Fedwire Electronic Funds Transfer to the Department of Justice in accordance with instructions provided to them by the Financial Litigation Unit of the Office of the United States Attorney for the District of Alaska following entry of this Consent Decree. Any payments received after 4:00 p.m. Eastern Time shall be credited on the next business day. This transfer shall refer to United States Attorney's Office TALON File # 2001Z0094/001 and Department of Justice Case Number 90-5-1-1-06147. It shall also state that it is made in reimbursement of Past Assessment Costs incurred in connection with the Kuroshima Spill at Summer Bay,

Alaska. Defendants shall provide notice of this payment to the Department of Justice and to DoI as provided in Section IX and to:

United States Department of the Interior  
Natural Resource Damage Assessment and Restoration Program  
Attn: Restoration Fund Manager  
1849 C Street, N.W., Mail Stop 4449  
Washington, D.C. 20240

This notice shall refer to account number 14X5198 (NRDAR), *United States v. Kuroshima Shipping, S.A.*, and Spill Site -- Summer Bay, Alaska. This payment shall also identify the Defendant(s) on whose behalf the payment is made.

e. Defendants shall reimburse DoI for all Reasonable Assessment Costs incurred during the period commencing on March 1, 2001 and ending on the Effective Date. Within sixty days after the Effective Date, DoI will submit a bill to Defendants setting forth such costs. Defendants shall pay the undisputed amount appearing in said bill within thirty days of receipt thereof. Defendants shall make the payment required by this subparagraph in the same manner, including notification, as that required of the payment referred to in subparagraph d of this Paragraph. Defendants shall include with the payment of the undisputed portion of said bill a notice to DoI and the Department of Justice identifying any amounts of said bill that they dispute and the reasons therefor. Any such disputes shall first be the subject of informal negotiations between DoI and the Defendants for a period of thirty days following DoI's receipt of said notice. Defendants shall pay the amounts agreed upon during said negotiation within ten days. If any disputes regarding DoI's bill remain, the United States may petition the Court for resolution.

f. Defendants shall reimburse the State of Alaska for all Reasonable Assessment Costs incurred during the period commencing on May 25, 2001 and ending on the Effective Date. The State of Alaska will submit a bill to Defendants setting forth such costs. Defendants shall pay the undisputed portion of the amount appearing in said bill within thirty days of receipt thereof. Payment to the State shall be made by hand delivery

of a check made payable to the State of Alaska to undersigned counsel for the State. Defendants shall include with the payment of the undisputed portion of said bill a notice to the State identifying any amounts of said bill that they dispute and the reasons therefor. Any such disputes shall first be the subject of informal negotiations between the State and the Defendants for a period of thirty days following the State's receipt of said notice. Defendants shall pay the amounts agreed upon during said negotiation within ten days. If any disputes regarding the State's bill remain, the State may petition the Court for resolution.

**6. Restoration Funds**

a. Within thirty days after the Effective Date, or within fifteen days of receipt of instructions from DoI pursuant to subparagraph b of this Paragraph, whichever is later, Defendants shall pay \$644,017.00 to the Natural Resource Trustees as Restoration Funds in the manner specified below. These monies are to be used by the Natural Resource Trustees for the design, permitting, implementation and monitoring of the Restoration Projects. The Natural Resource Trustees retain the ultimate authority and responsibility to use the Restoration Funds in accordance with OPA, this Consent Decree, other relevant federal or state law and the regulations governing use of recoveries for natural resource damages. The Natural Resource Trustees shall execute a memorandum of agreement identifying the procedures by which they will decide how the Restoration Funds shall be allocated in order to achieve implementation of the Restoration Plan. Expenditures of the Restoration Funds shall be made upon unanimous consent of the Natural Resource Trustees.

b. Defendants shall deposit the Restoration Funds in the Kuroshima Summer Bay Account via an Electronic Funds Transfer through the Automated Clearing House in accordance with instructions to be provided by DoI within fifteen days of the Effective Date. A copy of the paperwork documenting this deposit and any accompanying correspondence shall be sent to the United States and to the State in accordance with Section IX and to:

