# 2014年ウエスト・バージニア州エルク川化学薬品流出事故

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# 1. 基本情報

2014年1月9日、化学薬品工場から約1万ガロンの MCHM<sup>1</sup> (4-メチルシクロヘキサンメ

タノール)がエルク川に流出した。エルク川は、ウエスト・バージニア州のチャールストン市が飲料水として利用している河川である。チャールストン市はカナワ郡にあり、地元の水道システムは約30万人の住民に生活用水を供給している(Centers for Disease Control and Prevention, 2014)。これらの地元住民が、今回の事故で大きな影響を受けることとなった(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014)。事故後、ウエスト・バージニア州のアール・レイ・トンブリン知事は非常事態を宣言し、地元の水道会社であるウエスト・バージニア・アメリカン・ウォーター社は、流出事故のあった同日午後6時に水道水の"使用禁止"令を発令した(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014; Centers for Disease Control and Prevention, 2014)。1月9日の夜遅く、市内にある水道水の MCHM 水準が安全か否かを判断するため、ウエスト・バージニア州保険人材局は疾病管理センター(CDC)に事故の報告を行い、水質サンプル・データ検査の支援要請を行うと共に、MCHMの審査基準について問い合わせを行った(Centers for Disease Control and Prevention, 2014)。

事故から数日後の1月21日、今回の流出事故を引き起こした薬品製造会社のフリーダム・インダストリーズ社が報告を行い、同社が製造している PPH<sup>2</sup>(プロピレングリコールフェニルエーテル)と DiPPH(ディプロピレングリコールフェニルエーテル)を主要成分とする別の化学物質も1月9日に河川へ流出していたことを発表した。この物質は、今回流出事故を起こしたタンクの中には比較的少量(7.3%)しか含まれていなかった(Centers for Disease Control and Prevention, 2014)。2014年7月7日、ウエスト・バージニア州保険局(WVDH)と公衆衛生人材局(WVBPH)は、疾病管理センターと共同でまとめた緊急対応報告書(CASPER報告書:公衆衛生の緊急対応に関するコミュニティ評価報告書)を公表した。この報告書には、今回のエルク川化学薬品流出事故により影響を受けた9つの郡の世帯サンプルが報告されている。今回の事故を受け、疾病管理センターは、事故による地域住民への影

<sup>&</sup>lt;sup>1</sup> MCHM は石鹸のような泡を形成する化学物質で、石炭から他の岩石や鉱物を分離させるために使用されている。この工程により、石炭燃焼時に生じる空気汚染が軽減される。MCHM の動物への影響はほとんど研究されておらず、僅かにラットやモルモットを用いた研究がある程度となっている。液体の MCHM に接触することにより、皮膚や目の炎症、嘔吐、下痢が生じる可能性がある。気体の MCHM に接触することにより、目や鼻、喉、肺に炎症が生じる可能性がある。動物を用いた実験研究の結果によれば、高用量の MCHM により、肝臓や腎臓、血液、脳に障害が生じることが確認されている(West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 1)。

<sup>&</sup>lt;sup>2</sup> PHH は、MCHM と同様の影響及び症状を引き起こすとされている(West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014)。

響を把握するため、公衆衛生人材局と共に、事故後直ぐに緊急治療室にある医療記録の調査を行った。この調査における公衆衛生人材局の目的は、事故後における住民の緊急治療室の受診理由、及び症状の深刻さを把握することであった。この調査は疫学者の協力のもとで実施され、流出事故後に最も多かった症状は、吐き気や発疹、嘔吐、腹痛、下痢であった(West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 5)。

# CASPER 報告書(公衆衛生緊急対応に関するコミュニティ評価報告書):

CASPER の調査では、「流出化学薬品による住民への影響」に関する評価、公衆衛生人材 局への「水道水"使用禁止"令の発令前後及び発令期間中における住民の水道水利用状況」に 関する情報提供、及び「将来的な類似事故に対する効果的な対応策の検討を目的とした情報 伝達」の検証が実施された(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 5)。今回の CASPER 報告書により、①化学薬品の流出を伝えた主要な情報伝達 手段、及び"使用禁止"令の発令・解除の伝達手段が、テレビであった点、②今回の流出事 故において、大多数の世帯が最も信頼できる情報源としてテレビを挙げていた点、③インタ ビューを受けた約75%の世帯が、ペットを含めた同居家族全員の3日間分の必要水量を確保 できていなかった点が明らかとなった(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 5)。また、多くの世帯は事故発生後1日以内に代替の水源を確保してお り、インタビューを受けた約20%の世帯は事故の影響により職場から出勤を控えるよう指示 されていた。約22%の世帯は「今回の流出事故により1つ以上の健康問題(流出事故発生後 から報告書のインタビュー実施時期までに発生した症状)が発生したと思う」と回答してお り、約3.5%の世帯は「今回の流出事故により1つ以上のメンタルヘルスに関わる問題が生 じた」と回答している(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 6)。約37%の世帯は、"使用禁止"令発令期間中も汚染水を使用していた。67% の世帯は禁止令解除後に家庭用水の使用を開始しており、インタビュー時には98%の世帯が 家庭用水の使用を開始していた (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 6)<sub>o</sub>

# 流出事故による法制度及び経済への影響:

流出事故発覚から約2カ月後、ウエスト・バージニア州環境保護局は、事故を起こした薬品製造会社に対し、流出現場に残っている薬品の撤去を指示すると共に、事故を起こした薬品貯蔵タンクを2014年3月15日までに閉鎖するよう指示した(Boucher, 2014)。今回の流出事故により、"地上にある薬品貯蔵タンク"を規制する法律が制定されたと共に、"流出事故による長期に渡る健康被害に関する調査"を求める声が上がった(N.a., 2015b)。また、ウエスト・バージニア州議会の水・天然資源共同委員会開催前にも、流出事故の影響に関す

