The Exxon Valdez

ExxonMobil & 30 Years of Lies, Spills & Corporate Power

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INLETKEEPER.ORG

“Protecting the Cook Inlet Watershed and the life it sustains since 1995”
The Exxon Valdez
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After three decades, the story of the Exxon Valdez still clings to Alaskans like oil to a rocky beach. But as time passes, and as people die and memories fade, it’s all the more important not just to remember the Exxon Valdez, but also to understand the corporate culture that made it inevitable – and which makes similar tragedies a sure thing in the future.

So on this fateful anniversary, Cook Inletkeeper has compiled this short compendium, to tell the real story of the Exxon Corporation (now ExxonMobil), and how it’s business model relies on cutting corners, buying political power, lying to the public and pursuing a profit agenda at all costs.

This, of course, is a small part of the story, and while ExxonMobil is a notoriously fraught corporation, it’s not alone: corporate culture in Alaska, in the United State, and across the globe is now dedicated to grabbing as much money and power as possible – people and our Earth be damned.

--The Board & Staff of Cook Inletkeeper, March 24, 2019
Exhibit 1

The Jury Verdict & the U.S. Supreme Court: Corporation Power Screws Alaskans, Again


Supreme Court Overturns Exxon Valdez Verdict

STEPHANIE MENCIMER
JUNE 25, 2008 2:59 PM

Exxon today has proven the benefits of the endless appeal. After spending hundreds of millions of dollars fighting the $5 billion punitive damage award handed down by an Alaska jury in 1994 for its role in the massive oil spill in Prince William Sound, Exxon today landed a major victory at the Supreme Court. In a 5-3 ruling, with Alito sitting out, the court overturned a lower court decision that had reduced the verdict to $2.5 billion, and sent the case back saying that the punitive damage award was excessive and should not exceed about $500 million, the same as the compensatory damages.

The decision strikes yet another blow against what is essentially the capital punishment of the civil justice system, in a long-running campaign by Exxon and other big companies to try to abolish these sorts of awards entirely. Punitive damages are the extra damages added to a jury verdict to punish especially egregious conduct by a civil defendant. As the former West Virginia Supreme Court Justice Richard Neely once wrote, punitive damage awards aren’t given
out for innocent mistakes, but are generally reserved for “really stupid defendants, really mean defendants, and really stupid defendants who could have caused a great deal of harm by their actions but who actually caused minimal harm.” Punitive damages put the real teeth in the legal system, and serve as an ad-hoc form of regulation by standing as a potential deterrent to all sorts of egregious behavior. That, of course, is why business really hates them.

In the Valdez case, an Alaska jury concluded that Exxon was a really stupid defendant, and they hoped to send a message to the company to change its behavior with a punitive damage award that was the largest in American history at the time. Commercial fishermen had filed the suit after the captain of the Valdez ran the ship aground and spilled millions of gallons of oil into previously pristine fishing grounds. The fishermen alleged that Exxon had wrecked their livelihoods. Exxon countered in court that it had already paid out billions in clean-up costs and fines to the government for violating the Clean Water Act, and that the jury verdict essentially constituted double jeopardy.

The case has dragged on so long now that the interest Exxon has earned on the original $5 billion award is now close to paying the award twice over. It’s bounced back and forth between the trial court and the 9th Circuit appellate court so many times that in the last ruling in the case, in 2006, the 9th Circuit practically begged Exxon to give up, writing with exasperation, “It’s time for this protracted litigation to end.” More than 6,000 of those original plaintiffs—a fifth of the total—have since died as Exxon has tried every conceivable angle to avoid paying the award, including buying expensive social science research from Nobel Prize-winning economists designed to prove that juries are incapable of fairly awarding punitive damages in lawsuits.

Clearly the campaign was successful, if for no other reason than that Exxon was able to drag on the appeal long enough for President Bush to stack the court with two new business-friendly justices who are fairly hostile to the notion that regular people sitting on juries ought to be able to hit big companies where it hurts—in the pocketbook—for reprehensible conduct. The court expressed the business community’s concern that punitive damages can be too unpredictable to be fair. In the majority opinion, written by Justice Souter, the court explained that, “A penalty should be reasonably predictable in its severity, so that even Holmes’s “bad man” can look ahead with some ability to know what the stakes are in choosing one course of action or another.”

Taken another way, most good trial lawyers translate this to mean that big business wants to know with more certainty just how much it will cost to kill someone (or fish, in this case), so the cost can be factored into the bottom line. In his dissent, Justice Stevens suggested that the court had gone too far in reducing punitive damages in the case and in maritime lawsuits in general and was legislating from the bench. He said the justices ought to respect the decisions of the lower courts, particularly the Alaska jury, whose decision was reviewed no fewer than four times by the District Court and upheld three times. After all, he writes, “In light of Exxon's decision to permit a lapsed alcoholic to command a supertanker carrying tens of millions of gallons of crude oil through the treacherous waters of Prince William Sound, thereby endangering all of the individuals who depended upon the sound for their livelihoods, the jury could reasonably have given expression to its “moral condemnation” of Exxon’s conduct in the form of this award.”

Stevens’ view, though, didn't prevail, and Supreme Court instead rewarded Exxon for its tenacity—in a signal to other companies that such scorched-earth litigation tactics will definitely pay off. Hopefully for the plaintiffs, at least, this should finally be the end of the story.
**Exhibit 2**

**Exxon Lied About the Spill Volume**

Excerpt from Dr. Riki Ott’s book “Sound Truth, Corporate Myths” (2005):

**How Much Oil did the Exxon Valdez Spill?**

I was not the only one who heard 11 million gallons was the low-end estimate of spill volume and 38 million gallons was the high-end estimate during my first 24 hours in Valdez after the spill. A year later, two separate newspaper accounts reported volumes up to 27 and 38 million gallons (Hennelly 1990; Spence 1990). One article (Hennelly 1990) reported that the Alaska Department of Environmental Conservation (ADEC) and Exxon jointly contracted Caleb Brett, a company that gauges tanker loads for the oil industry, to do tank soundings to estimate the volume spilled. However, Caleb Brett "closed ranks with Exxon" and refused to make public documentation of its findings, citing its employer-client relationship (Hennelly 1990, 14).

