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March 07, 2008

Exxon should pay punitive damages

The Issue: Exxon Mobil asks the Supreme Court to set aside \$2.5 billion in punitive damages stemming from the Exxon Valdez accident.

Our Opinion: For a company that is making enormous profits, \$2.5 billion is little more than a slap on the wrist.

When the oil tanker Exxon Valdez hit a reef in Alaska's Prince William Sound in 1989, the result was one of the world's worst manmade ecological disasters.

Nearly 11 million gallons of crude oil spilled into the sound creating a 3,000-square-mile oil slick that fouled more than 1,100 miles of shoreline.

The impact of the spill continues to be felt because a considerable amount of oil remains just below the surface of the rocky shore, and it is expected to have a detrimental effect on wildlife for years to come.

That's why the U.S. Supreme Court should uphold the \$2.5 billion in punitive damages levied against Exxon Mobil, the company that owned and operated the Exxon Valdez.

The punitive damages stem from a lawsuit brought by 32,000 fishermen and businessmen who were impacted, and in many cases forced into bankruptcy, by the spill.

The jury in the civil trial originally ordered Exxon Mobil to pay \$5 billion in punitive damages, but Exxon Mobil appealed, and the amount was cut in half.

Hoping to eliminate the punitive damages completely, Exxon appealed to the Supreme Court, insisting that because it already has paid \$3.4 billion in fines, compensation and cleanup costs, it has been punished enough.

That argument seems a bit disingenuous, however. How much of a financial pinch can \$2.5 billion be for a company that has been making record-breaking profits?

In fact Exxon makes that much profit in less than three weeks.

Balancing that against the fact that many of Exxon's victims have been put out of business and that the environmental cost is continuing to mount, \$2.5 billion seems like a slap on the wrist.

In trying to convince the justices to eliminate the punitive damages, Exxon's lawyer, Walter Dellinger, argued that simply because the ship's captain, Joseph J. Hazelwood, was negligent doesn't mean the company was as well.

An investigation determined that Hazelwood was drunk at the time of the accident.

Justice Ruth Bader Ginsburg disagreed with Dellinger, pointing out the Exxon had known for years that Hazelwood was an alcoholic and that he had resumed drinking.

But even though Ginsburg's questioning indicated she was in favor of Exxon paying the \$2.5 billion, other justices appeared sympathetic to the oil company.

Pointing out that punitive damages have not been the normal rule in maritime cases, Justice Stephen G. Breyer suggested that it would be unfair to the shipping industry if the high court began allowing them now.

"This is a very dramatic accident," said Breyer. "It involves oil spills, and they cause an enormous amount of trouble. But there are accidents every day."

That may be true, but this was an accident of monumental proportions that could have — and should have — been prevented.

Jeffrey L. Fisher, the lawyer representing the Alaskans who suffered as a result of the oil spill, said that despite Exxon's pleas that it has suffered enough and the company doesn't appear to have learned anything from the incident.

Although Hazelwood was fired, Fisher said everyone else up Exxon's chain of command who had allowed him to remain on the job despite his drinking problem received bonuses and raises.

If the court rules in favor of Exxon, it will be a slap in the face to all of those whose livelihoods were damaged or destroyed as well as to those who struggle against corporate indifference to preserve the environment.

Posted by readingeagle at March 7, 2008 01:00 AM

Comments

I couldn't agree more with this article. As part of our campaign to tell the whole truth about the Exxon Valdez oil spill (www.wholetruth.net), we hired Amy Trainer to investigate what Exxon really spent on clean-up costs vs what they say they spent. Amy found that the true amount of financial liability that Exxon incurred, after factoring in tax credits, insurance payments, and the discount rate as applied to the civil natural resources damages fine, was much closer to \$1,776,000,000 or ROUGLY HALF of what Exxon has claimed. This is the "Whole Truth." The full report can be found at www.wholetruth.net/downloads/The%20Money%20Trail.doc

Thanks again for a great article, and for helping ensure the nation knows the whole truth about the oil spill in Prince William Sound, and why the full amount of punitive damages are justified in this case.

Posted by: [Rochelle van den Broek](#) at March 7, 2008 11:19 AM

Why is Exxon gasoline 8 cents higher in Wyomissing than any other station?

Posted by: Anonymous at March 7, 2008 03:07 PM

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