る会合が行われた(N.a., 2015b)。

検事当局は流出事故の捜査を行い、当該捜査の報告書完成時に、検事総長のパトリック・モリシーは「この報告書には、バーロウ・ロードの施設で重大かつ深刻な環境の悪化が進行していること、及びフリーダム社の職員が対処すべき数々の兆候を見逃していた事実がまとめられている」と述べている(N.a., 2015a)。民間企業であるフリーダム・インダストリーズ社は、流出事故の数カ月後、自社の薬品製造施設を閉鎖することを決定し、破産申請の手続きを開始した。フリーダム社と州環境保護局は、"費用効率と安全性を考慮した方法を用い、誠実かつ入念に当該施設の取り壊しと後処理を実施した"(Ward, 2014)。被災住民による流出事故に関わる損害や損失の賠償を求める集団訴訟が数件行われており、現在も民事裁判で係争中となっている。また、米国破産審査裁判所は、フリーダム社の破産に関する申し立てについても、その対応を任されることとなった(Ward, 2014)。

# 2. エルク川薬品流出事故における行政・民間・住民の災害対応 NGO や NPO、民間企業等による災害対応:

今回の薬品流出事故においては、地元の民間セクターによる目立った災害対応は特に見られなかった。この事実により、今回の流出事故に関わるウエスト・バージニア州の地元民間企業は地域住民の支援にそれほど熱心ではないことが浮き彫りとなり、地域の共同体意識もそれほど高くない事実が露呈した。

### 地域住民による災害対応:

今回の事故では地域住民による目立った災害対応も行われておらず、ウエスト・バージニア州の住民が持つ個人主義意識の高さや災害対応の遅さが目立つ形となった。

### 災害時における組織間連携:

今回の流出事故においては、公共セクターと民間セクター間、異なる公共機関間、及び公共セクターと地域住民間でいくつかの災害連携が確認されている。公共・民間セクター、及び地域住民間の連携は決してスムーズなものではなかったが、通常、不測事態発生時には組織/グループ間の対立が不可避となる(Svedin, 2009)。

#### 行政間による連携

ウエスト・バージニア州公衆衛生人材局と環境有害物質・特定疾病対策庁(ATSDR)は、Emergency Department Record Review と呼ばれる共同調査を実施した。この調査においては、公衆衛生人材局の担当者が環境有害物質・特定疾病対策庁の疫学者へ協力要請を行っている(West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 1)。また、公衆衛生人材局と疾病管理センターの共同チームは、ウエスト・バージニア大学公衆衛生学部の学生を助手としてインタビュー調査に同行させている。

連邦緊急事態管理局(FEMA)は、突発的に生じる飲料水需要に備えるため、メリーランド州のカンバーランドとフレデリックにある配給センターから事故が発生した地域に向け、

配布用ミネラルウォーターを積んだ 75 台のトレーラーを派遣した ("Tap water fix in West Virginia still days away," 2014)。配布用ミネラルウォーターは州兵隊員の支援を受け配布されたが ("Tap water fix in West Virginia still days away," 2014)、悪天候によりウエスト・バージニア州までの運搬には多くの遅延が生じることとなった。

2014年1月11日、ブーン郡政委員会は FEMA からの水供給を待てないとして、水 1,000 ケースを購入し、マディソン市をはじめブーン郡全域の消防署へ配布を行った(Pace, 2014a)。郡政委員会は、「当初 FEMA からは午後の早い時間帯に水が届くと言われたが、午後3時、更に5時と予定時刻が延び、これ以上待つのは限界となった。水の到着を待ち望んでいるブーン郡の住民に、これ以上待てとは言えない状況だった」と判断し、クローガー、フッドランド、及びホームデポから飲料水を購入することを決定した(Pace, 2014a)。ブーン郡政府、緊急対応サービス、保安官局、マディソン消防局、ウエスト・バージニア州警察、及び他の市、郡・州の諸機関が総出となり、住民へ水の配給作業を行った。ブーン郡政委員会委員長は、「デレーチョ暴風雨から、多くの教訓を得ることができた。そのおかげで、我々は、災害対応や備蓄品分配において、適切なシステムと計画を持って対応できたと感じている」と語っている(Pace, 2014a)。

### 行政と NPO の連携

流出から 2 週間後の 2014 年 1 月 28 日、ウエスト・バージニア州のアール・レイ・トンブリン州知事は、FEMA に対し、1 月 9 日発令された緊急事態宣言の変更を申し入れた。この緊急事態宣言の変更により、州及び地方政府機関、緊急対応機関及び非営利団体が、救済活動費用の償還を受けられるように連邦 B 種緊急事態保護対策基金へ申請することが可能となった(N.a., 2014)。

### 行政組織と地域住民の連携

第一に、地域住民の相当部分が化学品流出の直後に導入された"水道水の使用禁止"令を順守していなかったことは、注目すべき点として挙げられる。この問題に関しては、行政機関と被災住民の間において、いくつかの問題があったとされている。公衆衛生人材局と疾病管理センターは、今回の災害対応に関する住民評価、及び今後の災害対策への改善案を調査するため、171 世帯を対象に 3 日間に渡るインタビュー調査を実施した。対象となった世帯のうち 63.3%が調査への参加に同意を示しており(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 12)、この高い回答率は、CASPER 報告書の作成において、公衆衛生人材局と地域住民の間に大きな協力関係が存在していたことを示している。

また、流出事故が発生した化学薬品工場の所有者であるフリーダム・インダストリーズ社は、流出の数カ月後に破産を申請しており、債権者及び流出事故被災者による金銭的な補償請求は、米国破産裁判官ロナルド・ピアスンを裁判長とする破産裁判所に提出された(Ward, 2014a)。 同裁判所は、地元のジェイムズ・W・ レイン・ジュニア弁護士に被災住民による