I found that the Alaska Department of Law conducted a separate investigation of the spill volume in preparation for a civil lawsuit against Exxon over damages to wildlife and habitat. When this lawsuit was settled in 1991 (Sidebar 2), the State of Alaska shelved its investigation. In 1994, in response to repeated public requests, the state released its investigation files to the Alaska Resources Library and Information Services (ARLIS) in Anchorage, Alaska (AK Department of Law 1991).

According to the one-page report filed by Caleb Brett (1989), the Exxon Valdez left the tanker terminal in Port Valdez on 23 March 1989 with 53.04 million gallons of oil on board. The tanker grounded on Bligh Reef around midnight. Caleb Brett reported 42.2 million gallons of cargo was transferred to three Exxon tankers and a fleet of barges. Since the Exxon Valdez had been carrying a total cargo of 53.04 million gallons, simple math led Caleb Brett to conclude that the total spilled was the difference-10.8 million gallons; however, this volume was never independently verified. In the absence of other information at the time (1989), the media used and still uses Exxon’s self-reported spill volume estimate.

According to one of the State of Alaska's independent surveyors, "much more oil than the 258,000 barrels [10.8 million gallons] reported [by Caleb Brett] was spilled" (Murchison 1991, ACE 9486070). He continued, "It is my opinion that the major differences [in spill volume estimates] are due to the tremendous 'churning forces' that occurred as the oil gushed from the vessel and the seawater forced itself in, due to the hydraulic pressure. This resulted in the emulsification of oil and water" (ibid.). He found errors in the calculations of oil on board the grounded Exxon Valdez and noted "Most of the water cuts or soundings are questioned because of the holes in the vessel. Apparently the method used to differentiate between oil and water was providing inaccurate results, which resulted in grossly under-estimating the water and over-estimating the oil" (Murchison 1991, ACE 9486069).

State investigators tracked each of the three Exxon tankers used to lighter (transfer) oil from the Exxon Valdez (Alaska Department of Law 1991). These three tankers went to three different Exxon refineries to offload their cargo. Exxon insisted the cargo was 100 percent oil, however the evidence suggests otherwise. For example, according to the deposition of Claude Wendell Dees, an Exxon Shipping officer in charge of the lighter operation aboard the Baton Rouge (Dees 1991), "We had more water than normal and Captain Solywoda knew that. He left Exxon and took early retirement" (ibid., 193). Exxon never disclosed its shore tank records from each of the three discharge ports: these records would show the percentage of water in the offloaded cargo, water which was known to exist. For example, Dees stated, "None of the oil discharged at Hawaii was used because of high water content" (ibid., 164).
However, Exxon did not control all the cargo records of the ill-fated Exxon Valdez, because not all of the cargo was offloaded at each of the refineries. For example, Dees stated, "On the trip to Hawaii, we gauged our tanks to determine water content" (ibid., 222). "I gravitated some of it out into one tank and kept it aboard as dirty ballast. We went back to Valdez with this dirty ballast" (ibid., 46). Similarly, cargo that remained on board the other two lightering tankers also ultimately was returned as ballast water to the tanker terminal. According to papers on file with the state’s investigation, the oil content of the former cargo (now ballast water) was estimated as a percentage of the total volume by eyewitnesses before the tankers sailed to Valdez (Alaska Department of Law 1991, ACE 10864138–10864143). The amount of dirty ballast, and its tank location, is recorded on official ADEC Ballast Water Discharge Certificate Affidavits at the tanker terminal in Port Valdez. Exxon never accounted for the known volume of water from the Exxon Valdez in the cargo of its three tankers; the State of Alaska investigators did (Table 1, p. 7).

In light of this evidence, Exxon's self-reported spill volume of 11 million gallons is incorrect. I conclude that the State of Alaska's conservative estimate of 30 million gallons should be used when referring to the Exxon Valdez oil spill volume.
Exhibit 3
Exxon Valdez Oil Continues its Toxic Legacy

Delayed effects of oil spill compromise long-term fish survival
Low-level oil exposure leads to later heart defects, weaker swimming and reduced survival

September 8, 2015

For 25 years, methodical research by scientists has investigated the effects of the Exxon Valdez oil spill in 1989 on Alaskan communities and ecosystems. A new study released today into the effects of the 1989 Exxon Valdez oil spill in Alaska shows that embryonic salmon and herring exposed to very low levels of crude oil can develop hidden heart defects that compromise their later survival, indicating that the spill may have had much greater impacts on spawning fish than previously recognized.

The herring population crashed four years after the spill in Prince William Sound and pink salmon stocks also declined, but the link to the oil spill has remained controversial. The new findings published in the online journal Scientific Reports suggest that the delayed effects of the spill may have been important contributors to the declines.

“These juvenile fish on the outside look completely normal, but their hearts are not functioning properly and that translates directly into reduced swimming ability and reduced survival,” said John Incardona, a research toxicologist at NOAA Fisheries’ Northwest Fisheries Science Center in Seattle. “In terms of impacts to shore-spawning fish, the oil spill likely had a much bigger footprint than anyone realized.”

The research builds on earlier work by the Auke Bay Laboratories, part of NOAA Fisheries’ Alaska Fisheries Science Center, which found much reduced survival of pink salmon exposed as embryos to polycyclic aromatic hydrocarbons (PAH) from crude oil.

“Our findings are changing the picture in terms of assessing the risk and the potential impacts of oil spills,” said Nat Scholz, leader of the NWFSC’s ecotoxicology program and a coauthor of the new study. “We now know the developing fish heart is exquisitely sensitive to crude oil toxicity, and that subtle changes in heart formation can have delayed but important consequences for first-year survival, which in turn determines the long-term abundance of wild fish populations.”

Scientists from the Northwest Fisheries Science Center and Alaska Fisheries Science Center temporarily exposed embryonic salmon and herring to low levels of crude oil from the North Slope of Alaska and found that both absorbed chemicals at similar concentrations in their tissues. The embryos were then transferred to clean seawater and raised as juvenile fish for seven to eight months.

