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**Hexavalent chromium suit against KBR by Oregon National Guard goes forward in Portland**

By Julie Sullivan, The Oregonian  
May 19, 2010, 9:17PM

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Torsten Kjellstrand, The Oregonian

David Sugerman represents 21 Oregon Army National Guard soldiers in their lawsuit against KBR.

**Oregon Army National Guard** veterans suing the largest war contractor in Iraq today in federal court in Portland acknowledge they're waging an improbable fight.

In February, the war contractor squashed a similar lawsuit by Indiana Guard who also claimed they were knowingly exposed to a cancer-causing chemical in Iraq in 2003.

Last June, the war contractor even knocked out a suit by 10 of its former employees -- the people Oregon troops were guarding.

The 21 Oregon veterans suing **Kellogg, Brown and Root** include a postal clerk, a security guard and a soldier just back from a second tour to Iraq where he guarded KBR convoys. The men say they suffer breathing, stomach and other health problems from being exposed to **hexavalent chromium** at the **Qarmat Ali water treatment plant**.

They face a large and experienced defense team who've handled hundreds of personal injury claims filed against KBR since the invasion of Iraq over its burn pits, accidental electrocutions and alleged assaults.

On the vets' team: one tall Texan and a Portland trial lawyer in a solo firm.

Houston attorney Michael Patrick Doyle, who's won millions suing corporations for negligence, is working with David Sugerman, who's taken class-action suits and consumer cases. They took the case on contingency. After months of unpaid work, one soldier felt so guilty he gave Sugerman the only bill in his wallet: an Iraqi dinar.

Today, KBR's attorneys will argue it's not responsible. They blame the Army Corps of Engineers, which was in charge at Qarmat Ali. KBR's local attorneys Jeffrey Eden and Stephen Deatherage will ask **Magistrate Judge Paul Papak** to stop discovery. They want Papak to rule -- yet again-- on whether the case should go forward in his U.S. District courtroom.

The case pits the Oregon veterans against the very Army they served in. For instance, the Army won't release some records to their attorneys -- only KBR.

**POSITIONS AVAILABLE**

"It's overwhelming to know we're going up against a company that has a lot of power and that the military seems to want to keep on their side, to work with in the future," said former soldier Rocky Bixby, 43, a public safety officer at Oregon Health & Science University.

"It's like stepping onto a freeway. You don't know if you're going to get run over or even make it out of there."

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**The Oregon case against KBR offers a portal into the unprecedented privatization of war.**

Since 2001, the government has paid private companies at least \$150 billion to do work the military once did, from folding laundry to driving fuel trucks. Civilians working for contractors now outnumber military in Iraq and Afghanistan.

Last month, the **Special Inspector General for Iraq Reconstruction** reported just how radical the shift is. During World War II, the ratio of contractors to military was 1-to-7. In Vietnam, 1-to-6. In Iraq and Afghanistan, 1-to-1 or fewer.

Court documents, government reports, Congressional testimony and reporting by the Center for Public Integrity and U.S. newspapers describe KBR's ascent:

Three weeks before the March 2003 invasion of Iraq, the **Corps of Engineers** contracted with KBR to fight Iraqi oil fires, without the usual bidding process or notification to Congress.

KBR was well connected.

Ties to Lyndon Johnson had helped the vintage Texas road-building firm, Brown and Root erect dams, military installations and off-shore oil platforms before it was acquired by oil giant Halliburton in 1962.

After the Persian Gulf war, then-Secretary of Defense Dick Cheney ordered a study to turn military support operations such feeding and housing troops to a private company. Brown and Root did the study, and was then chosen to carry out its plan for \$2 billion. Cheney went on to Halliburton from 1995 to 2000, when he became vice president.

KBR lost the bid for the logistics contract in 1997 but won it back in late 2001, a 10-year contract worth \$23 billion. In November 2002, KBR was asked to plan how to restore oil production in Iraq. Five months later, it won the no-bid contract to carry out its own plan. Three weeks later, the U.S. invaded Iraq.

But details of the contract remained secret until the non-partisan Center for Public Integrity sued the government and a year later, got the paperwork. They found 10 tasks had been added onto KBR's original oil restoration contract. One task had ballooned in cost from \$24 million to nearly \$900 million in just six months. KBR eventually billed the government 2.5 billion.

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**Within weeks of the invasion, contractors reached the decrepit Qarmat Ali plant near Basra in southern Iraq.** The plant provided the critical water pressure needed to extract oil from nearby fields. KBR moved swiftly to repair it.

National Guard soldiers from four states were ordered to protect the contractors traveling to Iraq oil sites. From April to June 2003, teams of Oregon soldiers accompanied KBR employees to pipelines, oil fields and Qarmat Ali. Just weeks after the Indiana Guard replaced the Oregonians, a new KBR safety officer arrived at the plant and was immediately concerned about the fine orange powder piled several feet deep that blew constantly in the desert wind. The corrosion fighter contained hexavalent chromium, one of the most potent carcinogens. Most of the soldiers and staff had sinus problems and bloody noses. KBR managers at first dismissed complaints, then inspected the plant wearing protective suits. The military immediately pulled out. KBR closed the plant, and the contamination was eventually paved over.

