

MINUTES**HOUSE & SENATE INTERIM COMMITTEES ON AGRICULTURE,
FORESTRY & ECONOMIC DEVELOPMENT**

May 22, 2013

The House and Senate Interim Committees on Agriculture, Forestry and Economic Development met at 9:00 a.m. on Wednesday, May 22, 2013, Marshall High School Gym, 950 Highway 65 North, in Marshall, Arkansas.

Committee members present: Representatives Matthew Shepherd, Chair; David Branscum, Charlotte Vining Douglas, Dan Douglas, Greg Leding, Homer Lenderman, Kelly Linck, Stephen Magie, Stephen Meeks, Betty Overbey (non-voting), Tommy Thompson; Senator Alan Clark.

Other legislators present: Representatives Nate Bell, Ann Clemmer, Deborah Ferguson, John Hutchinson, Mark McElroy, and Jeff Wardlaw; Senators Missy Irvin, Johnny Key, Michael Lamoureux, and Eddie Joe Williams.

Representative Shepherd called the meeting to order.

**Mayflower Oil Spill Update/Overview of the Enterprise TE Products Pipeline Motion to Intervene
Arkansas Attorney General**

Brad Phelps and Emon Mahoney, Arkansas Attorney General's Office, presented the following remarks/information from the Attorney General to the committee:

Thanks to the Arkansas Department of Environmental Quality for everything that agency has done to help the people of Mayflower and the state since the March 29 spill. I also want to recognize the Department of Health, the Game and Fish Commission and local officials in Faulkner County for their cooperation and assistance; we are grateful for those from Arkansas and across the country who are working tirelessly in difficult circumstances to clean up the oil spill.

My office continues to investigate the spill and review data provided to us by Exxon and is routinely visiting Mayflower, conducting interviews and has taken more than a thousand photographs.

This week, the joint command team is starting the re-entry process for 15 of the 22 homes that were evacuated. They are also making plans for a possible "walk through" of the cove area to determine if conditions have improved enough to move out of the emergency response phase and begin the remediation stage; a Special task force within my office will address the types of concerns we are hearing from residents of the area.

The Mayflower Consumer Response Team is now operating, in addition to our office's litigation and environmental efforts. Members of this task force will be readily available to answer consumer concerns. They can be reached in a variety of ways, by calling (855) 388-6555, or by email at OilSpill@ArkansasAG.gov.

Exxon Compensation Proposals to Residents of Northwoods Subdivision:

The complex proposal offers a variety of options for property owners within the subdivision, but no compensation for others directly affected by the spill, including those who live near the "cove" area of Lake Conway.

The proposal is too restrictive and it also unfairly addresses the impact of the spill on residents near the cove, as well as tenants of rented property.

All the impacted residents deserve fair and equitable compensation from Exxon. This document contains various offers to homeowners, and only those in the Northwoods subdivision.

These offers are exceedingly complicated and very different for homeowners from one area of the subdivision to the next.

These complex options are not what residents of this area deserve. They all breathed the same air, faced the same inconvenience and had their lives upended. Exxon can and should do more.

Exxon should offer to purchase all the affected homes in the area, including those in the subdivision and the Cove, for the appraisal price prior to the spill. In addition to property issues, the AG's Office remains concerned about the public health implications of this spill.

As we met with residents and groups that represent them, such as Remember Mayflower, the AG's office heard time and again about their concerns for their health. Many continue to suffer from headaches and nausea. Air sampling continues to show the carcinogen benzene in the air.

To respond to myriad of health-care concerns, the Health Care Bureau of the Attorney General's Office is fully engaged on this issue. We are working with Department of Health to oversee air sampling we are conducting in residents' homes.

We conducted indoor air sampling in 14 homes in the Northwoods subdivision. The results were generally consistent with findings from air sampling and monitoring completed by other entities. The Arkansas Department of Health reviewed the data from the AG's independent sampling, and determined that, in 13 of the 14 homes, "breathing the indoor air is not expected to harm people's short-term health." However, ADH stated that there is an "indeterminate" public health hazard at one of the homes. The Department recommended further testing at that residence after remediation work is completed in order to determine whether the home should be reoccupied. It has not been occupied since the spill.

ADH said none of the air-quality data demonstrate a risk to long-term health of affected residents. The Department is now reviewing the raw data from air sampling we conducted at 10 additional homes.