Few of the exposed embryos or larvae were outwardly abnormal in any way. However, closer examination of the fish revealed subtle defects that could reduce their long-term survival:

- Juvenile salmon exposed to oil grew more slowly, with those exposed to the highest concentrations growing the slowest. For salmon, early survival in the ocean is strongly influenced by juvenile growth, with smaller fish suffering higher loss to predators.
- Scientists used swimming speed as a measure of cardiorespiratory performance and found that fish exposed to the highest concentrations of oil swam the slowest. Slower swimming is an indication of reduced aerobic capacity and cardiac output, and likely makes fish easier targets for predators.
Exhibit 5
Exxon Poisoned Clean-Up Workers


Exxon Oil Spill's Cleanup Crews Share Years of Illness
KIM MURPHY TIMES STAFF WRITER

The toll of the 1989 Exxon Valdez oil spill is a sadly familiar one: 250,000 dead birds, 2,800 sea otters, 300 harbor seals—all victims of the oil tanker that ran over a reef late one April night and drained 11 million gallons of oil into Prince William Sound.

There are others whom almost no one talks about, although unlike the birds, most of them are still alive. They are the people who scraped oil off the beaches, skimmed it off the top of the water, hosed it off rocks. Workers who stood in the brown foam 18 hours a day, who came back to their sleeping barges with oil matted in their hair, ate sandwiches speckled with oil, steered boats through a brown hydrocarbon haze that looked like the smog from hell. After that summer, some found oil traces in their lungs, in their blood cells, in the fatty tissue of their buttocks. They got treated for headaches, nausea, chemical burns and breathing problems, and went home. But some never got well.

Steve Cruikshank of Wasilla, Alaska, has headaches that go on for days. Two years ago, he was hospitalized when his lungs nearly stopped working. "The doctor said, 'I'm going to give you the strongest antibiotic known to man, and you're either going to survive or not survive. I don't know what's wrong with you.' What's wrong is, I haven't felt
right since that oil spill."

John Baker of Kelso, Wash., has had nosebleeds "like gushers" that won't go away and growths in his lungs. "They say generally that people who work in underground mines and stuff get this kind of thing. But the only thing like that I ever worked on was the oil spill."

The lungs of Tim Burt of Seldovia, Alaska, were coated with oil while he was steam-cleaning oil tanks. As his lungs began to fail, he got wrenching headaches. None of the painkillers was strong enough. "'Just kill me,' he'd say. 'I can't stand the pain anymore,'" recalls his sister, Sandy Elvsaa. Burt died in 1995 of a drug overdose. "He figured he had nothing to lose. He was dead already."

These people all have one thing in common. They were healthy when they arrived in Prince William Sound for a summer of hard work and good pay. They were sick when they left.

"There appear to be hundreds, maybe even thousands, of workers that were affected negatively, probably by their exposure to chemicals used in the cleanup process," said Anchorage attorney Michael Schneider, who is teaming with Westlake Village lawyer Ed Masry to take a new look at the 15,000 workers from all over the world who cleaned up the worst oil disaster in U.S. history.

Although no one has begun to document the number of workers affected, at least two dozen have gone to court with toxic injury claims in recent years. Among workers' compensation cases filed by oil spill workers, 34 claimed poisoning, while 264 claimed respiratory problems and 19 had injuries to the nervous system. About 60 listed petroleum as the source of injury or illness.

Cruikshank and Baker, among others, volunteered information about their health problems in a Times review of dozens of Exxon workers who, according to internal company documents, reported health problems ranging from sore throats to bronchitis and pneumonia during the cleanup. Other cases were obtained from court records and interviews with families.

Lawyers believe the actual number of injuries may be far greater than what has been reported so far. Many, they said, have never associated things like headaches, cancer, rashes, liver and kidney problems to a chemical exposure that happened more than a decade ago.

"Chemical poisoning can cause . . . health problems that manifest as many different symptoms," Los Angeles legal investigator Erin Brockovich said in a letter sent last week to public interest groups in Alaska, urging potential victims to come forward. Brockovich, who works for Masry's law firm, successfully investigated ground-water contamination by Pacific Gas & Electric Co. in the town of Hinkley, Calif., in a case settled in 1996.

Exxon, now ExxonMobil, says the cleanup operation was "remarkably safe" and involved a substance--crude oil--which is of very low toxicity after a few days of weathering. "Years of study of refinery workers and others in the oil industry have demonstrated that crude oil can be worked with safely," the company said. It added that fewer than 25 workers have filed suit for alleged exposures. "Eight of those claims have been dismissed by the courts, and seven have been settled."

Public health officials say there was no sign of a health threat to cleanup workers, though they admit they never had access to data that would have answered the question conclusively. Investigators for the National Institute of Occupational Safety and Health said they were not able to conduct detailed surveys of worker illnesses, and said it was virtually impossible to detect signs of chemical exposure in workers after the cleanup was over. But most of the air samples they took detected only trace amounts of the most dangerous toxins, NIOSH said in its report.
The Valdez cleanup involved strong solvents in addition to the crude oil, which gives off extremely hazardous fumes when it is fresh. Even weathered oil contains some hazardous metals and polycyclic aromatic hydrocarbons, or PAHs, a group of over 100 compounds, some of which can cause cancer. These materials could have entered workers' lungs as a mist or been absorbed through their skin when they hosed down contaminated beaches, some experts say.

But how many suffered health effects may never be known, in part because Exxon and its cleanup contractor, VECO Inc., denied government investigators access to medical records, saying at the time they were too "overwhelmed" to get the data together.

Some of the illness statistics showed up years later, in a confidential document unearthed in court records. It showed that a large number of workers visited clinics with upper-respiratory complaints—a potential warning flag of chemical exposure. Exxon concluded they were a result not of chemical poisoning but a viral illness—eliminating any obligation to report the cases to the government and set up a long-term health-monitoring program.

"The people in charge of it tried to get the records, and had trouble doing it. And for reasons I don't know, for some reason NIOSH didn't press its authority to get those records," said Mitchell Singal, who was NIOSH's medical officer during the oil spill.

In all, there were 6,722 patient visits for respiratory illness. While some workers may have gone to the clinic more than once, it potentially means that 40% of the work force had respiratory problems severe enough to see a doctor. John Middaugh, Alaska's state epidemiologist, said the state health department attempted to get viral cultures of sick oil workers from VECO to see if they matched known viruses circulating in the state. But they were only given 17. VECO officials say they have no recollection now of anyone denying access to medical records. "There wasn't any time our company took a position not to cooperate," said Jamie Slack, vice president for human resources.
Carl Reller, a biochemist who worked as an environmental quality control consultant for the cleanup contractors, sat in on many of the key planning sessions. He said Exxon lobbied successfully to avoid having the spill designated a hazardous waste cleanup, which would have required workers to have 40 hours of training in how to manage the dangerous materials they would be handling. Federal officials concurred that, given the reduced toxicity of the weathered oil, four hours' training was adequate.

