No. 128, Original

In the Supreme Court of the United States

STATE OF ALASKA, PLAINTIFF

v.

UNITED STATES OF AMERICA

ON BILL OF COMPLAINT

ANSWER TO AMENDED COMPLAINT

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The United States of America, by its Acting Solicitor General, for its Answer to plaintiff State of Alaska's Amended Complaint to Quiet Title, admits, denies, and alleges as follows:

1. The allegations of paragraph 1 of the Amended Complaint are admitted, subject to the affirmative averment that numerous areas of tide and submerged lands, within the bounds described in paragraph 1 of the Complaint, are retained by the United States for purposes other than inclusion as part of the Tongass National Forest or Glacier Bay National Park and Preserve, and the title to such areas is not at issue in this proceeding.

2. The allegations of paragraph 2 of the Amended Complaint are admitted.

3. The first sentence of paragraph 3 of the Amended Complaint is a legal conclusion for which no response is required. The allegations contained in the second sentence of paragraph 3 are admitted, subject to the affirmative averment that numerous withdrawals, res-

ervations, and other federal appropriations, which may include tide and submerged lands and lie within the boundaries described in paragraph 1, were not the subject of any notice of intent to sue. Title to those areas is not at issue in this litigation.

Count I: Historic Waters of the Alexander Archipelago

4. Paragraph 4 of the Amended Complaint is a conclusion of law for which no response is required.

5. The allegations of paragraph 5 of the Amended Complaint are admitted.

6. Paragraph 6 of the Amended Complaint is a conclusion of law for which no response is required.

7. The allegations of the first sentence of paragraph 7 of the Amended Complaint are denied. With respect to the allegations in the second sentence of paragraph 7, the United States admits that Exhibit 1 to Alaska's Amended Complaint presents a general depiction of certain areas at issue here.

8. The allegations of paragraph 8 of the Amended Complaint are denied.

9. The allegations of paragraph 9 of the Amended Complaint are denied.

10. The allegations of paragraph 10 of the Amended Complaint are denied.

11. Paragraph 11 of the Amended Complaint is a conclusion of law for which no response is required.

12. Section 6(m) of the Alaska Statehood Act speaks for itself and no other response to the allegation contained in paragraph 12 of the Amended Complaint is required.

13. Paragraph 13 of the Amended Complaint is a conclusion of law for which no response is required.

14. The allegations contained in the first sentence of paragraph 14 of the Amended Complaint are admitted, except that the United States has insufficient knowledge upon which to form a belief as to the truth of the allegations that the United States drew the closing lines described in that sentence. With respect to the second sentence of paragraph 14, the United States admits only that the areas at issue are generally depicted in Exhibit 1 to Alaska's submission.

15. The allegations of paragraph 15 of the Amended Complaint are denied.

16. The allegations of paragraph 16 of the Amended Complaint are admitted.

17. The allegations of paragraph 17 of the Amended Complaint are admitted.

18. The allegations of paragraph 18 of the Amended Complaint are admitted.

19. The allegations of paragraph 19 of the Amended Complaint are admitted.

20. The allegations of paragraph 20 of the Amended Complaint are denied.

21. The allegations of paragraph 21 of the Amended Complaint are denied. Alaska has no title to the described submerged lands. The United States acknowledges that Alaska's *claim of title* is adverse to and is clouded by the title of the United States.

22. The allegations of paragraph 22 of the Amended Complaint are denied.

Count II: The Juridical Bay Status of the Waters of the Alexander Archipelago

23. The allegations of paragraphs 1-6, 11-13, and 16-19 of the Amended Complaint are responded to as set out above.

24. The allegations of paragraph 24 of the Amended Complaint are admitted.

25. The allegations of paragraph 25 of the Amended Complaint are denied.

26. The allegations of paragraph 26 of the Amended Complaint are denied.

27. The allegations of paragraph 27 of the Amended Complaint are denied.

28. The allegations of paragraph 28 of the Amended Complaint are denied.

29. The allegations of paragraph 29 of the Amended Complaint are denied.

30. With respect to the allegations of paragraph 30 of the Amended Complaint, the United States admits only that in measuring the area of indentation for purposes of applying the semicircle test, certain islands may be treated as part of the water area. The United States denies that the waters referred to are bays and denies the allegations of the final sentence of paragraph 30.

31. With respect to the allegations of paragraph 31 of the Amended Complaint, the United States admits that each of the areas described as a "bay" appears to contain minor water bodies which meet the requirements for inland water status. The United States denies that the entire water areas claimed by the State of Alaska, and depicted on Exhibit 2, are juridical bays. The United States further denies that any overlarge juridical bay exists in the area in dispute so as to justify the construction of 24 mile fall-back closing lines. The United States denies the allegations in the final sentence of paragraph 31.