We will continue to seek ways to meet the growing health-care needs of these residents. This effort is all part of my role as lead consumer advocate for the state. Of course, this is in addition to my role as the state's lawyer, and as such we are continuing to address the legal implications of this spill.

We are still poring over all the information provided to us by Exxon. We are taking the independent air, water and soil samples necessary for our legal team.

Whether it's our Health Care Bureau, Environmental Division, staff working with ADEQ, the Department of Health and Game and Fish, or me personally, the AG's office is working in an unprecedented way to respond to a unique set of circumstances. I am proud of this work.

Enterprise

On April 5, Enterprise filed a request with the Federal Energy Regulatory Commission (FERC) to stop providing transportation services for

- Military jet fuel in interstate commerce
- Commercial jet fuel in interstate commerce, except for service to Lima, OH
- Interstate transportation of ultra low sulfur diesel

Our office engaged quickly, filing with FERC to support the objections to Enterprise's plan. We scored a victory -- although it was a temporary one.

Enterprise recognized deficiencies in their filing and withdrew their request. But on May 1, Enterprise filed a second request with FERC. The new request was similar to the first but included more details.

- By early next year, Enterprise would reverse the flow of one of their two pipelines going through Arkansas to transport ethane, used to make plastics for the auto industry
- Ethane would flow from the Marcellus-Utica shale region in Northeast to the Gulf Coast
- Regarding Enterprise's second Arkansas line, the company wants to stop providing services they offer now.

This is a major area of concern for Arkansas, particularly central Arkansas. In Arkansas, we only have one refiner, which is the Delek (formerly Lion Oil) refinery in El Dorado

- Capacity of about 30,000 barrels of Ultra Low Sulfur Diesel (ULSD) per day
- Delek does not make any jet fuel

The pipeline supply available will not be sufficient to meet the demand for diesel; demand in North Little Rock is about 20,000 to 22,000 barrels per day; demand in Jonesboro is about 5,000 to 10,000 barrels per day depending on the needs of agriculture.

Delek's local market is about 8,000 to 10,000 barrels per day So somewhere between 3,000 and 12,000 barrels per day will have to be trucked in from destinations such as Memphis and Fort Smith.

This will increase costs about 7 to 10 cents per gallon, plus a Tennessee export tax for shipments from Memphis. The cost increase would increase diesel and jet fuel prices, hurting consumers, industrial interests etc.

I have other concerns with a sole supplier

- Refineries are subject to outages both planned and unplanned
- In January of 2014, Delek is scheduled for maintenance that will stop pipeline supply for 45 days
- Delek also owns gas stations in Central Arkansas.

We have again objected to the latest filing in support of the protests made thus far. We have asked FERC to, at a minimum; suspend the filing for seven months for an investigation of the basis for the claims made in Enterprise's filing.

Possible reasons the cancelation of service is unlawful include:

- It is essentially renegeing on a settlement agreement regarding its rates with other companies.
- It violates other agreements that Enterprise has made

Enterprise made previous representations to FERC that it would continue services on one of its two pipes to pick up the slack after the reversal of its other pipe.

Although abandonment of service is typically outside of FERC's jurisdiction, we see this as a selective reduction in services. Their plan is therefore undue discrimination under the Interstate Commerce Act. And so, on May 16, we communicated our opposition and requested to participate in the proceeding before FERC.

FERC has until June 1 to:

- Launch an investigation,
- Deny the request,
- or grant the request

A FERC investigation could take as long as seven months.

Presentation on Organic Farming

Cody Hopkins, Co-Owner/Farmer, Falling Sky Farm, told committee members that he and his wife are native-born Arkansans who returned to the state after earning bachelor's degrees in outdoor education and physics. He said their goal was to create a profitable business to provide income while still being kind to the environment. The farm generated \$300,000 in sales this year and has chickens, ducks, turkeys, pigs, and cattle, which are 100% grass fed, with the exception of poultry and pigs, which are supplemented with a custom-mixed grain ration. No maintenance antibiotics, growth hormones, or synthetic pesticides or herbicides are used. Mr. Hopkins also works with Conway Locally Grown (CLG), an online farmers' market that serves Conway and the surrounding areas. CLG coordinates with local farmers to provide the freshest and highest quality fruits, vegetables, eggs, poultry, beef, pork, lamb, and dairy. All of the producers farm using strict standards that ensure clean, safe, humanely produced foods.

With no further business, the committees adjourned at 11:00 a.m.