"The decision was based on a conservative premise and not revisited," Reller said. "Was this because of legitimate oversight, incompetence, conspiracy, cost cutting or negligence? Based on my experience, I would say all of the above."

NIOSH agreed with Exxon's assessment that a virus was likely responsible for the respiratory problems, which affected not only cleanup workers, but office personnel and even lawyers.

Middaugh agrees. He said federal investigators took exhaustive air and water samples to make sure workers weren't being endangered. "It was concluded there was no risk," he said, "as long as there was meticulous adherence to standards developed by the company and NIOSH and OSHA."

The problem, say many of those studying the worker health issue, is that adherence to safety standards was far from meticulous.

Respirators often weren't available, or workers didn't wear them, which meant dangerous chemicals could be inhaled. Many didn't wear goggles, which allowed chemicals to be absorbed through the eyes. Gloves were often discarded because they didn't fit or got in the way, leaving the skin exposed to absorb toxics.

"Nobody complied with any of the health and safety rules, and everybody turned a blind eye," said Robert J. Gryder, a Coast Guard safety officer at the spill who has worked for decades in the field of hazardous materials handling and training. "They were issuing rain suits [as protective gear], and a rain suit is [worthless] as protective equipment except for one chemical: water."

"In 1989, we did not know what the adverse health effects would be of that exposure to Prudhoe Bay crude oil," Gryder said. "We simply didn't know, and we still don't know."

**Ailments Range From Cataracts to Lung Cancer**

Phyllis LaJoie had worked for years in Alaska's oil fields, and volunteered to work in Prince William Sound after the spill as a way of paying back. "I felt responsible when the spill happened," she said.

A former seal hunter and construction worker, LaJoie was put in the decontamination unit, where she cleaned oily coats, boots and gloves overnight.

"Of course, we were steaming all that stuff into our lungs," she said.

Later, she cleaned up beaches. "They ran out of equipment like masks, and they told us you could go home, or you could stay and work without it. We ended up with little paper masks."

LaJoie and almost everyone around her had a constant cough and runny nose. She went back to Hawaii, but couldn't seem to shake the illness. "I just kept getting sicker and sicker. Breathing and sinus, stomach, everything."

Finally, she was diagnosed with diabetes, along with emphysema, asthma and an enlarged liver. She has a bacterial overgrowth in her lower intestine.

"My goodness," she said, "this thing has ruined my life."
Randy Lowe, a commercial fisherman from Soldotna, Alaska, contracted his own boat to help collect oil during the cleanup for $600 a day. "Oil was everywhere, and every single day, I would get covered with it," he said. "When I got done loading a boom, there'd be a foot of oil in the bottom of my boat, and I’d just shovel it out. You'd drink sodas that had oil on it, you'd smoke a cigarette, it had oil on it, if you ate a sandwich, it had oil on it. "When I went out there, I was totally, 100% healthy," Lowe said. "Between 1990 and ’97 I've been in the hospital 58 times. I’ve had pancreatitis, liver problems, spleen problems. I had a pancreas attack in ’97, I went into septic shock and finally my body shut down. I was in a coma for 52 days, and after that I had to learn all over again how to walk, read and talk."

Lowe figures his medical bills, paid almost entirely by Medicaid, have reached $1.5 million. And he still is unable to work--too tired, can't concentrate enough.

"I went from making $55,000, $60,000 a year to drawing welfare. That was a pretty hard thing to swallow for me," he said. "I'm only 41 years old. I shouldn't be in the shape I'm in."

Jim Reynolds of Hampton, Va., was a mechanic on several oil-skimming boats. He had been working for three months when he woke up covered in a swollen, itchy rash, diagnosed as a reaction to the oil.
"And the thing is, it never really went away. Whenever I get hot or sweaty and irritable, then it comes back." Stories like these abound. Gryder has seen lung cancer, cataracts, hair loss, hearing loss, skin rashes and respiratory problems among oil spill workers.

Riki Ott, a marine biologist from Cordova, Alaska, who has worked for years to document safety and environmental issues related to the spill, was one of the first to realize that the stories of health problems were similar.
"Back in 1989, I had a number of friends call me and say their son or daughter had come in from the oil spill clean-up on a break and their urine was black," Ott said. "And what concerns me is every year since the spill I have been getting calls from people, and they all have this breathing you can hear, and they all say they're sick, and they say, 'You know, I think it's from the work I did on the oil spill.'"

After talking to more than a dozen such people, Ott began to suspect it was no coincidence that all of them were sick. She flew to Texas to meet with Dr. William Rea, who had treated many former cleanup workers and believed many of them were suffering the cumulative effects of chemical exposure to oil and solvents. Eventually, Ott contacted Masry and Schneider and persuaded them to try to find more injured workers and file lawsuits on their behalf.

Few of the previous lawsuits filed against Exxon ever went anywhere, including suits filed by Lajoie and Lowe, which were dismissed before going to trial. Experts like Rea were countered by medical experts put forward by Exxon, who said workers suffered no significant medical damage, or if they did, it could have come from anything. In the only case that approached trial--involving Garry Stubblefield, a crane operator who was exposed to diesel fumes and heavy oil mist during the cleanup--Exxon negotiated a secret settlement for a reported $2 million. Stubblefield hasn't worked since. He gasps when he breathes, gets spasms when he is exposed to perfume, cigarette smoke, truck exhaust. "He'll never breathe right again. Never," said his former wife, Melissa Stubblefield. "If he even starts to laugh, he gets to coughing so he gasps for air."

"Right after the spill occurred, there was a tremendous focus on the potential toxicity of the oil. There was a question that if the oil contained substances that could potentially harm workers on a long-term basis, or on a severe short-term basis, and induce sterility or cancer or birth defects, then it would be unethical to undertake cleanup at all," recalled Middaugh, the state epidemiologist. "But in a very short period of time, all of the parties, NIOSH, the American Federation of Labor, OSHA, all looked at it and said, this oil has not been refined, it's naturally occurring crude oil, and under proper conditions of worker
safety, of injury prevention, with personal protective equipment, training and oversight, there should be no component of the oil that should provide any toxicity that would induce any of these long-term problems," he said. Singal also doubts there were long-term health threats. "Most of the illnesses were, as far as we could determine at the time . . . associated with living in close quarters," he said.