32. The allegations of paragraph 32 of the Amended Complaint are denied.

33. The allegations of paragraph 33 of the Amended Complaint are denied.

34. The allegations of paragraph 34 of the Amended Complaint are denied.

35. The allegations of paragraph 35 of the Amended Complaint are denied.

36. With respect to the allegations of paragraph 36 of the Amended Complaint, the United States admits that each of the areas described as a "bay" appears to contain minor water bodies which meet the requirements for inland water status. The United States denies that the entire water area described by the State of Alaska as "South Southeast" is a juridical bay or combination of juridical bays.

37. With respect to the allegations of paragraph 37 of the Amended Complaint, the United States admits that it claims interests in submerged lands on both sides of the lines described in that paragraph. The United States denies that the lines described closed water areas which qualify as juridical bays.

38. The allegations of paragraph 38 of the Amended Complaint are denied.

39. The allegations of the first sentence of paragraph 39 of the Amended Complaint are admitted, except, the United States has insufficient information upon which to base a response to the allegation that the submerged lands extending three miles seaward of the alleged closing line of Cordova Bay are within the outer boundaries of the Tongass National Forest. The allegations of the second sentence of paragraph 39 are denied.

40. The allegations of paragraph 40 of the Amended Complaint are denied. Alaska has no title to the described submerged lands. The United States acknowl-

edges that Alaska's claim of title is adverse to and is clouded by the title of the United States.

41. The allegations of paragraph 41 of the Amended Complaint are denied.

Count III: The Tongass National Forest

42. The allegations of paragraphs 1-6, 11-13 and 16-19 of the Amended Complaint are responded to as set out above.

43. The allegations of paragraph 43 of the Amended Complaint are denied.

44. The allegations of paragraph 44 of the Amended Complaint are denied.

45. The allegations of paragraph 45 of the Amended Complaint are denied.

46. With respect to paragraph 46 of the Amended Complaint, the United States admits that it claims an interest in the tidelands and submerged lands within the boundaries of the Tongass National Forest and that that interest is disputed by Alaska. The United States denies that Alaska holds title to such lands.

47. The allegations of paragraph 47 of the Amended Complaint are denied.

Count IV: Glacier Bay National Monument

48. The allegations of paragraphs 1-6 and 11-13 of the Amended Complaint are responded to as set out above.

49. With respect to the allegations of paragraph 49 of the Amended Complaint, the United States admits only that the Antiquities Act was one authority for the withdrawal of Glacier Bay National Monument.

50. The 1925 Executive order speaks for itself and no further response is required.

51. Paragraph 51 of the Amended Complaint is a conclusion of law for which no response is required.

52. With respect to the allegations of paragraph 52 of the Amended Complaint, the United States admits only that one of the purposes of the 1925 creation of Glacier Bay National Monument was to preserve the land left bare by the retreat of tidewater glaciers for study of the development of flora and fauna.

53. The allegations of paragraph 53 of the Amended Complaint are denied.

54. The allegations of paragraph 54 of the Amended Complaint are denied.

55. The allegations of paragraph 55 of the Amended Complaint are admitted.

56. The allegations of paragraph 56 of the Amended Complaint are admitted.

57. With respect to the allegations contained in paragraph 57 of the Amended Complaint, the United States admits only that two of the purposes of the 1939 expansion of Glacier Bay National Monument were to set aside a refuge for brown bears and to preserve the coastal forest.

58. The allegations of paragraph 58 of the Amended Complaint are denied.

59. The allegations of paragraph 59 of the Amended Complaint are denied.

60. The allegations of paragraph 60 of the Amended Complaint are denied.

61. The allegations of paragraph 61 of the Amended Complaint are denied.

62. The allegations of paragraph 62 of the Amended Complaint are denied, except that the United States admits that its title is disputed by Alaska.

63. The allegations of paragraph 63 of the Amended Complaint are denied.

Prayer For Relief

WHEREFORE, the United States prays for the following relief:

A. That judgment be entered quieting title of the United States in and to the subject lands and declaring that the State of Alaska has no right, title, or interest in or to said lands and that the State of Alaska be forever barred from asserting any claim whatsoever in the subject lands or any part thereof adverse to the United States.

B. That said judgment enjoin the State of Alaska, its privies, assigns, lessees, and other persons claiming under it from interfering with the rights of the United States in said lands.

C. For such further relief as this Court may deem just and proper.

Respectfully submitted.

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