訴訟のサポートを行わせ、調整担当弁護士と裁判官はともに、被災住民に対し裁判所に補償支払請求を提出するよう奨励した(Ward, 2014a)。これらの一連の動きは、行政セクター、民間弁護士、そして地域住民の間の協力関係を示していると言える。この事故においては、行政機関と民間弁護士の積極的な介入がなければ個々の被災住民は補償支払請求を行なわなかった可能性があり、フリーダム・インダストリーズ社に対する集団訴訟のタイミングまで補償手続きを行うことができなかった可能性が考えられる。

更に、ウエスト・バージニア州知事は、流出事故に対する州の対応に関して、災害対応の事後検討に着手した(Pace, 2014b)。この事後検討は、州の行政機関、郡及び地方の危機管理局、ボランティア団体や慈善団体、ウエスト・バージニア州兵、及びその他の団体・組織が被災 9 郡の緊急事態においてどのような対応を行ったかを解明することを目的として、実施された(Pace, 2014b)。この事後検討の過程において、州知事は地域住民に協力を仰ぎ、「徹底的な事後検討が可能か否かは、主に住民の協力意思にかかっていると言える。適切な点、改善点、及び今後の対応改善に関する具体的な案を含め、今回の災害対応について地域住民から率直な評価を得ることが極めて重要となる」と述べた(Pace, 2014b)。

# 災害の事前準備:

ウエスト・バージニア州検事総長の報告書により、「フリーダム社の従業員が 2010 年に作成した記録には大規模不測事態発生の可能性が記されており、また、当該工場が抱える問題の解決案も記載されていた。解決案の一つは、『何の対策を講じず、流出事故が発生した段階でタンク底部を交換する』というものであった」という事実が確認されている(N.a., 2015)。更に同報告書は、「フリーダム社は敷地外の水源から同社施設へ水が流入している事実を把握しておきながら、特に改善策を講じず、このことが施設のさらなる劣化につながった。また、フリーダム社は地上貯蔵タンクが設置されているエルク川土手沿いの浸食問題を無視していた」と同社を非難している。また、同報告書は、2014年1月9日に発生した流出事故の直接原因を同社による長期に渡る対策不備としており(N.a., 2015)、今回の事故原因を同社による対策不備、及び適切な管理と事前準備の欠如にあると指摘している。

エルク川薬品流出事故の直後、公益事業委員会の調査は、流出事故発生前の事前対策とリスク評価について、ウエスト・バージニア・アメリカン・ウォーター社に問い合わせを行った。エルク川の水源を用い 30 万人の住民に生活用水を供給しているアメリカン・ウォーター社は、「当社は、1月9日の流出事故発生前の時点において、フリーダム・インダストリーズ社が MCHM を保有している事実を把握していなかった」と述べている。この情報共有の欠如により、アメリカン・ウォーター社と行政機関は、流出事故でエルク川が汚染された際、急遽サンプル採取法や健康診断基準、及び上水道浄化方法の決定に取り組むこととなった(Ward, 2014b)。アメリカン・ウォーター社は 1969 年にカナワ渓谷に水処理施設を建設したが、この施設の建設により、同社が持つ脆弱さとレジリエンス(復旧力)は大きな影響を受けることとなった。この施設の建設により、エルク川からの取水口は1箇所のみとなり、また、取水口はペンゾイル貯油施設(フリーダム・インダストリーズ社の前身)の上流に位置していたクーンスキン・パークからペンゾイル貯油施設の 1.5 マイル下流にある水処理施

設に移転することとなった(Ward, 2014b)。

# 災害対応に対する批判:

薬品流出事故から約1カ月後、化学薬品工場で用いられる薬品1万ガロンの流出を伴った今回の事故の対応において、トンブリン知事が繰り返し事故と炭鉱業界の関連を否定していた事実について、知事と州政府は厳しい批判にさらされることとなった(Ward, 2014c)。知事は、流出事故を起こしたフリーダム・インダストリーズ社の設備に類似する地上薬品貯蔵タンクを対象に、新しい許可及び点検要件を策定する法案を提案したが、知事の法案には、ウエスト・バージニア州製造者連盟が私的に提案したものと類似する長い適用除外リストが含まれていた(Ward, 2014c)。法案提出後、副知事(DEP)は、「法案策定者に対し、これらの適用除外基準を厳しくし、法案を強化すること」を要求した(Ward, 2014c)。2014年2月初旬、トンブリン州政府側の弁護士は鉱業協会と共同で、山頂採鉱事業による水質汚染に対する環境保護庁の取り締まりについて、その一部を却下する下級裁判所の裁定を支持するよう連邦控訴裁判所に強く求めた(Ward, 2014c)。

この事故においては、連邦機関の対応が、州を中心とした政治的反発を招く結果となった。非難の矛先をウエスト・バージニア州知事から逸らすためであったかもしれないが、ウエスト・バージニア州民にとって実態が不明確で馴染みのない専門機関が槍玉に挙げられていた。ウエスト・バージニア州務長官は、「医学的モニタリングを法案に含めたことは、議員の手柄だと言える。トンブリン知事がこの法案に署名したことで、MCHMが被災住民に与える長期的な影響について把握することが可能となった。これは非常に重要なことだと言える。事故直後から、私はウエスト・バージニア州民に十分な事故説明がなされるよう、疾病管理センターなどの機関に対しもっと対応の透明性を高めるよう求めてきた。住民へのMCHMの長期的な影響が明らかになるには、数ヶ月、もしくは数年の時間が必要となる可能性がある。そのため、住民の医学的なモニタリングは非常に重要となってくる。この事故に関して、私たちは子どもや孫の世代に対しても責任を負っており、十分な医学的モニタリングを行い、被災住民の家族を不足なくケアしていく必要がある」と述べている(Pace, 2014c)。

