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WHEN BIG OIL COMES TO A SMALL TOWN:

THE EXXONMOBIL OIL SPILL IN MAYFLOWER IN CONTEXT

James D. Hekel Jr.*

INTRODUCTION

On March 29, 2013, the day after my son was born, I received a call from a friend back home in Arkansas. It was not to congratulate my wife and I on our first born. He told me about an ExxonMobil oil spill in the city of Mayflower. He described people's yards and driveways flooded black with oil. As of last spring, oil pipelines and oil spills for Arkansans were no longer just political talking points on the national news because reality had finally hit home. As North American oil production ramps up, it becomes ever more important to anticipate oil spills and examine how we will handle more of them. The United States will soon overtake Saudi Arabia as the world's number one oil producer.¹ It is no longer a question of if, but when, the next big spill will happen. This feature is an attempt to put a relatively small oil spill and its environmental health impacts into the broader context of other manmade environmental health disasters involving oil: the U.S. military's response to the Gulf War Syndrome and U.S. government's response to the British Petroleum ("BP") oil spill in the Gulf of Mexico. Examining the aftermath of a spill in a small town in Arkansas illuminates the potential health impacts the future of crude oil transportation in the United States will have on Americans and highlights the seriousness of the State Department's pending approval of TransCanada's Keystone XL pipeline.

OUR PAST: PERSIAN GULF VETERANS COME HOME WITH AN UNEXPLAINED ILLNESS

"Fatigue, shortness of breath, headache, sleep disturbance, impaired concentration, and forgetfulness" are symptoms of a medical condition classified by the early 1990s medical community as "Unexplained or Undiagnosed Illnesses."² This condition is now more commonly known as the Gulf War Syndrome because it affects tens of thousands of Gulf War veterans.³ War syndromes have been recognized since the Civil War, but oil exposure and unique "environmental conditions may have contributed to [the Gulf War Syndrome's] acute presentation."⁴ It has taken the Department of Veteran Affairs twenty years to address "the full spectrum of issues that confront veterans who served in the Southwest Asia theater of operations during the 1990 to 1991 period of the first Gulf War" including their health.⁵ The environmental health impact of oil has been felt more recently closer to home.

OUR PRESENT: CIVILIANS BATTLING OIL IN THE GULF OF MEXICO

In 2010, Dr. Mike Robichaux, a Louisiana doctor and former state senator, treated over 100 patients in his Raceland,

Louisiana "detox center" for a mysterious illness with symptoms including those eerily similar to that presented in Gulf War Syndrome patients: "tiredness/lethargy," "difficulty breathing," "headaches," "unconsciousness," and "memory difficulties."⁶ "Dr. Robi," as he is known to his patients, was not treating veterans returning from the Persian Gulf but oil spill clean-up workers returning from the Gulf of Mexico.⁷ BP's Deepwater Horizon oil rig exploded on April 10, 2010, killing eleven people and dumping five million barrels of oil into the Gulf of Mexico.⁸ It was the worst oil spill in U.S. history.⁹ Following the oil spill, many volunteers who participated in the massive clean-up effort quickly fell sick.¹⁰ A plaintiff's steering committee decided which of the many illnesses the 200,000 victims suffered would be covered in a lawsuit against BP.¹¹ Soon after, the National Institutes of Health launched the "largest study ever conducted on the potential health effects associated with an oil spill."¹² Many of the tar balls that accumulated after the spill are contaminated with a deadly, flesh-eating bacterium called *Vibrio Vulnificus* and continue to wash up on the Gulf shore daily.¹³ The long-term health impacts on humans are as yet undetermined, but local dolphin populations have been devastated.¹⁴ BP has set aside \$42 billion to pay for cleanup, criminal fines, property damage compensation, economic and medical costs, natural resource restoration, and pollution fines.¹⁵ As much as \$17 billion in fines for violations of the U.S. Clean Water Act are still pending.¹⁶ Such catastrophic events, like the BP oil spill and the Exxon Valdez oil spill more than 20 years prior,¹⁷ are supposed to serve as lessons for future policy reform, but no substantive changes to preventing and handling oil spills in the United States have come to fruition.

THE ECONOMIC GULF BETWEEN A CORPORATION AND A CITY: EXXONMOBIL COMES TO MAYFLOWER

On September 26, 2013, Dr. Robi spoke about the health effects of oil spills to an entirely new audience at Reeves Recital Hall at Hendrix College in Conway, Arkansas.¹⁸ Six months earlier, on March 29, 2013 a 22-foot long gash in an ExxonMobil pipeline spewed 5,000 barrels of diluted bitumen from Alberta, Canada into an unsuspecting residential subdivision of Mayflower, Arkansas.¹⁹ In addition to being near residential homes, the spill occurred in a particularly sensitive hydrological

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area: less than a mile away from the spill is Lake Conway and 13 miles of the affected Pegasus Pipeline runs through the Maumelle Watershed which supplies 400,000 Arkansans with clean drinking water.²⁰ The Pegasus Pipeline, which runs from Patoka, Illinois, through Missouri and Arkansas, to Nederland, Texas,²¹ was built 70 years ago to transport smooth-flowing sweet crude northwards from Texas, but in 2006 its flow was reversed and capacity increased by 50% to bring heavier crude, bitumen, southwards from Canada.²²