Bob White  
DOI Restoration Fund  
NBC/Division of Financial Management Services  
Branch of Accounting Operations  
7301 W. Mansfield Avenue D-2960  
Denver, Colorado 80235-2230

United States Department of the Interior  
Natural Resource Damage Assessment and Restoration Program  
Attn: Restoration Fund Manager  
1849 C Street, N.W., Mail Stop 4449  
Washington, D.C. 20240

NOAA/NOS/OR&R  
ATTN: Kathy Salter, DARRF Manager  
1305 East West Highway  
SSMC 4, Room 9331  
Silver Spring, Maryland 20910-3281

c. DoI shall assign these funds a special project number to allow the funds to be maintained as a segregated account (“the Kuroshima Summer Bay Account”) within its Natural Resource Damage Assessment and Restoration Fund. DoI shall, in accordance with law, manage and invest these funds and return on investments of or interest accrued on said funds in the Kuroshima Summer Bay Account for use by the Natural Resource Trustees in connection with the implementation of the Restoration Projects. DoI shall not make any charge against the Kuroshima Summer Bay Account for investment or management services provided.

d. Within thirty days after the Effective Date, Defendants shall deposit \$9,000.00 into the registry of the United States District Court for the District of Alaska in accordance with Local Rule 67.1. This amount shall remain in the registry of the Court until Plaintiffs notify the Court either that it should be paid to one of the Natural Resource Trustees to supplement the Restoration Funds applied to the field component of the Restoration Project for Vegetation or that it should be returned to the Defendants. Such notice shall contain payment instructions acceptable to the Clerk of the Court.

e. The Natural Resource Trustees retain the ultimate authority and responsibility for using the Restoration Funds in accordance with the provisions of OPA, this

Consent Decree, other relevant federal or state law, and the regulations promulgated by NOAA governing use of recoveries for natural resource damages appearing at 15 C.F.R. Part 990, Subpart F. This authority shall include the authority to select substitute project(s) if one or more of the Restoration Projects proves infeasible. If the Restoration Funds are insufficient to complete implementation of the Restoration Projects, this Consent Decree shall not be construed to require the Natural Resource Trustees to expend additional funds to complete the Restoration Projects.

7. Late Payments -- In the event that Defendants fail to make timely payments of any amounts required under either Paragraph 5 or Paragraph 6, they shall pay interest on the unpaid balance at the rate specified in 28 U.S.C. § 1961 in accordance with instructions from the Financial Litigation Unit of the Office of the United States Attorney for the District of Alaska or the Alaska Department of Law, as appropriate. The interest shall be calculated from the first day following the date payment is due through the date that the entire outstanding balance is received. Defendants shall also pay a penalty of \$500 per day for each day that a payment required under either Paragraph 5 or Paragraph 6 is late in accordance with instructions from the Financial Litigation Unit of the Office of the United States Attorney for the District of Alaska and/or the Alaska Department of Law, as appropriate. Penalties owing for the late payment of either of the amounts specified in Paragraph 6 shall be divided equally between the United States and the State.

## VII. COVENANTS

8. In consideration of the payments to be made by Defendants pursuant to this Consent Decree, Plaintiffs covenant not to sue, assert any claim or setoff defense, or take any administrative action against Defendants for, based upon, or arising out of natural resource damages resulting from the Kuroshima Spill, including those arising under the general maritime law, state or federal common law or state statutes. This Covenant Not To Sue is conditioned upon the payment by Defendants of all amounts owed under this Consent

Decree, including any penalties and/or interest applicable to late payments. This Covenant Not To Sue applies only to the Kuroshima Spill. This Covenant Not to Sue does not affect any other claims, rights, actions and defenses of the Plaintiffs. Plaintiffs expressly reserve all such claims, rights, actions and defenses, including, but not limited to, those identified in Paragraphs F and G of Section I above, and Section VIII below, including, but not limited to, Paragraphs 11 and 12 of Section VIII, all of which said Paragraphs F and G of Section I and Paragraphs 11 and 12 of Section VIII are incorporated as though fully set forth herein.