地元の企業と持続可能ビジネスの連合組織は、化学品の製造及び貯蔵に関する連邦規制の厳格化を要求している。多くの企業や研究者は、今回の事故により多額の経済損失が生じたと主張しており、流出事故発覚後1週間の損失額は6,100万ドル前後と推定されている。この地元企業への経済損失、及び事故後もオイル・ガス企業(今回の事故に関連した化学薬品の多くを使用・生産している)に対する規制強化に及び腰であった地元政治家の姿勢により、ウエスト・バージニア州の公選役職者に対し、多くの地元企業から非難の声があげられた。「先月当社が記録した業績不振は、この27年間で初めてのものだ。州民は、有毒物質から住民及び環境を保護するという面において、州政府への信頼を失っている。懸念事項は、多くの行政関係者は被災住民や被災企業の声よりも、規制対象の業界の意見にばかり耳を傾けていることだ」("Elk River chemical spill prompts national call for better regulations,"2014)。ウエスト・バージニアとサウス・カロライナ両州の中小企業の代表も同じく、「良い

規制とは、悪い企業の悪行から良い企業を守るものだ。業種にかかわらず、一部の大企業が他の企業や地域住民への責任転嫁によって自社利益を最大化することは間違っている。こうした一部の大企業が規制に苦情を申し立てる時、それは大企業自社のためであり、我々のためではない」と述べている("Elk River chemical spill prompts national call for better regulations," 2014)。

# 今後の対応策:

CASPER 報告書は、住民世帯のインタビューから得られた教訓を基に、今回の流出事故に関連し、行政・民間セクターに対して次の提言を行った:

- 1. 災害時、通信インフラが利用できる場合はテレビの災害情報に注意を払い、テレビ以 外の様々な通信手段も補足的に利用すること。
- 2. 地域住民に対し、将来のあらゆる種類の災害や緊急事態に備えるため、3日分の水を確保するよう奨励すること。
- 3. 運搬手段のない世帯や仕事で自由の利かない住民が配給を受けられるよう、将来の緊急事態における給水源の確保手段を複数用意しておくこと。例えば、慈善団体(アメリカ赤十字など)による緊急給水の利用など。
- 4. 被災した地域住民が必要とするサービスを受けられるよう、医療及びメンタルヘルスの体制を充実させること。
- 5. 被災住民の不安を緩和するため、現在の水の安全性に関するコミュニティ教育を強化 すること。

(Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 7)

公衆衛生人材局の疫学者は、応急科医療記録調査及び CASPER 報告書を基にし、今後の類似緊急対応を強化するための提言を行うことになっている(West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 6)。疫学者による学術的な研究が実施されれば、今回の流出事故に関わる医学的問題の全容解明が進むと見られている。

ウエスト・バージニア検事総長は、検事総局報告書において、「流出事故直後、検事総局の調査団は、寒さの中で何時間も泥と流出した化学品にまみれながら施設を調査し、数週間・数ヶ月をかけて資料を掘り起こし、関係者への聞き取り調査や施設調査を行い、複雑な事故の真相と発生原因について包括的な結論を導き出すことに成功した。当局の望みは、これらの調査活動及び多くの当局関係者の努力が、事故の真相解明や類似事故の未然防止に役立てられることだ」と述べている (N.a., 2015)。

ウエスト・バージニア州知事は、1月9日エルク川薬品流出事故の州対応について、"事

後検討"を開始した(Pace, 2014b)。事後検討では、州当局、郡、地元の緊急対応機関、ボランティア、慈善団体、ウエスト・バージニア州兵、及びその他の諸機関による9つの郡に及んだ緊急事態への対応実態に焦点が当てられる予定である(Pace, 2014b)。また、州知事は、この災害対応評価が類似災害における他州の見本となるとも述べている。トンブリン州知事は、「エルク川薬品流出事故はウエスト・バージニア州の多くの住民の生活に影響を及ぼした未曽有の災害であり、我が国の水供給の安全性について全国的な論議を引き起こしたと言える。この論議は現在も続いており、ウエスト・バージニア州の緊急対応は、全米諸州にとって見本となるはずである。徹底的な事後検討が可能か否かは、主に住民の協力意思にかかっていると言える。適切な点、改善点、及び今後の対応改善に関する具体的な案を含め、今回の災害対応について地域住民から率直な評価を得ることが極めて重要となる」と述べている。(Pace, 2014b)

2014年4月3日、ウエスト・バージニア州は、重大な懸念のある地域に設置されている全ての地上貯蔵タンクについて、ウエスト・バージニア州環境保護局(WVDEP)への登録及び同局と第3者専門機関による毎年の点検を義務付ける上院法案第373号を施行した(Pace, 2014c)。この法案は、ウエスト・バージニア州公衆衛生局に対しても、連邦諸機関と協力して流出事故の長期的な健康への影響に関する情報収集・分析を義務付けている(Pace, 2014c)。また、上院法案第373号は、ウエスト・バージニア・アメリカン・ウォーター社に対して同社エルク川施設にモニタリング・システムの設置を義務付けると共に、全ての上水道会社に対し、上水道への汚染物質流出等の緊急事態に備えた源水保護計画の策定を義務付けている("West Virginia: Governor Tomblin Signs SB 373, The Water Resources Protection Act," 2014)。