The big oil company and the small southern city are a study in contrasts. ExxonMobil employs 82,000 people worldwide and boasts annual revenues of \$440 billion, rivaling the GDP of Norway.²³ Mayflower, 25 miles northwest of Little Rock, is home to 22,000 people with an average income of \$27,000.²⁴ Many Arkansans have been frustrated with Exxon's response.²⁵

Many Arkansans not only feel ignored by ExxonMobil but also feel their government has abandoned them.²⁶ Ann Jarrell, whose house is within sight of the spill, was never informed that the odors she, her daughter, and her 15-week old grandson smelled after the spill were poly-aromatic hydrocarbons and cancer-causing benzene.²⁷ Her grandson, now 18 months old, has to use an inhaler.²⁸ Mayflower United Command, an amalgamation of federal, state, and ExxonMobil representatives organized in response to the spill, evacuated parts of the Northwoods subdivision but not Ms. Jarrell.²⁹ "Hindsight being 20/20," Arkansas Attorney General Dustin McDaniel said, "it would not have been unreasonable to double or even triple the number of mandatorily evacuated homes."³⁰ He did not realize at the time he announced the evacuations that ExxonMobil would only compensate those people whose departures were mandated by the State of Arkansas.³¹

Affected parties, some joined by the State of Arkansas, have filed several lawsuits, against ExxonMobil for devalued property, nuisance, and expenses.³² One health claims suit lists symptoms like "dizziness," "shortness of breath," "severe headaches," "insomnia," and "blurred vision:" the same symptoms present in Gulf War veterans and BP oil spill remediation workers.³³ The scale of this oil spill may be small, but ExxonMobil has not confronted the plaintiff's steering committee regarding

a class action lawsuit. ExxonMobil spokesman Aaron Styk said all claims are being handled "on a case-by-case basis" and "for all valid claims," ExxonMobil has "paid all medical expenses."³⁴

CONCLUSION: OUR FUTURE IN OIL TRANSPORTATION

The Mayflower oil spill may seem small compared to the BP oil spill, and its consequences pale before the Gulf War Syndrome, but they are very real to Mayflower residents. The spill has certainly raised awareness among Arkansans. "Before this I didn't know the difference between the Keystone XL and a Keystone beer," said Scott Crow who lives a five minute walk from the spill.³⁵

The aftermath of the Mayflower oil spill will also have implications for the future of oil production in the United States. Half of the Keystone XL pipeline will be constructed at Welspun Tubular LLC's Little Rock plant.³⁶ Congressman Tim Griffin, representing both Little Rock and Mayflower, is urging President Barack Obama to approve the Keystone XL Pipeline while pushing a bill in the House Ways and Means Committee to provide tax relief to Northwoods' residents.³⁷ In January 2014 he said, "modern American pipelines are indisputably the safest way to move the energy resources we all need daily—many times safer than trucks or trains" and, presumably, the outdated pipeline that devastated a Mayflower neighborhood.³⁸ Plains All American, which was in the news this spring regarding an oil spill in a Los Angeles neighborhood,³⁹ and Valero Energy Corporation plan to build a pipeline to carry crude oil through Arkansas between Oklahoma and Tennessee.⁴⁰ Although the Arkansas Game and Fish Commission has expressed some concern over the so-called Diamond Pipeline Project, the two companies will seek permits from the Arkansas Department of Environmental Quality, the Public Service Commission, and the U.S. Army Corps of Engineers, leaving few avenues for individual Arkansans to use to stop the construction of oil pipelines in the state.⁴¹ Homeowners, doctors, government officials, and all people whose water or property may be affected by new pipeline constructions, would do well to learn from Ms. Jarrell, Dr. Robi, and Attorney General McDaniel on how to handle a crisis and plan for the next big oil spill. As Congressman Griffin learned, "you're never as ready as you think you are."⁴²



Endnotes: When Big Oil Comes to a Small Town: the ExxonMobil Oil Spill in Mayflower in Context

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⁷⁸ David Zucchino, *West Virginia Spill Criticism Grows Amid New Fear over Tainted Water*, L.A. TIMES, Jan. 31, 2014, <http://articles.latimes.com/2014/jan/31/nation/la-na-nn-west-virginia-spill-criticism-grows-20140131>.

⁷⁹ *Water Crisis Not Over After West Virginia Chemical Spill*, HERE & NOW (Apr. 8, 2014), <http://hereandnow.wbur.org/2014/04/08/charleston-chemical-water>; Cogan, *supra* note 74.

⁸⁰ Toxic Substances Control Act, 15 U.S.C. § 53 (2014).

⁸¹ *Summary of the Toxic Substances Control Act*, <http://www2.epa.gov/laws-regulations/summary-toxic-substances-control-act> (last visited Apr. 14, 2014).

⁸² Cogan, *supra* note 74.