Still, the exposure and the men's health problems remained hidden until KBR's own employees told Senate Democrats about the hexavalent chromium during contractor oversight hearings on waste and abuse in 2008. The Senators concluded "the Bush Administration failed to follow long-established



Beth Nakamura, The Oregonian

Rocky Bixby is one of the veterans in the KBR lawsuit.

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regulations for awarding contracts, mismanaged the performance of contracts it did award, and allowed contractors and Iraqi government officials to engage in fraudulent and wasteful conduct."

Soldiers from across the country, learning the extent of the danger, also testified before Congress and began filing suit.

The Senate Democrats also concluded that KBR "knowingly" exposed troops and its own employees to sodium dichromate/hexavalent chromium."

KBR, which spun off from Halliburton in 2007, become synonymous for poor performance: serving spoiled food, using contaminated water and burning trash in pits. The company also outraged the public by hiring workers through two shell companies in the Cayman Islands to avoid federal Social Security and Medicare taxes.

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**KBR denies harming troops or employees in Iraq and said it is proud of its work there.**

"Ethics and integrity are the foundation of our business. The company in no way tolerates or condones illegal or unethical behavior. When questions about our work have been raised, KBR has provided information requested of us and worked to resolve the issues. We remain committed to providing the Army with high-quality, cost effective service," spokeswoman Heather Browne said in a statement Wednesday.

Steve Schooner, co-director of the [Government Procurement Law Program at George Washington University](#), said the government "failed to properly staff the contract management function. That failure spans the entire contract life cycle -- from planning to post-award contract management."

"The real question is: without KBR or another contractor, would the government have done a better job, given the conditions, particularly given the administration's unrealistic expectations and aspirations?"

"Given the inadequate size of our military at the time, it's naive to simply assume that the government would or could have done better."

He said the [Defense Sec. Robert Gates](#) has pledged to hire 20,000 additional contract examiners by 2015. In the meantime, the war and the controversies continue.

On May 5, the Justice Department announced it was suing KBR for allegedly taking kickbacks from subcontractors on Iraq work.

Hours later, the U.S. Army announced that KBR won a no-bid contract worth nearly \$570 million to support the military in Iraq.

As their attorneys head back into court, former Oregon Guard soldier Larry Roberta of Aumsville, compares their suit to David vs.Goliath.

"It only took one stone," he said. "And my attorney's name is David."

--[Julie Sullivan](#)



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Posted by **dtrountma**  
May 19, 2010, 8:54PM

Perhaps the biggest stretch is using "ethics and integrity" in any article involving KBR or Halliburton, post-Cheney. Brown and Root was a British company doing oil work- then bought out. (A friend in England lost his job, and benefits, when Halliburton stepped in.)

Hexavalent chromium is the same toxin involved in the case that made Erin Brokovich famous- the company knew the danger, exposed the troops, and should pay-up.

"Shoddy" is both a description of their ethics, and performance.

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Posted by **kyjaha065**  
May 19, 2010, 8:55PM

This is OUR government at work here people.

Kicking asses and deleting names... of our own soldiers and citizens.

Aint we a proud nation.

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Posted by **neonzx**  
May 19, 2010, 8:56PM

where are all the hawks now??

cowring in their FOXnests

the privateers have won and the volunteers have been told to shut up and take it like a man (up the azz)

only in America

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Posted by **felidajoe**  
May 19, 2010, 9:11PM

Wow. The Lawyers are on the march again with milking buckets in hand in the never-ending search for milk-cows and tons of money. Never mind the fact that the exposure has never been linked to any threatening conditions, because all that is wanted is money - tons of it.

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Posted by **Incbert**  
May 19, 2010, 9:35PM

Bring on Erin Brokovich!

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Posted by **bigmike45**  
May 19, 2010, 9:36PM

neon so I guess war is a bad thing only if the other "team" starts it.

When are you going to crucify your hero for expanding the war in Aghganistan and still being in Iraq 15 months after taking office. Seems to me all that is showing is they hypocricy of the left. Then again they will blame every problem 20 years from now on Bush, Cheney, and Halliburton.

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Posted by **jackcheese**  
May 19, 2010, 9:38PM

Oh Boy...Felidajoe, are'nt you up past your bed time? You do not get the picture. KBR wants to to halt the Discovery Process..Because there is some bad stuff that is going to come to light in the form of a paper trail and it is not going to look good for them.

There are some of the soldiers who have documentation from the Regular Army Doctors and the V.A. Doctors who say that some of these soldiers will have "Adverse Health Affects" due to their exposure to Sodium Dichromate. Now, in case you are not in command of the English language and do not understand "Adverse" and what it means, go to this web site.  
<http://www.merriam-webster.com/netdict/adverse>

Get the picture? Now, go away!

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