今回の流出事故に直接関わった議員の全てが、化学薬品の製造・貯蔵に関する規制や取締の強化を主張しているわけではない。一部のウエスト・バージニア州選出連邦議会議員は、流出事故の発覚から僅か数日後に汚染防止規制に反対の意を表し、化学工業界や石炭企業を擁護する立場をとっていた。 サンデー・ニューヨーク・タイムズ紙の分析記事によれば、ジョー・マンチン上院議員(ウエスト・バージニア州選出民主党)は、地元州の悲惨な薬品流出事故の直後にも関わらず、"行き過ぎた規制によって追い詰められた産業界という耳慣れた教義"を説き続けた。エルク川薬品流出事故の6日後に開催されたワシントンの業界会合において、マンチン上院議員は、化学工業界及び石炭産業の利益を支持する立場を表明していた。全国紙であるニューヨーク・タイムズ紙は、マンチン上院議員が所有する石炭仲買会社から年に150万ドル近くの収入を得ていると指摘し、マンチンの上院初演説は山頂採鉱に対する水汚染防止法規制の撤廃を求めるものであったと伝えている。("No retreat; After water crisis," 2014)

マンチン上院議員は連邦有害物質規制法の改訂において重要な役割を果たすことになっており、同議員の存在により、産業界によって業界基準の策定と執行メカニズムの決定が行われかねないという懸念が広がっている("No retreat; After water crisis," 2014)。批評家は、「同州内の両党合意は、『ここには何もない、早く余所へ行け』ということのようだ」と述

べている。マンチン上院議員(民主党)は CNN に対し、「誰にも罪をなすりつけない」と述べ、石炭産業を擁護していた。シェリー・ムーア・カピト下院議員(共和党)は、チャールストン・ガゼット誌に、環境保護庁は「やり過ぎだ」とも述べていた("No retreat; After water crisis," 2014)。マンチン上院議員は議会で、「河川近くに設置されている貯蔵設備を規制する穏健な法律」を支持した("No retreat; After water crisis," 2014)。更に、ウエスト・バージニア州トンブリン知事は議会に対し、化学薬品タンクの限定的取締案を通過させるよう求めた。トンブリン法案は、貯蔵施設の州による検査は義務付けないが、企業が委託する第3者専門機関にタンクの安全性を管理させるものである("No retreat; After water crisis," 2014)。対照的に、米国化学品安全協会は、ウエスト・バージニア州に対し、外部の安全衛生専門家が各施設を毎年立ち入り検査して潜在的な危険を特定する「監査」システムの採択を繰り返し強く求めている("No retreat; After water crisis," 2014)。

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【本研究は、文部科学省私立大学戦略的研究基盤形成支援事業(平成25年~平成29年:「危機管理における社会運営とガバナンスの確立に関する研究」)により実施している。】

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# 2014 Elk River Chemical Spill, West Virginia

On January 9 2014 a chemical industry spilled approximately 10,000 gallons of MCHM<sup>3</sup> (4-Methylcyclohexanemethanol) into the Elk River, from which the municipality of Charleston West Virginia takes its drinking water. Charleston is in Kanawha County and the local water system serves nearly 300,000 people (Centers for Disease Control and Prevention, 2014), who became affected by the spill (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014). The Governor of West Virginia, Earl Ray Tomblin, declared a state of emergency and the local water company, West Virginia American Water, issued a "Do Not Use" order for tap water at 6pm on the day of the spill (Centers for Disease Control and Prevention - National Center for Environmental Health -Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014; Centers for Disease Control and Prevention, 2014). Later in the evening, on January 9, the West Virginia Department of Health and Human Resources contacted the Center for Disease Control (CDC) about what had happened and asked for assistance in reviewing water sample data and for a screening standard for MCHC, so they could determine what MCHM levels in the municipal water was safe to consume (Centers for Disease Control and Prevention, 2014).

Several days later, on January 21, the chemical manufacturer responsible for the spill, Freedom Industries, reported that another substance that the company had designed, composed primarily of PPH<sup>4</sup> (propylene glycol phenyl ether) and DiPPH (dipropylene glycol phenyl ether), had also been part of the spill into the river on January 9. This second substance had been a relatively small portion (7,3%) of the fluid in the tank that burst (Centers for Disease Control and Prevention, 2014).

On July 7, 2014 the West Virginia Department of Health (WVDH) and the Human Resources Bureau for Public Health (WVBPH) released an emergency response report (a CASPER report - the Community Assessment for Public Health Emergency Response report) put together by the CDC, that covered samples from households in the nine county area impacted by the Elk River chemical spill. The CDC together with the WVBPH reviewed the Emergency Room medical records immediately following the spill to determine what symptoms people in the area reported. The WVBPH wanted to understand why people were coming to the Emergency rooms after the spill and how serious their symptoms were. They asked an epidemiologist to help them with this investigation. The most commonly reported symptoms after exposure to the toxic water was nausea, rashes, vomiting, abdominal pain, and diarrhea (West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 5).

The CASPER (Community Assessment for Public Health Emergency Response) Report

<sup>&</sup>lt;sup>3</sup> "MCHM is a chemical that can form bubbles like soap to help separate coal form other rocks and minerals. This process reduces air pollution caused by burning coal. Few studies on MCHM exist and most have been conducted on animals. MCHM has been tested on rats and guinea pigs. Exposure to liquid MCHM can cause skin and eye irritation, vomiting, and diarrhea. MCHM vapors in the air can also irritate eyes, nose, throat and lungs. When laboratory animals are exposed at high doses, MCHM has been shown to cause problems with the liver, kidneys, blood and the brain." (West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry 2014: 1)

<sup>&</sup>lt;sup>4</sup> PHH has a similar set of effects and symptoms as MCHM (West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014).

The CASPER study assessed the "impact of the chemical spill on households," provided information on "household water use and practices before, during, and after the 'Do Not Use' order" to WVBPH, and assessed "communications to identify effective approaches for the current and future events" (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 5).