"We kept hearing about chronic effects later on. I couldn't think of any reason why it would have been related to the cleanup activity. But I can't say one way or another, because we never looked into it."

In Exxon’s view, one of the most important stories of the cleanup is what didn’t happen: the workers in heavy gear who didn’t fall into the water and drown, who didn’t suffer hypothermia or get injured by heavy equipment. "Safety was the No. 1 concern. We took all the proper safety procedures to protect workers," said company spokesman Tom Cirigliano. "We have paid more than $300 million to more than 11,000 Alaskans and to others who were directly affected by the spill. This is not a company that by any sense of the imagination ran and hid."

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**Exhibit 6**

*Exxon Has Been Lying About Global Warming*

[Link: https://prospect.org/article/exxonmobil-can%E2%80%99t-hide-its-climate-records-any-longer]

**ExxonMobil Can’t Hide Its Climate Records Any Longer**

GABRIELLE GURLEY - JANUARY 11, 2019

The Supreme Court has allowed Massachusetts to access the fossil fuel giant’s records—one of many legal challenges the company now faces.

Stacks and burn-off from the ExxonMobil refinery are seen at dusk in St. Bernard Parish, Louisiana. Last Monday, the Supreme Court batted off Exxon-Mobil’s attempt to quash Massachusetts Attorney General Maura Healy’s investigation of the company’s outsized influence on the country’s climate change policies.

Exxon has long been one of the fiercest climate change deniers in the fossil fuel industry. The company has also played a major role in feeding disinformation to the public and to a news media mired in he-said-she-said notions of journalistic balance.

In the wake of the Supreme Court’s rejection of its petition to hear the case, the company could now be poised to take a hard fall as Massachusetts and other states and jurisdictions investigate how the company reacted to the climate threat.
In 2016, Healey launched an effort to obtain several decades worth of materials on the company’s internal deliberations on climate to uncover what Exxon knew about the crisis as it crafted its policies. After the Supreme Judicial Court, the top Massachusetts court, backed up the attorney general after Exxon refused to comply with her demands, the company turned to the Supreme Court.

Exxon filed a petition to persuade the Court hear its case, arguing that Massachusetts did not have the standing to compel a corporation, which did not operate directly in the state to cooperate with state investigators. “The claims that Exxon was making in that lawsuit were on the fringe. They were trying to block an investigation at the very start claiming that the investigation itself violated Exxon’s First Amendment rights to say what it wanted to say about climate change,” says Michael Gerrard, a Columbia law professor and director of the school’s Sabin Center for Climate Change Law.

“Exxon has been making that argument quite a bit, but no court has bought it,” he adds. “They made a similar argument in New York State and got nowhere.”

New York has taken a classic “what did they know and when did they know it” stance in its lawsuit on Exxon’s dealings with investors regarding the impact of climate change regulations. In a suit it brought in state court, New York has alleged that the company engaged in a “longstanding fraudulent scheme” designed to deceive its investors about how emerging climate change regulations would affect its business dealings. “Exxon in effect erected a Potemkin village to create the illusion that it had fully considered the risks of future climate change regulation and had factored those risks into its business operations,” New York’s brief charges. “In reality, Exxon knew that its representations were not supported by the facts and were contrary to its internal business practices. As a result of Exxon’s fraud, the company was exposed to far greater risk from climate change regulations than investors were led to believe.”

The New York State Supreme Court will hear the case later this year.

Exxon also faces a federal securities fraud class action lawsuit in Northern District of Texas. Plaintiffs including Greater Pennsylvania Carpenters Pension Fund allege that the value of their holdings dropped since the company did not properly take climate change impacts into account and made statements that affected share prices. In August, a federal judge rejected the company’s suit to have the case dismissed.

Exxon’s legal woes aren’t limited to lawsuits in American courts. Last month, members of the European Parliament announced a March hearing that will explore Exxon’s alleged role in climate change disinformation campaigns in the European Union.

In pursuing their case against Exxon, state attorneys general have turned to the playbooks honed in lawsuits states brought against the tobacco and asbestos industries.

In pursuing their case against Exxon, state attorneys general have turned to the playbooks honed in lawsuits states brought against the tobacco and asbestos industries. In the 1990s, more than 40 states sued the major tobacco
companies for fraud based on their deceptive sale and marketing tactics, arguing that the companies had caused states to incur significant public health costs. Those cases were built on company documents that demonstrated tobacco officials knew for decades that tobacco was addictive and were aware of the links between smoking and cancer.

The Department of Justice used RICO, the racketeering statute, to pursue its own lawsuit against the tobacco industry. In 2006, U.S. District Judge Gladys Kessler issued a historic ruling that found that “over the course of more than 50 years, the defendants lied, misrepresented, and deceived the American public.” Similarly, the deadly properties of asbestos have been understood since the beginning of the 20th century. By the 1930s, asbestos companies knew the effects of exposure to their product, too, and did little to protect workers or others exposed to the substance over the succeeding decades. What they did know was that documents made public through the court system would have a devastating effect on the industry.

As lawsuits wound their way through the courts in the 1980s, one asbestos litigation fund trustee noted that “there are so many embarrassing documents that people disagree as to which group of any ten documents is the worst.” (Interestingly, Exxon was aware of deadly nature asbestos long before the threat was made public.)

According to Gerrard, there is a major difference, however, between the tobacco and asbestos cases and the questions that Exxon now faces. “It’s not clear whether Exxon had information about climate change that was not publicly known because they weren’t the only people studying climate change, obviously,” says Gerrard. “There was a lot of other science out there; that will certainly be a defense that comes up.”

New York and Massachusetts may be looking for other evidence of misconduct, including documents that could potentially indicate whether the company sought to mislead regulators or investors, Gerrard notes. It is telling, however, that Exxon exhausted all of its legal options all the way up to the Supreme Court to prevent Massachusetts from launching an investigation at all. Now, “they’ll have to disclose a lot of documents unless they pull another rabbit out of the hat,” he says.

Massachusetts served ExxonMobil with a “civil investigative demand,” requesting potentially thousands of documents dating back to the 1970s in order to investigate possible violations related to marketing and sale of consumer fossil fuel and other energy products, and to the sale of securities to investors.