9. Defendants agree not to raise as a defense or assert in any other manner, in any proceeding brought on behalf of the United States or the State that seeks recovery of costs, damages and/or expenses of any sort arising out of the Kuroshima Spill, other than costs, damages and/or expenses subject to the Covenant Not to Sue set forth above, that the United States or the State did not include such claims in the Complaint. Plaintiffs agree not to raise as a defense, or assert in any manner, in any proceeding in which Defendants assert claims against Plaintiffs relating to the Kuroshima Spill, that Defendants failed to assert such claims against Plaintiffs in this action, or to raise them in the form of a defense, such as setoff.

10. Upon the Effective Date, this Consent Decree shall operate to apply the monies paid on behalf of Defendants toward the bills submitted to them by the NPFC in connection with the Kuroshima Spill first to costs incurred for the initiation of the Natural Resource Trustees' assessment of natural resource damages ("Initiate Costs") and then to removal costs, except that the total amount of such Initiate Costs shall be reduced by \$17,209.43.

#### **VIII. RESERVATIONS OF RIGHTS**

11. The Covenants Not To Sue set forth in the preceding Section do not pertain to any matters other than those expressly specified therein. Plaintiffs expressly reserve, and this Consent Decree is without prejudice to, all rights against Defendants with respect to all other matters. Except as provided in Section VII (Covenants), nothing contained herein shall in any way limit or restrict the response and enforcement authority of either of the Plaintiffs to

initiate or continue appropriate action, either judicial or administrative, with respect to any claim not expressly alleged in Plaintiffs' Complaint, including but not limited to the following:

- a. claims based upon a failure of Defendants to meet the requirements of this Consent Decree;
- b. claims based upon criminal liability;
- c. claims of the State for reimbursement of costs related to response and cleanup incurred after May 25, 2001; and
- d. any and all claims, rights, actions and defenses of the Plaintiffs with respect to the claims, rights, actions and defenses set out and expressly reserved in Paragraphs F and G of Section I of this Consent Decree, said Paragraphs incorporated as though fully set forth herein.

12. Except as expressly stated in this Consent Decree, each of the Parties reserves against any person not a party to this Consent Decree all rights, claims, or defenses available to it arising out of or relating to the Kuroshima Spill.

13. Nothing in this Consent Decree creates, nor shall it be construed as creating, any rights or claims in favor of any person not a Party to this Consent Decree. Nothing in this Consent Decree shall be construed as limiting, barring, or otherwise prejudicing claims Defendants may have for insurance, contribution, and/or indemnification arising from this settlement against any person not a Party to this Consent Decree.

#### **IX. NOTICES AND SUBMISSIONS**

14. Except as otherwise provided herein, if written notice or submission is required to be given by one Party to another Party or entity for any reason, it shall be directed to the individuals and addresses specified below, unless the individuals specified or their successors give notice, in writing, to the other Parties that notice or submission should be directed to a different individual or address. All notices to the United States and the State of Alaska shall



refer to *United States v. Kuroshima Shipping, S.A. et al.*, No. A02-0057 CV (JWS) (D. Alaska), and, in the case of notices to the United States, shall refer also to the Department of Justice file number 90-5-1-1-06147.

**Notice and submissions to the United States:**

(Notices and submissions to the United States shall be sent to all persons listed under this subheading. Notices and submission to the Department of Justice shall be sent to the persons denoted with a \*. Notices and submissions to NOAA shall be sent to the person denoted with a \*\*. Notices and submissions to DoI shall be sent to the person denoted with a \*\*\*)

\* Chief, Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611 Ben Franklin Station  
Washington, D.C. 20044-7611

\* Gina R. Belt  
U.S. Department of Justice  
801 B Street Suite 504  
Anchorage, Alaska 99501-3657

\*\* Kirsten Erickson  
National Oceanic & Atmospheric Administration  
Office of the General Counsel – Northwest  
7600 Sand Point Way N.E., Building #1  
Seattle, Washington 98115-6349