The CASPER's major findings were that "[t]he main method of communication about the chemical spill and implementation and lifting of the "Do Not Use" order was TV; "[t]he majority of households considered TV as the most reliable source of information about the chemical spill; close to 75% of the households interviewed "did not have a 3-day alternative source of water supply for every person and pet in the household" (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 5). A majority of households found alternative water sources within less than a day and in approximately 20% of the households interviewed a member was told not to come into work because of the spill. Roughly 22% of households reported "having one or more health issues (that is, symptoms that occurred between the time of the spill and the time they were interviewed) they felt were related to the chemical spill" and "3.5% of all households reported having one or more mental health issues they felt were related to the chemical spill" (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 6). Approximately 37% of households used the water during the time the 'Do Not Use' was in effect. 67% started using the water again after the order had been lifted and at the time of the interview roughly 98% were using their household water (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 6).

### The Regulatory and Financial Aftermath

The West Virginia state Department of Environmental Protection ordered the chemical company to move the remaining chemicals from the site that had the leak and to start decommissioning the storage site by March 15, 2014 (Boucher, 2014), approximately two months after the spill became public.

The spill led to "legislation regulating above-ground chemical storage tanks" and calls for "a study of the long-term health effects following the spill" (N.a., 2015b). There was also testimony brought "before the legislature's Joint Commission on Water and Natural Resources in the West Virginia legislature" (N.a., 2015b).

The Office of the Attorney General investigated the spill and when its report was completed the Attorney General Patrick Morrisey stated that "This report outlines the significant and troubling deterioration that was allowed to go on at the Barlow Road facility, and highlights how Freedom officials ignored numerous warning signs that should have been addressed," (N.a., 2015a).

The private company, Freedom Industries, decided to decommission the chemical plant and filed for bankruptcy a few months after the spill took place. Freedom Industries and the state Department of Environmental Protection "appear to be working conscientiously and diligently to implement a cost effective and safe means for demolition and cleanup" (Ward, 2014) Several class-action law suits, asking for compensation for damage or inconvenience caused by the spill, for individuals in the area were filed and are still pending in civil claims courts. In addition, a U.S. bankruptcy court was appointed to deal with the claims involved in the company bankruptcy (Ward, 2014).

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### Disaster response by NGOs, non-profits and private companies

There was no remarkable response from the private sector that went along with the response by the local and state government. This bears witness to the lack of care for the public by the corporations involved and a lack of volunteer community spirit in West Virgina.

# Remarkable disaster response

There was no remarkable disaster response from the general public, which speaks volumes about how individualized and slow the public in West Virginia was to respond.

#### **Crisis cooperation**

There was some cooperation between the public and private sector, between different public actors, and between the public sector and the public. The relationship between the private sector and the public and public organizations was primarily characterized by conflict, however, which has proved to be the unfortunate norm for interactions between organizations and groups in crisis situations (Svedin, 2009).

#### Public-Public Cooperation

The Emergency Department Record Review was a collaborative investigation by the WVBPH and the Agency for Toxic Substances and Disease Registry (ATSDR). Public Health Officials at the WVBPH asked epidemiologists at the ATSDR to assist in the investigation (West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 1). The WVBPH and CDC teams that conducted the household interviews

also had students from the West Virginia University School of Public Health assist in the process.

The Federal Emergency Management Agency (FEMA) were prepared for a sudden need for fresh water and "sent 75 tractor trailers full of bottled water" for distribution "from its distribution centers in Cumberland and Frederick, Maryland, to the area for use by the state" ("Tap water fix in West Virginia still days away," 2014). The water was distributed with the help of the National Guard ("Tap water fix in West Virginia still days away," 2014) but there were several delays of the trucks delivering the water to West Virginia due to bad weather.

On January 11, 2014 the Boone County Commission got tired of waiting on water from FEMA, and bought "1,000 cases of water that were distributed in Madison and all over Boone County at local fire departments" (Pace, 2014a). The County Commission bought water from Kroger, Foodland and Home Depot, because the Commission had been "told the water from FEMA would arrive just after noon, then 3 p.m., then 5 p.m. and we just got tired of it and didn't want Boone County residents to wait any longer for much needed water" (Pace, 2014a). "Members of Boone County government, emergency service, sheriff's department, Madison fire department, West Virginia State Police and other city, county and state agencies all participated in the job of distributing free cases of water. 'We learned a lot from the Derecho storm and feel we have a better system and plan in place to distribute needed services and supplies,' said Boone County Commission President" (Pace, 2014a).

### Public-Non-Profit Cooperation

Two weeks after the spill, on January 28 2014, the West Virginia Governor Earl Ray Tomblin asked FEMA to modify the emergency declaration that had been issued on January 9 to enable "state and local agencies, first responders and nonprofit organizations" to apply for federal Category B Emergency Protective Measures funding so that they "can be reimbursed for relief efforts" (N.a., 2014).

### Public Organizations-General Public Cooperation

First, it is worth noting that a substantial portion of the public did not heed or follow the "do not use the water" policy that was put in place directly following the chemical spill. In this regard there were some challenges to the cooperation between public officials and the general public affected by the spill.

Second, when the WVBPH and the CDC (Center for Disease Control and Prevention National Center for Environmental Health, Division of Environmental Hazards and Health Effects Health Studies' Branch) interviewed households to evaluate the response and improve future responses to emergencies like the spill, 171 households over three days participated in the interviews. Of the households asked for an interview 63.3% agreed to be interviewed (Centers for Disease Control and Prevention - National Center for Environmental Health - Division of Environmental Hazards and Health Effects - Health Studies Branch, 2014: 12), which is a fairly high rate of compliance that suggests considerable cooperation between the public health officials and the general public in provision and collection of information for the CASPER report.