Not only does Massachusetts want copies of Exxon's research and studies, including those by particular company scientists, but investigators also want speeches and statements made by former secretary of state and Exxon CEO Rex Tillerson on climate issues; materials related to changes in design, construction, and operation made at Exxon facilities in response to climate change markers like sea-level rise, thinning ice, and storm intensity; and communications about climate change and related topics along with any funding that Exxon may have provided to conservative groups, including Americans for Prosperity, ALEC, the Heritage Foundation, and the Mercatus Center at George Mason University, all of which have served as mouthpieces for climate denial.

According to a spokeswoman for Healey, Exxon has decline to voluntarily furnish the Bay State with the documents that it has already turned over to the New York Attorney General for its probe, some of which may be documents that Massachusetts has also requested. (The company does not have to turn over any documents while any appeals are in progress; an appeal to an earlier Southern District of New York ruling is pending on the Second Circuit.) New York’s lawsuit seeks redress under a state law that shields investors from deceptive corporate conduct, while Massachusetts plans to investigate possible violations of the state’s consumer and investor protection laws.
**Exhibit 7**

*Exxon Routinely Violates Laws to Protect People & Our Environment*

https://www.corp-research.org/exxonmobil

**Exxon Mobil: Corporate Rap Sheet**
By Philip Mattera

Exxon Mobil is known primarily for its vast size and immense profitability (its annual net income has at times exceeded $40 billion), but it is also still associated in the public mind with the giant oil spill caused by one of its tankers off the coast of Alaska more than two decades ago. The 1999 acquisition of Mobil by Exxon brought together two of the former portions of John D. Rockefeller’s Standard Oil Trust that each had racked up a long string of environmental violations and other controversies. Environmental groups have targeted the company for supporting climate change denial, and now state attorneys general are investigating whether the company for decades deliberately concealed its knowledge of climate dangers.

**Environment and Product Safety**

Exxon was never a particularly "green" company, but an event on March 24, 1989 gave it a prominent place in the environmental rogues gallery. On that day its supertanker Valdez went aground off the coast of Alaska and spilled 11 million gallons of crude oil into the Prince William Sound, polluting more than 700 miles of shoreline. Although much of the guilt was laid to the captain of the vessel, who was intoxicated and away from his post at the time of the accident, Exxon was also blamed. Among the charges were that the company did not act quickly enough in dealing with the spill and that it did not adequately cooperate with state and federal officials.

A coalition of environmental groups launched a boycott of Exxon and urged customers to return their credit cards to the company. They also called on the oil giant to roll back recent gasoline price increases, to pay for the clean-up, and to establish a $1 billion trust fund for protecting endangered areas of Alaska. When institutional investors pressured the company to appoint an environmentalist to its board of directors, Exxon named John H. Steele of the Woods Hole Oceanographic Institution—a choice that was not entirely satisfactory to many environmental groups. Exxon also vowed to spend some $1.3 billion for the clean-up.

Nonetheless, in February 1990 the company was indicted by a federal grand jury on criminal felony and misdemeanor charges. The following year, Exxon agreed to settle the case by pleading guilty to one charge and paying a fine of $100 million. The civil cases were another matter. An initial $900 million settlement fell apart. After several years of legal maneuvering, in September 1994 a federal jury ordered Exxon to pay $5 billion in punitive damages. There was an uproar after it came to light that Exxon had made deals with seafood processors that in effect let the company recoup some of the damages it would pay. The judge in the case, H. Russel Holland, said Exxon was engaged in “an astonishing ruse.”

Exxon delayed as long as possible in paying any of the damages by pursuing a protracted appeals process. In 2001 it got a federal appeals court to rule that the punitive damage award was punitive, prompting the judge in the case to reduce the amount to $4 billion. That amount was also rejected by the appeals court, but rather than giving in, Judge Holland hiked the damage award to $6.75 billion. In 2008 the case reached the U.S. Supreme Court, which slashed
the punitive damage award to about $500 million, or about the same as the compensatory damages that had been imposed. While the Exxon Valdez dispute played out, Exxon faced other environmental controversies.

In December 1989 an explosion at its Baton Rouge, Louisiana refinery was so powerful that debris was spread for miles; two men were killed in the incident. On January 1, 1990 a cracked underwater pipeline at the company’s Bayway Refinery in New Jersey leaked some 600,000 gallons of heating oil into part of New York harbor. That leak continued for six hours as operators doubted the validity of an alarm that had sounded. The company settled criminal and civil charges brought in connection with the leak by agreeing to fund $15 million in environmental initiatives. In 1992 the U.S. Environmental Protection Agency (EPA) fined Exxon $178,000 for reporting violations at Bayway. The following year the company agreed to pay another $1 million to New Jersey officials in connection with Bayway violations before selling the facility to Tosco Corp.

**In 1996 an estimated 2,000 gallons of crude oil spilled into Santa Barbara Channel off southern California from an Exxon oil platform.**

**In February 1998 the U.S. Justice Department, acting on behalf of the EPA, sued Exxon USA for violations of the Clean Air Act and demanded up to $4.7 million in fines.**

In August 1998 Exxon and two other oil companies agreed to pay $4.8 million to settle a lawsuit claiming that the firms had discharged unacceptable levels of toxic selenium into San Francisco Bay.
Prior to its merger with Exxon, Mobil had its own environmental compliance problems. For example, in 1989 the company was sued by the city of Torrance, California because of leaks of hydrofluoric acid and other health and safety problems at the company's refinery in that city. The suit, calling the facility a public nuisance, cited numerous instances of worker injury and death at the refinery as well as an instance in which fumes from the plant hospitalized eight students and two teachers at a nearby school. The city later filed criminal charges against the company and two of its managers in connection with a 1988 explosion at the refinery that killed one person and burned several others. In 1990 Mobil and the city reached a settlement of the public nuisance suit in which the company agreed to phase out or reformulate the use of hydrofluoric acid.

In 1989 the state of Massachusetts penalized Mobil for failing to report the discovery of a leaking gasoline tank at one of its service stations by requiring the company to take out newspaper advertisements urging other gasoline companies to comply with environmental laws and to upgrade their storage facilities.

Also in 1989, Mobil pleaded no contest to criminal charges in California relating to pipeline ruptures the year before that had spilled more than 130,000 gallons of crude oil, much of it into the Los Angeles River and the city's sewer system.