\*\*\* Kathryn Keenan  
Office of the Regional Solicitor  
U.S. Department of the Interior  
4230 University Drive, Suite 300  
Anchorage, Alaska 99508-4626

**Notices and submissions to the State of Alaska**

Alex M. Swiderski  
Assistant Attorney General  
Alaska Department of Law  
1031 West Fourth Avenue Ste. 200  
Anchorage, Alaska 99501-1994

**Notices and submissions to the Defendants**

Herbert H. Ray, Jr.  
Keesal, Young & Logan  
1029 West Third Avenue, Sixth Floor  
Anchorage, Alaska 99501-1954

**X. MISCELLANEOUS**

15. The Natural Resource Trustees agree to perform their obligations under this Consent Decree in consultation with the Qawalangin Tribe of Unalaska. Nothing in this Consent Decree shall be construed to augment or diminish the existing obligations of the Natural Resource Trustees to consult with the Qawalangin Tribe of Unalaska.

16. This Consent Decree constitutes the entire agreement among the Parties with regard to the subject matter hereof.

#### **XI. MODIFICATION**

17. Minor modifications not materially altering this Consent Decree may be effected by the written agreement of the Parties. No other modifications of this Consent Decree may be made unless the Parties agree in writing to the modification and the Court approves of the requested modification.

#### **XII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

18. This Consent Decree shall be lodged with the Court for a period of not less than thirty days during which the United States will make the Consent Decree available for public review and accept comments thereon. The United States and the State reserve the right to withdraw consent to this Consent Decree if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate. Defendants consent to the entry of this Consent Decree without further notice.

19. If for any reason the Court declines to approve this Consent Decree in the form presented, this agreement is voidable at the discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between any two or more of the Parties.

20. Defendants shall identify, on the attached signature page, the name, address and telephone number of (an) agent(s) who is/are authorized to accept service of process by mail on behalf of Defendants with respect to all matters arising under or relating to this Consent Decree. Defendants hereby agree to accept service of the Complaint in this matter from the Plaintiffs in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons with the Complaint. Said

waiver of formal service is limited to service on behalf of Plaintiffs for the claims covered in this Consent Decree. Said waiver expressly does not apply to any other party or, with respect to the United States or the State of Alaska, to claims other than those covered by this Consent Decree.

### **XIII. SIGNATORIES**

21. The Attorney General of the State of Alaska, the Deputy Section Chief of the Environmental Enforcement Section of the Environment & Natural Resources Division of the Department of Justice, and the undersigned representative(s) of Defendants each certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind to this Consent Decree the Party or Parties he or she represents. The Parties agree that this Consent Decree may be executed in counterparts.

### **XIV. CONTINUING JURISDICTION**

22. The Court retains jurisdiction to enforce the terms of this Consent Decree. The Parties retain the right to seek to enforce the terms of this Consent Decree and take any action authorized by federal or state law not inconsistent with its terms to achieve or maintain compliance with the terms and conditions hereof.

### **XV. TERMINATION**

23. Upon the complete satisfaction of all of the requirements of this Consent Decree, and after at least sixty days' written notice to the Plaintiffs, Defendants may move this Court for a termination of this Consent Decree if they do not receive confirmation of its termination from the representatives of both the Department of Justice and the Alaska Department of Law. If the Court determines that Defendants have satisfied all of their obligations hereunder, the Court may terminate this Consent Decree.

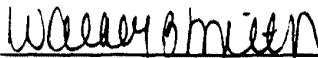
Dated and entered this 22 day of May, 2002.

  
HONORABLE ~~JAMES H. [unclear]~~  
United States District Judge

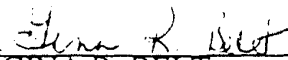
WE HEREBY CONSENT to the entry of this *Consent Decree: Natural Resource Damages in United States v. Kuroshima Shipping, S.A. and Unique Trading Co., Ltd.* in the United States District Court for the District of Alaska.

