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19 years later, Exxon Valdez case heads to closure

Alaskans say it has dragged on too long

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Washington Bureau

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WASHINGTON — It has been almost 20 years since the infamous Joseph Hazelwood and the Exxon Valdez loomed large in the nation's consciousness after the allegedly intoxicated captain beached the supertanker on the rocks of Prince William Sound in [Alaska](#), dumping millions of gallons of oil into the sea.

But it's just this week that a case arising from the massive oil spill reaches the Supreme Court. You can blame the twisted path high-stakes civil litigation takes in this country or even an intransigent corporate defendant determined to protect its legal rights. But the residents who live around the sound say the case has dragged on far too long at the expense of too many of their own. And they blame [Exxon Mobil](#) for that.

"They're probably the least popular company in the state of Alaska," said John Devens, executive director of a Prince William Sound citizen advisory council, who added that Exxon officials have routinely brought guards with them to council meetings.

"It's cruel. It's absolutely cruel," said Jennifer Gibbins, a clean-water activist who lives in Cordova, a small fishing town whose industry was almost completely wiped out by the oil spill. Decades later, the herring still haven't returned.

But Exxon says it has paid enough—\$3.5 billion in fines, civil damages and money to clean up the sound—to make further punishment unnecessary. And punishment is exactly the issue that comes before the court Wednesday.

Exxon is seeking to get out from under a \$2.5 billion punitive damages award leveled in a class-action brought by thousands of fishermen and business owners who claimed their livelihood was irreparably damaged by the spill. The oil company maintains that the damages are unjust as a matter of maritime law. A jury originally smacked Exxon with a \$5 billion award in 1994, and the company has been resisting paying it ever since.

It ultimately succeeded, on appeal, in getting it chopped in half. Exxon still disputes whether Hazelwood was

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drunk on the night of March 23, 1989, when he ordered the Valdez to turn to avoid floating ice, striking a huge reef and rupturing the ship's hull. Eleven million gallons of crude oil flowed into the sound, ultimately spreading across 600 miles of coastline. Thousands of marine mammals and fish were killed.

Even if Hazelwood was drunk and negligent, the company has argued, it should not be liable for the captain's actions. Moreover, if the goal of punitive damages is to deter further negligent conduct, Exxon says, then that goal has already been achieved.

"In our view, further punishment in terms of punitive damages is not warranted," said Exxon spokesman Tony Cudmore.

Last year, Exxon posted record earnings of \$40.61 billion, with \$11.7 billion coming in the fourth quarter. But it's not so much the company fears that the \$2.5 billion award would damage its bottom line. Instead, the worry is the legal precedent created if the award stands, meaning that an even bigger penalty could follow should another incident like the oil spill occur.

That's why such business lobby groups as the U.S. Chamber of Commerce have filed briefs with the court supporting Exxon.

But the plaintiffs in the case say Exxon has caused further harm by stretching out the litigation. "During the 13 years that Exxon has pursued its post-verdict challenges," they say in their brief to the court, "approximately 20 percent of the members of the plaintiff class have died. Hundreds have gone bankrupt. Still others continue to struggle, as roughly 26,000 gallons of oil remain in the water ... impairing fish stocks and marine habitat."

Says Devens, who was mayor of Valdez, Alaska, when the tanker ran aground, "We've all been out there, we've kicked over rocks, we still see oil where the rocks were sitting. There's still oil out there on the beaches."

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