In 1990 Mobil finally began to take action to deal with an environmental hazard that had existed for decades. The problem was a veritable underground lake of petroleum resulting from years of leaks from storage tanks and pipelines at the company's facility in the Greenpoint section of Brooklyn, New York. After years of resisting taking responsibility for the millions of gallons of oil, Mobil signed a consent order that required it to clean up the mess. Mobil came under criticism for its attempt to portray its Hefty plastic trash bags as friendly to the environment. In 1990 half a dozen states filed lawsuits against the company, charging it with deceptive advertising for calling the bags biodegradable. New York State Attorney General Robert Abrams called the company's claims for Hefty “green-collar fraud.” Mobil settled the suits in 1991 by agreeing to end the claims about biodegradability and to pay each of the states $25,000.

In 1991 the U.S. Environmental Protection Agency proposed a penalty of $575,000 against Mobil's facility in Paulsboro, New Jersey for failure to report several accidental releases of hazardous substances.

Exxon and Mobil were both among the ten major oil companies cited by the EPA in 1991 for discharging contaminated fluids from service stations into or directly above underground sources for drinking water. Each agreed to pay a fine of $125,000 and to clean up the conditions by the end of 1993.

In 2001 Exxon Mobil agreed to pay $11.2 million to settle a 1990s federal case in which Mobil was accused of dumping waste with carcinogenic benzene into the Arthur Kill waterway of Staten Island in New York City—and then lying about its actions.

As concern about climate change escalated in the 1990s, Exxon was targeted for its attempts to downplay the crisis. In October 1997, for example, CEO Lee Raymond gave a speech to the 15th World Petroleum Congress in which he declared that there were no feasible alternatives to fossil fuels, so that “the use of fossil fuels is essential both for economic growth and for the elimination of poverty, which is itself the worst polluter.” Raymond went on to assert that “most of the greenhouse effect comes from natural sources, especially water vapor.”

In 2000 environmental and religious shareholder activists groups launched Campaign ExxonMobil to pressure the company to change its position on climate change. In 2005 a coalition of 12 environmental groups launched the Expose Exxon campaign to focus on the company’s climate denial posture and its efforts in support of exploration and drilling in the Arctic National Wildlife Refuge.
A few years later, Exxon Mobil said it would end its funding of at least some global warming denial groups and indicated a willingness to discuss greenhouse gas regulation. But critics such as the Union of Concerned Scientists remained skeptical and continued criticizing the company’s stance on the issue. In 2008 a proxy resolution calling on Exxon Mobil to take global warming more seriously was supported by a group of descendants of company founder John D. Rockefeller. The group also endorsed a resolution to create an independent chairman that did not pass but which attracted an impressive 39.5 percent of the votes.

In 2015 Inside Climate News published an exhaustive expose on Exxon's decades-long campaign of climate denial, including the suppression of its own research showing the dangers of greenhouse gases. There were subsequent moves by the New York Attorney General and his counterparts in some other states to investigate whether the company deliberately misled investors and the public on the financial risks of climate change. The effort came as more documents emerged suggesting that the company knew about climate dangers as early as the 1950s. The company began fighting back with the assistance of friendly legislators and public officials. In 2017 two Harvard University researchers published a report finding that Exxon had misled the public about the risks of climate change despite its own research over many years affirming the problem.

In 2018, responding to pressure from shareholder groups to address the issue of global warming, Exxon Mobil claimed it had looked into the matter and concluded that climate change poses "little risk" to its investments.

**Recent Regulatory Violations**

In 2008 Exxon Mobil agreed to pay about $6 million to resolve charges that it violated the terms of a 2005 Clean Air Act settlement concerning emissions from its refineries in Texas, Louisiana and California.

Also in 2008, Exxon Mobil agreed to pay $2.64 million to settle EPA charges that it violated the Toxic Substances Control Act by improperly handling and disposing of PCBs on an offshore oil and gas platform in the Santa Barbara Channel off the Southern California coast.

In 2009 a federal jury found Exxon Mobil liable for contaminating ground water in New York with the gasoline additive MTBE and awarded the city $104 million in compensatory damages. That same year, the company pleaded guilty to one criminal charge of violating the Clean Water Act in connection with a 2006 leak of fuel oil into the Mystic River in Massachusetts.

Also in 2009, Exxon Mobil put itself in the center of the controversy over hydraulic fracturing, or fracking, by purchasing the shale gas company XTO Energy.

In July 2011 an Exxon Mobil pipeline in Montana ruptured, sending more than 40,000 gallons of crude oil into the Yellowstone River. Gov. Brian Schweitzer accused the company of withholding key information and otherwise misleading public officials about the accident. In January 2013 the Associated Press reported that an unpublished study by U.S. Department of Transportation investigators had found that Exxon Mobil’s slow response made the spill much worse than it otherwise would have been. In March 2013 the federal Pipeline and Hazardous Materials Safety Administration proposed that the company be fined $1.7 million for failing to properly address seasonal flooding risks. (The fine was later reduced to $1 million).

Only days after the proposed fine was announced, a rupture in an Exxon Mobil pipeline in Arkansas spilled about 10,000 barrels of oil in a residential area north of Little Rock. In November 2013 federal regulators proposed fining the company $2.66 million for the spill.

In 2015 Exxon reached a settlement with New Jersey officials in a long-running legal battle over contamination
caused by the company’s facilities in the northern part of the state. The settlement amount, $225 million, was far less than the billions of dollars in damages the state had been seeking, prompting allegations that the administration of Gov. Chris Christie had let Exxon off too easily.

In 2017 the U.S. Chemical Safety Board issued a report blaming safety lapses on the part of Exxon as being responsible for a 2015 explosion at the company’s refinery in Torrance, California that spewed toxic debris and kept the facility at limited capacity for a year, boosting gasoline prices in the region. After it reopened, the refinery was sold to PBF Energy.

Also in 2017 Exxon agreed to pay a fine of $2.5 million and spend $300 million on air pollution controls to resolve allegations that it violated the Clean Air Act by failing to properly operate and monitor industrial flares at its petrochemical facilities.

**ExxonMobil Chemical**

In November 1990 a federal jury in New Jersey awarded $1.4 million in damages to a former Mobil Chemical employee who charged that he had been dismissed as manager of environmental affairs for the company because he refused to cover up regulatory violations.

In 1993 Exxon Chemical agreed to pay more than $3.8 million in fines and restitutions to resolve federal charges relating to the company’s role in submitting false test reports to the U.S. Army to qualify for contracts to supply fuel additives.

