

**No. 128, ORIGINAL**

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**OCTOBER TERM, 2005**  
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**STATE OF ALASKA,**  
*Plaintiff,*

**v.**

**UNITED STATES OF AMERICA,**  
*Defendant.*

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**REPORT OF THE SPECIAL MASTER  
ON THE JOINT MOTION FOR ENTRY OF DECREE  
AND PROPOSED DECREE**

GREGORY E. MAGGS  
Special Master  
Washington, D.C.

December 2005

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**I.**  
**INTRODUCTION**

On June 6, 2005, this Court overruled Alaska's exceptions to the Report of the Special Master on Six Motions for Partial Summary Judgment and One Motion for Confirmation of a Disclaimer of Title. *See Alaska v. United States*, 125 S. Ct. 2137, 2161 (2005). At the conclusion of its opinion, the Court said: "The parties are directed to prepare and submit to the Special Master an appropriate proposed decree for the Court's consideration." *Id.*

Pursuant to the Court's directive, the parties have jointly prepared and submitted to the Special Master a Proposed Decree. They also have prepared a Joint Motion for Entry of Decree and a Memorandum in Support of Joint Motion For Entry of Decree. The Special Master has reviewed all of these documents, and now submits this report recommending that the Court grant the parties' joint motion, enter the Proposed Decree, and discharge the Special Master.

**II.**  
**RESOLUTION OF COUNTS IN THE COMPLAINT**

As the Court observed in its opinion, this case concerns a dispute over title to submerged lands in Southeast Alaska. *See id.* at 2144. The Court's opinion addressed each of the four counts in Alaska's amended complaint. With respect to counts I, II, and IV, the Court ruled that "Alaska shall take title neither to the submerged lands underlying the pockets and enclaves of water at issue in counts I and II of its Amended Complaint nor to the submerged lands underlying the waters of Glacier Bay at issue in count IV." *Id.* at 2161. With respect to count III, the

Court confirmed a proposed disclaimer of title by the United States. *See id.*

The Proposed Decree is consistent with the Court's opinion. Paragraphs 1 and 2 of the Proposed Decree implement the Court's decision with respects to counts I, II, and IV.<sup>1</sup> Paragraph 3 of the Proposed Decree incorporates and confirms the United States' disclaimer of title with respect to the lands at issue in Count III.<sup>2</sup> The Special Master therefore concludes that the Proposed Decree is appropriate for this case.

**III.**  
**RETENTION OF JURISDICTION**  
**AND DISCHARGE OF THE SPECIAL MASTER**

If the Court enters the Proposed Decree, the Court will retain jurisdiction to entertain such further proceedings, enter such orders, and issue such writs as from time to time may be deemed necessary or advisable to effectuate and supplement the Decree and the rights of the parties. *See* Proposed Decree ¶ 4. As Alaska and the United States explain in their memorandum, the Court traditionally has retained these powers in its original

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<sup>1</sup>To clarify the meaning of certain technical terms, paragraphs 1 and 2 of the Proposed Decree include definitions upon which the parties mutually have agreed.

<sup>2</sup>The parties have corrected several minor citation and punctuation errors in the proposed disclaimer and, for clarification, have added the word "geographic" to paragraph (2)(b) of the disclaimer. The parties do not intend these changes to affect the substance of the disclaimer.

jurisdiction cases. *See* Memorandum in Support of Joint Motion for Entry of Decree at 4-5.

The Special Master, however, does not anticipate further action in this case. Accordingly, the Special Master also recommends that the Court discharge the Special Master upon its entry of the Proposed Decree. The parties have satisfied the Court's orders for reimbursing the Special Master's fees and expenses. The Special Master has no additional claims for fees or expenses.

**IV.  
CONCLUSION**

The Special Master recommends that the Supreme Court grant the parties' Joint Motion for Entry of Decree, enter the parties' Proposed Decree, and discharge the Special Master.

Respectfully Submitted,

GREGORY E. MAGGS  
*Special Master*

Washington, D.C.  
December 2005