Third, Freedom Industries, the company that owned the chemical plant where the spill originated, filed for bankruptcy a few months after the spill and claims for any monetary compensation by creditors and the public affected by the spill were filed with a bankruptcy court lead by U.S. Bankruptcy Judge Ronald Pearson (Ward, 2014a). The court hired a local lawyer, James W. Layne Jr., to help keep track of the claims and both the

coordinating lawyer and the judge encouraged people to file claims with the court (Ward, 2014a), indicating cooperation between the public sector representatives, a private firm lawyer hired by the public sector, and the general public. The public may not have been made an individual claim in the bankruptcy case, but would rather have waited for one of the many collective action lawsuits that were pending toward Freedom Industries in civil litigation courts to pay out, unless this active collaboration and encouragement had taken place.

Fourth, the Governor of West Virginia initiated an "After Action Review" of West Virginia's response to the spill (Pace, 2014b). The review was to "highlight the many ways in which state agencies, county and local emergency management offices, volunteer and charity organizations, the West Virginia National Guard, and other entities responded to the nine-county State of Emergency" (Pace, 2014b). In this process the Governor asked the public for help, "[t]he thoroughness of the Review depends in large measure on citizen participation. It is critical we receive an honest assessment of the emergency response including what we did well, opportunities for improvement, and concrete solutions for improving future response efforts" (Pace, 2014b).

#### **Preparedness**

The West Virginia Attorney General's report identified "a 2010 memo authored by a Freedom employee, which acknowledges the potential of a catastrophic failure and proposes options to correct the site's problems. One option proposed was to 'do nothing and replace tank bottoms when loss of containment occurs" (N.a., 2015). The Attorney General's report also states that "the company failed to remedy or correct the presence of water from sources outside the property which led to further deterioration of the facility, and alleges Freedom ignored erosion problems along the Elk River bank upon which aboveground storage tanks existed. The report finds that those examples of long-term neglect directly resulted in the January 9, 2014, spill" (N.a., 2015) thereby firmly placing the spill on neglect, a lack of appropriate care and preparedness, by the private company Freedom Industries.

In the aftermath of the Elk River spill the Public Service Commission investigation specifically asked the West Virginia American Water company about its preparedness and risk assessment before the spill took place. The American Water company that supplied drinking water out of the Elk River to the 300,000 affected residents claimed "that it knew next to nothing about the MCHM stored at Freedom Industries prior to the Jan. 9 leak. That lack of knowledge left company officials and state agencies scrambling to develop sampling methods, a health screening level, and water system clean-up methods when the leak contaminated the Elk" (Ward, 2014b). In 1969, when the company set up its Kanawha Valley treatment plant, it made choices that adversely affected it vulnerability and its resilience; "to have only one Elk River intake, and to move that intake from a location across the river from Coonskin Park, upstream from a Pennzoil oil storage site that later became Freedom Industries, to the new treatment plant, built just 1.5 miles downstream from the Pennzoil-Freedom location" (Ward, 2014b).

#### Criticism of response

About a month after the chemical spill, Governor Tomblin's administration came under fire "for its handling of the chemical spill, and the governor has repeatedly rejected any suggestion the incident - which involved a spill of 10,000 gallons of a chemical used at coal

preparation plants - was connected in any way to the mining industry" (Ward, 2014c). "The governor proposed legislation to create new permitting and inspection requirements for above-ground chemical storage tanks like the one that leaked at a Freedom Industries facility" but "[t]he governor's bill included a long list of exemptions similar to one privately proposed by the West Virginia Manufacturers Association" (Ward, 2014c). After the proposed legislation the DEP "urged lawmakers to tighten those exemptions and strengthen the bill" (Ward, 2014c). In early February 2014, "lawyers for the Tomblin administration joined the National Mining Association in urging a federal appeals court to uphold a lower court ruling that threw out parts of an EPA crackdown on water pollution from mountaintop removal mining operations" (Ward, 2014c).

There was some state centered political back-lash at federal agencies in this case. It may only have been to shift the blame or spread the blame away from the Governor but it was directed at expert agencies that appeared opaque and removed to many in West Viriginians. The Secretary of State for West Virginia was the one launching the criticism stating; "I applaud legislators for including medical monitoring and I am happy so see Governor Tomblin sign this bill that makes sure we will know what the long term effect of MCHM will be on our citizens," (Pace, 2014c). "From the very beginning of this chemical crisis, I have pushed for more transparency from agencies like the Centers for Disease Control and Prevention so the people of West Virginia can have the answers they deserve. It may take months or years for the long term effects of MCHM to begin revealing themselves, and that is why this medical monitoring is so important. We owe it to our children and grandchildren to follow up on this testing and make sure families are getting the care and attention they deserve" (Pace, 2014c).

Local businesses and an alliance for sustainable businesses called for tougher federal regulation of chemical production and storage. Many businesses and researchers claim that business lost a lot of money because of the chemical spill; some estimate as much as \$61 million the first week the accident became public knowledge. This loss in revenue for local businesses and state politicians' unwillingness even after the spill to tighten regulation on oil and gas producing corporations that use and produce many of the chemicals involved in the Elk River spill, led to a lot of local business criticism of elected West Virginia officials. "In 27 years, we have never seen the kind of decline in our business as we have seen in the last month. People here have lost confidence in their government's ability and desire to protect them and the environment from toxic chemicals. The disturbing thing is that many of our lawmakers are listening more closely to the industries being regulated than they are to the citizens and small businesses being harmed" ("Elk River chemical spill prompts national call for better regulations," 2014). Representatives of the small business community in West Virginia and South Carolina also stated that "[g]ood regulations protect good businesses from the abuses of bad businesses. From toxic chemicals to Wall Street, it is wrong for some big businesses to maximize profits by shifting their liabilities to other businesses and the public. When those businesses complain about regulations, they do it for their own interests, not ours" ("Elk River chemical spill prompts national call for better regulations," 2014).

