

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
IN ADMIRALTY

ODYSSEY MARINE EXPLORATION, INC.,

Plaintiff,

v.

Case No. 8:07-CV-00614-SDM-M

THE UNIDENTIFIED SHIPWRECKED
VESSEL, if any, its apparel, tackle,
appurtenances and cargo located
within a five mile radius of the center
point coordinates provided to the Court
under seal,

Defendant,
in rem

and

THE KINGDOM OF SPAIN,

Claimant,

_____ /

**MOTION TO SEAL PURSUANT TO ORDERS
OF JANUARY 10 AND MARCH 12, 2008**

Claimant Kingdom of Spain ("Spain") hereby moves pursuant to orders of the Court and Local Rule 1.09(b) to file under seal the materials submitted herewith. These materials are Exhibits B and E to Spain's dispositive motion, which is being filed concurrently with this motion (through CM/ECF).

MEMORANDUM OF LAW

The Protective Order Governing Disclosure of Certain Information (Jan. 10, 2008) (Dkt. 76) [hereinafter the "Protective Order"] authorizes the filing under seal of

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CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

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documents containing information that qualifies for confidential treatment. (Protective Order ¶¶ 1, 9.) In an Order dated March 12, 2008, the Court determined that “in the interest of protecting the security of the site” certain information relating to the location of the shipwreck that is the Defendant in this case “should remain confidential at this stage in the litigation.” (Order at 14 (Mar. 12, 2008) (Dkt. 92).)

The items submitted herewith for filing under seal consist of: (1) Exhibit B to Spain’s Motion to Dismiss or for Summary Judgment (Sept. 22, 2008): the Confidential Declaration of Admiral Teodoro de Leste Contreras, Director General of the Institute of Naval History and Culture, The Naval Museum, and the Archives of the Spanish Navy and Annexes 1 through 3 thereto; and (2) Exhibit E to Spain’s Motion to Dismiss or for Summary Judgment (Sept. 22, 2008): the Confidential Declaration of James P. Delgado, Ph.D. and Annexes 1 through 6 thereto.

Each of these Confidential Declarations contains analysis and other information relating to the location of the Defendant shipwreck, including exact location data. The annexes to these declarations include documents and source materials which disclose the location of the site and/or could be used by non-parties to determine the location of the site by retracing Spain’s analysis of the source materials. The documents to be sealed are therefore appropriate for submission under seal in accordance with the Protective Order.

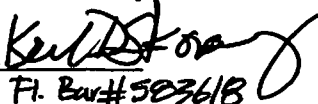
Confidential Annex 2 to Admiral de Leste’s Confidential Declaration also is a document for which the United States Government has requested confidentiality and Spain has agreed to respect that request.

Confidential Annex 1 to the Confidential Declaration of Dr. Delgado, an

oversized document, is a copy of a photomosaic of the site that is confidential under the Court's Order of March 12, 2008, at p. 4 (Dkt. 92). Dr. Delgado's Confidential Declaration also contains certain specific information derived from Confidential Annex 1 which should be accorded the same treatment.

Claimant Spain accordingly moves that the items submitted herewith be filed under seal. Because of the concern to maintain the security of the site, Spain respectfully requests that such sealing be maintained indefinitely until further order of the Court.

Respectfully submitted on September 22, 2008,

s/ James A. Goold 
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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Motion to Seal to be served on counsel of record for Plaintiff Odyssey Marine Exploration and Conditional Claimant Republic of Peru via fax and U.S. mail on September 22, 2008.

Hand delivery

s/ James A. Goold
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