A series of explosions and a major fire at Exxon Chemical’s plant in Baton Rouge, Louisiana in August 1994 was followed by the filing of lawsuits on behalf of more than 15,000 local residents who said they were exposed to toxic smoke from the blast. In 1995 the U.S. Occupational Safety and Health Administration fined the company $120,000 in connection with the accident, but the lawsuits dragged on in federal court for more than 15
years.
In 2007 Infineum USA, a joint venture between ExxonMobil Chemical and Shell, agreed to pay $950,000 to settle charges that it violated the Toxic Substances Control Act by using a new chemical in its auto products before the chemical had undergone a required review.

In December 2010 Environment Texas Citizen Lobby and the Sierra Club filed suit in federal court charging that ExxonMobil’s manufacturing complex in Baytown, Texas, which includes chemical production, has committed thousands of violations of the Clean Air Act. Over the past five years, ExxonMobil Chemical’s Baytown operation has paid more than $190,000 in Clean Air Act penalties.

For more than a decade, ExxonMobil Chemical has fought efforts to put stricter controls on plasticizers containing phthalates and has challenged the science indicating the risks of the chemicals, which have been linked to reproductive and development hazards, autism, endocrine disruption, and breast cancer. ExxonMobil filed an unsuccessful lawsuit to try to prevent California from including the phthalate DIDP on its Proposition 65 list of chemicals known to cause cancer or reproductive toxicity.

**Labor**

The Standard Oil trust is depicted as a villain in labor histories because of the infamous Ludlow Massacre of 1914. The dispute began in 1913, when some 9,000 miners employed by the Rockefeller-controlled Colorado Fuel and Iron Co. and other companies went on strike to demand union recognition as well as better working and living conditions. Several months into the walkout the state militia was sent in to attack the tent village of the strikers. During a battle with the workers the militiamen poured oil on the tents and set them afire. Two women and eleven children were killed in the blaze.

By the 1920s Jersey Standard was projecting a very different image for itself. It led the way in using paternalistic policies as a way of discouraging unionization. When labor organizations became more active in 1930s, Jersey Standard, like many other companies, created company unions to “represent” its workers. Those union’s ostensibly became independent after company-dominated unions were outlawed. Yet while such independents at other oil companies eventually gave way to representation by the Oil, Chemical and Atomic Workers (OCAW), Jersey Standard’s unions remained isolated, weak and largely under the domination of management.

Morale among both unionized and non-union workers at the company plummeted during the 1980s as Exxon eliminated tens of thousands of jobs and put the squeeze on those who remained. These policies may have had consequences outside the company. A front page article in the Wall Street Journal (March 16, 1990) suggested that accidents like that in New Jersey (see below) were the result of the company’s restructuring moves. One analyst was quoted as saying Exxon’s operations were “overworked and undermanned.

By the 2000s, many of the independent unions had affiliated with the Steelworkers union and were participating in industry pattern bargaining with other U.S. petroleum sector workers.

The company has been no great friend to labor abroad. In 1990, for example, the company’s International Colombia Resources subsidiary pressured the government of Colombia to crack down on a group of coal miners who had walked off the job at its facility in the country. Demands included improved housing and a shorter work week. Colombian authorities declared the strike an economic detriment to the country and ordered the miners back to work. The miners’ union then reached a settlement with the company that included some of what they were seeking.

In 2003 unions representing Exxon Mobil workers in 11 countries formed a network under the auspices of the International Chemical, Energy, Mine, and General Workers’ Unions (ICEM).
Human Rights and Sanctions Issues

In the 1990s there were allegations that Mobil’s subsidiary in Indonesia collaborated with a brutal crackdown by that country’s army against Muslim separatists in Aceh province. In 2001 the International Labor Rights Fund filed a lawsuit against Exxon Mobil in federal court, accusing the company of complicity in human rights abuses. The case was dismissed by a federal district court in 2009 but was reinstated by an appeals court two years later. In 2017 the U.S. Treasury Department fined Exxon Mobil $2 million for violating sanctions imposed against Russia in connection with its actions in Ukraine.

Anti-Competitive Practices

In 1996 the Federal Trade Commission filed a complaint against Exxon, charging that it advertisements claiming its gasoline made engines cleaner and reduced maintenance costs were misleading. The company signed a consent order the following year.

In 2001 a federal jury in Florida ordered Exxon to pay $500 million to 10,000 service station owners around the country who claimed that the company had overcharged them for gasoline for 12 years. The company fought the case all the way to the U.S. Supreme Court, which in 2005 ruled against Exxon, forcing it to pay an award which with interest had grown to $1.3 billion.
Royalties and Subsidies

In 1998 Mobil paid $45 million to resolve claims that it underpaid royalties owed to the federal government for oil produced on public and Indian land in California, the Rocky Mountain States and in the Gulf of Mexico. In 2000 a jury in Alabama ordered Exxon Mobil to pay $3.5 billion in damages after it found the company guilty of defrauding the state of royalty payments from natural gas wells in state waters. That verdict was overturned on technical grounds, and in 2003 a separate jury awarded the state $11.9 billion. The judge in the case later reduced the award back down to $3.5 billion.

Like other oil companies operating in the state, Exxon was been a major recipient of subsidies in Louisiana for decades. A March 26, 1996 article in the Baton Rouge Advocate said: “Over the years, the state of Louisiana has forgiven Exxon from paying hundreds of millions of dollars in taxes.” A 1992 report called “The Great Louisiana Tax Giveaway” published by the Louisiana Coalition for Tax Justice found that Exxon’s facilities in the state (including the ones in Baton Rouge) with a combined value of $887 million had received 282 industrial property tax exemption during the 1980s. The cost to the taxpayers was estimated at $93.3 million. Exxon’s tax breaks were the fifth highest of any company in the state during the decade. Most of Exxon’s breaks were for projects that created no new permanent jobs.

In June 2000 the Louisiana Environmental Action Network (LEAN) awarded its first “Corporate Hog at the Trough” award to Exxon Mobil in connection with its Baton Rouge facility. The group said that Exxon had received $286 million in tax exemptions for its Baton Rouge plants over the past decade while creating only 95 permanent jobs. LEAN said Exxon had avoided paying $103 million in local school taxes during that period. The company declined the award.

Exxon Mobil has continued receiving tax abatements in Louisiana, including a $16 million award to its Baton Rouge refinery in 2010.

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