**FOR THE UNITED STATES OF AMERICA:**

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
WALKER B. SMITH, Principal Deputy Chief  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
1425 New York Avenue, N.W.  
Washington, D.C. 20530

Dated: 05 March 2008

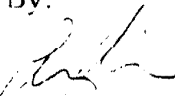
  
\_\_\_\_\_  
REGINA R. BELT  
Environmental Enforcement Section  
Environment & Natural Resources Division  
U.S. Department of Justice  
801 B Street Suite 504  
Anchorage, Alaska 99501-3657

**FOR THE STATE OF ALASKA:**

Dated: March 5, 2008

BRUCE M. BOTELHO  
Attorney General  
State of Alaska


By:

  
\_\_\_\_\_  
ALEX M. SWIDERSKI  
Assistant Attorney General  
1031 West Fourth Avenue Ste. 200  
Anchorage, Alaska 99501-1994

WE HEREBY CONSENT to the entry of this *Consent Decree: Natural Resource Damages in United States v. Kuroshima Shipping, S.A. and Unique Trading Co., Ltd.* in the United States District Court for the District of Alaska.

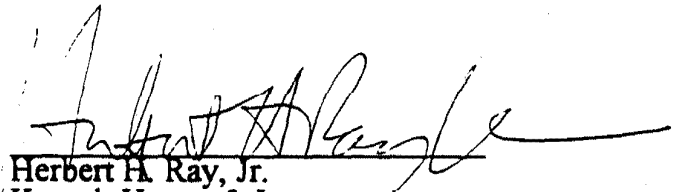
**FOR KUROSHIMA SHIPPING, S.A.**

Dated: January 14, 2002

  
Herbert H. Ray, Jr.  
Keesal, Young & Logan  
1029 West Third Avenue, Sixth Floor  
Anchorage, Alaska 99501-1954  
Telephone: (907) 279-9696  
Facsimile: (907) 279-4239

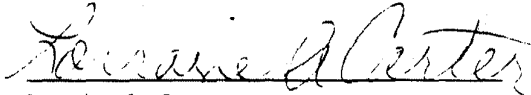
**FOR UNIQUE TRADING CO., LTD.**

Dated: January 14, 2002

  
Herbert H. Ray, Jr.  
Keesal, Young & Logan  
1029 West Third Avenue, Sixth Floor  
Anchorage, Alaska 99501-1954  
Telephone: (907) 279-9696  
Facsimile: (907) 279-4239

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 18<sup>th</sup> day of March, 2002  
a copy of the foregoing CONSENT DECREE: NATURAL  
RESOURCE DAMAGES was served by hand delivery to  
Herbert H. Ray, Jr. at Keesal, Young & Logan, 1029  
West Third Avenue, Sixth Floor, Anchorage, Alaska  
99501.



Lorraine A. Carter

PAYMENT DETAIL OF NRDA RELATED PAYMENTS

<u>Vendor</u>	<u>Date Paid</u>	<u>Amount Paid</u>	<u>Total</u>
Department of Interior	04/10/01	<u>7,929.61</u>	7,929.61
NOAA Finance Services	11/04/98	17,078.97	
NOAA Finance Services	02/17/00	140,071.10	
NOAA Finance Services	05/25/00	10,731.23	
NOAA Finance Services	05/25/00	6,116.07	
NOAA Finance Services	10/12/00	16,753.03	
NOAA Finance Services	04/10/01	120,240.79	
NOAA Finance Services	08/09/01	16,173.00	
NOAA Finance Services	08/31/01	18,119.06	
NOAA Finance Services	10/16/01	<u>46,254.68</u>	391,537.93
State of Alaska	09/02/98	11,119.19	
State of Alaska	10/16/98	767.14	
State of Alaska	12/18/98	1,963.49	
State of Alaska	07/27/99	13,707.94	
State of Alaska	05/30/01	15,000.00	
State of Alaska	10/16/01	<u>51,967.86</u>	94,525.62
Total		<u><u>493,993.16</u></u>	<u><u>493,993.16</u></u>