

Testimony of  
**Jennifer Gibbins**

July 1, 2010

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Testimony before the United States Senate Judiciary Committee

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? Good day Mr. Chairman and committee members. My name is Jennifer Gibbins.

? I am from the fishing town of Cordova in Prince William Sound, Alaska, site of the 1989 Exxon Valdez oil spill - "EVOS".

? I am Soundkeeper/executive director of Prince William Soundkeeper and I serve as President of the Cordova Chamber of Commerce. I am a trained and certified crew member for a commercial fishing oil spill response vessel in Prince William Sound.

? I am here today to speak briefly regarding the spill's ongoing impacts, and how the decision by the United States Supreme Court to overturn the lower courts decision regarding punitive damages has affected fishermen and other small business owners, and Alaska Natives.

? I want to be sure that everyone here is clear that I myself am not an EVOS plaintiff.

? The precedent setting decision in that case equated Exxon's punishment, at the time the most profitable corporation in the world, to the loss of individual people after twenty years of litigation.

? In my town, the streets were silent, people were somber, they just did not speak for days. You walked into the local breakfast dive which is typically bustling with fishermen talking about boat work and getting ready for the upcoming season and it was quiet. People sat there dazed, staring at their eggs, or at the wall.

There are five key messages I wish to deliver to you today:

? First, above all, you cannot clean up an oil spill. Period.

? Second, the more than 32,000 victims of the Exxon Valdez spill were never made whole as Exxon promised. Regardless of compensatory or punitive dollars, life as they knew it was permanently and irrevocably altered.

? Third, lingering oil persists in Prince William Sound to this very day and you don't need a shovel to find it.

? Forth, there is the pervasive sense that government and the courts have failed the people - to the point where many question their relevance -- and question far beyond the health of their fundamental right to justice -- they question its simple existence.

? Fifth, and perhaps most sadly, almost twenty years to the day, it is as if there is an echo coming from the Gulf of Mexico. While the people of Prince William Sound stand in solidarity with the people in the Gulf, I do not know a single person who is surprised. We tell them very clearly, do not believe a single word that BP is telling you. Do not expect anyone to help you. And don't hold your breath when it comes to the courts.

? Let me now speak briefly to the four key areas of impact of the ExxonValdez. While the specifics will vary, generally there is a parallel unfolding in the Gulf, although given the enormity of what is happening it will be far greater in every way.

? The Environment. The ExxonValdez Oil Spill Trustee Council reported as of May 2010, only 10 of 26 resources/species have recovered from the oil spill, and none of the four 'human services' (i.e., commercial fishing, subsistence, recreation and tourism, and passive use) have recovered.

? The most notably wildlife species not to recover is pacific herring--an environmental, cultural and economic keystone species.

? Cultural.

? Alaska Natives and most of the non-Natives that I know in Prince William Sound practice a subsistence culture - wild foods are collected and shared. It is a commonwealth and a way of life. Food was not safe following the spill and to this day Alaska Natives cannot eat traditional foods like seal because of contamination by lingering oil. They cannot fish for herring and gather herring spawn the way they have done since before the arrival of europeans and until 1989. In addition to the fact that there isn't are not grocery stores in two of the Sound's Native villages, and the fact that most residents live below the poverty line, they are being denied their way of life, their identity.

? Economic.

? The herring fishery which I mentioned above, accounted for as much as 50% of the annual income of many fishermen in our region prior to the spill. That income has not been replaced.

? With the decline in the fishery overall the town's tax base has plummeted - this includes personal property tax, sales tax and the very important fish tax (based on commercial landings of fish) that is the base of our economy.

? A fisherman friend who I work with on EVOS issues will go bankrupt this year, 20 years after the spill. He in his 50's with a son who hopes to go to college. The State of Alaska has already taken most of his fishing assets (boats, permits), and will get all of his punitive damages settlement to settle the score for debts incurred in the aftermath of the ExxonValdez when the

fisheries struggled with no market due in great part to the mistaken perception that the fish was tainted by the spill.

? Societal.

? One of the least understood impacts of the ExxonValdez spill is the impact of litigation that continued for 20 years. Victims were promised - in exact words from Exxon - that they were "lucky it was Exxon", Exxon would "make them whole" and that the litigation "would not go on for 20 years".

? After the spill, there were divorces, suicides, there were families that lost everything they had and more than a few left. Men will speak of the psychological struggle due to losing their identity as family provider.

? I have one friend, now 50, who has described to me of sinking into a mental abyss over the years following the spill when his wife had to become the sole breadwinner for the family. He was so affected that he began to fantasize about killing her. Fortunately he got to a therapist.

? Another fisherman friend about the same age, stunned the community at a gathering just two years ago by declaring that he had recently been contemplating suicide because of feelings of worthlessness. About that same time, a woman in Cordova told me that the endless court case made her feel that she simply did not exist as a human being.

? Personal resource loss, chronic stress, feelings of alienation, anxiety, social disruption - these have been studied by highly credential social scientists in our town for 20 years. These same scientists have now begun to work in the gulf coast communities.

? Because Exxon has such deep pockets - which not incidentally, expanded exponentially over the past 20 years - they could litigate endlessly, wearing down their victims who, even as they stood together, were dwarfed. Exxon knew that if they played it as long as they could, memories would fade, the context could be changed and they could win big.

? In 2008, a representative for Exxon speaking in the media called the punitive damages as originally awarded "an excessive windfall" for plaintiffs.

? Exxon fought hard to avoid a precedent, the cruelest irony for plaintiffs is that a precedent was set that diminished them further.

? To be dragged through litigation for 20 years is to be victimized over and over again. The burden of proof is always on the victim - as we are now hearing from BP - they will pay all "legitimate" claims. We in Prince William Sound know what that really means.

? Somewhere along the way America has forgotten that corporations do not own the air or the lakes, or the rivers or the seas. A privilege to use them has been granted on behalf of the millions of citizens who do in fact own them and the business community is not living up to that privilege.

? How often is the root of disaster a cost cutting - profit margin issue.

? Citizens need a better way of ensuring that people in business take the time to do what is right.

? I support the Big Oil Polluter Pays Act, and I believe that it is time to update OPA 90.

? I also think it is time to look at some new methods to ensure that folks do the right thing -- methods that don't necessarily mean more government, and might in fact mean less.

? To give you one simple example, the US Forest Service has a policy whereby a guide who has a permit violation cannot reapply for five years. Why not institute the same for business? A violation puts you on probation and while you may continue your current level of business, you may not apply for a new permit for five years.

? We need to take some of the things instituted in Alaska following the ExxonValdez, and things that will be coming out of the Gulf BP disaster, and institutionalize them.

? Citizen Regional Advisory Councils and access to response plans should be standard and transparent. There should be citizen representation built into the Incident Command System.

? Today in Prince William Sound we are working to move on. It has been a long haul.

? This journey is just beginning for the people in the Gulf.

? Elena Kagan seems like a fine nominee to the Supreme Court. She clearly knows the law and has a passion for it. And, she actually wants the job. If you don't really want the job you should not be there and you should not be on the court.

? I just wish the nomination process was less about looking for some silly "gotcha" or "ah-ha" and more an open discussion. More of an opportunity to think.

? You know what they say, "Think, It's patriotic."

Thank you.