#### **Preparation for future crises**

The CASPER study recommended the following to public and private sector actors in this case based on lessons learned from interviews with households:

- 1. Focus on TV for public messaging during disasters when communication infrastructure remains intact, and also use multiple supplemental communication routes.
- 2. Encourage households to prepare a 3-day water supply to help them become prepared for future emergencies or disasters of any type.
- 3. Identify additional ways of providing alternative sources of water supplies in future emergencies to help reach household members without transportation or those who cannot leave work. For example, using volunteer agencies (e.g. American Red Cross) to deliver alternative water supplies.
- 4. Promote the availability of health and mental health resources to help affected community members access needed services.
- 5. Increase community education on current water safety to help alleviate consumer concerns. (Centers for Disease Control and Prevention National Center for Environmental Health Division of Environmental Hazards and Health Effects Health Studies Branch, 2014: 7)

The WVBPH epidemiologists will make recommendations on how to strengthen an emergency response of this kind in the future based on the ED medical records review and the CASPER report (West Virginia Bureau for Public Health & The Agency for Toxic Substances Disease Registry, 2014: 6). The scientific work, going forward, that epidemiologists planned to do and publish will generate greater understanding of all the issues involved on the medical side of this emergency.

As the West Virginia Attorney General released that Office' report he stated that;

Our investigative team spent countless hours in the cold, mud, and pooled chemicals to inspect the facility immediately after the leak and spent additional weeks and months digging through documents, interviewing pertinent officials, and researching the facility to develop a complex and complete understanding of what happened and why. Our hope is that their work, and the work of so many others in the Office, can help to provide an understanding of what happened so that this type of crisis will never again happen.

(N.a., 2015)

The Governor of West Virginia initiated an "After Action Review" of West Virginia's response to the January 9 Elk River chemical spill" (Pace, 2014b). "The review will highlight the many ways in which state agencies, county and local emergency management offices, volunteer and charity organizations, the West Virginia National Guard, and other entities responded to the nine-county State of Emergency" (Pace, 2014b). The Governor also argued that that assessment of West Virginia's response will become a model for other states in these types of crises.

The Elk River chemical spill was an unprecedented disaster that affected the lives of hundreds of thousands of West Virginians, and has launched a national dialogue about the safety of our nation's water supply,' Tomblin said. 'As this dialogue continues, West Virginia's emergency response will act as a blueprint for other states across the country. The thoroughness of the Review depends in large measure on citizen participation. It is critical we receive an honest assessment of the emergency response including what we did well, opportunities for improvement, and concrete solutions for improving future response efforts. (Pace, 2014b)

April 3, 2014 West Virginia enacted Senate Bill 373, which "requires all above ground storage tanks in areas of critical concern be registered with the West Virginia Department of Environmental Protection (WVDEP) and be subject to annual inspections by the WVDEP and independent engineers" (Pace, 2014c). The bill also the West Virginia Bureau for Public Health—to work with federal agencies to collect and analyze information about the "potential long-term health effects associated with the spill" (Pace, 2014c). West Virginia American Water is also required by the bill "to install an early monitoring system at its Elk

River plant" (Pace, 2014c) and for all water utility companies to have a documented water protection plan in place in the case of emergencies (specifically to protect in the case of a water supply contamination). Senate Bill 373 "also requires West Virginia American Water to install an early monitoring system at its Elk River plant and requires all water utilities have a written source water protection plan in place to prepare for emergency situations--specifically the discharge of a contaminant into the water supply" ("West Virginia: Governor Tomblin Signs SB 373, The Water Resources Protection Act," 2014).

Not all elected officials directly involved with this case argued for stronger regulation or policing of that regulation of chemical processing and storage. Several Congressional representatives from West Virginia argued against pollution controls, defending the chemical industries and siding with coal interests just days after the spill was made public.

A long Sunday New York Times analysis said Sen. Joe Manchin, D-W.Va., continued "preaching a familiar gospel of an industry under siege by overzealous regulators," even after the chemical nightmare in his home state. Manchin sided with chemical and coal interests at a Washington industrial assembly six days after the Elk outrage. The national newspaper noted that Manchin earns "nearly \$1.5 million a year from his coal brokerage firm," and his first Senate speech 'called for the repeal of a Clean Water Act regulation on mountaintop mining. ("No retreat; After water crisis," 2014)

The same senator were set to "play a key role in revising the federal Toxic Substances Control Act" and there were concerns that Manchin would lean in favor of letting industry set the standards and dictate the enforcement mechanisms ("No retreat; After water crisis," 2014).

Critical reporters stated that "[t]he bipartisan consensus in the state seems to be: Move along folks, nothing to see here. Sen. Joe Manchin, a Democrat, told CNN that he is 'not going to cast guilt on anybody' and defended the coal industry. Rep. Shelley Moore Capito, a Republican, told the [Charleston] Gazette she still believes the Environmental Protection Agency is guilty of 'overreaching'" ("No retreat; After water crisis," 2014). In Congress, Sen. Manchin sponsored a "modest legislation to regulate storage facilities like the Elk River tank farm that are close to waterways" ("No retreat; After water crisis," 2014). Furthermore, in West Virginia Gov. Tomblin asked the legislature "to pass a plan for limited policing of chemical tanks...Tomblin's bill wouldn't require state inspections of tank farms, but would let company-hired engineers declare that the tanks are safe" ("No retreat; After water crisis," 2014). By contrast "the U.S. Chemical Safety Board repeatedly urged West Virginia to adopt an 'audit' system in which outside health and safety experts visit each facility yearly to pinpoint any potential dangers" ("No retreat; After water crisis," 2014).

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