

January 22, 2006  
Larry Elliott, Director  
Office of Compensation Analysis and Support

Re: File Number:  
Employee:

Dear Mr. Elliott,

This letter is in response to the article in the Tri-City Herald on January 20, 2006. I, along with my siblings have continued with the filings to the U.S. Department of Labor, Office of Workers Compensation Program, which our mother, started before she passed away on

to was a DOE employee at the Hanford Site, Richland, WA. from We strongly disagree with their findings of facts and to their recommended decision. We are not sure if you have access to all the records but if needed they will be available to you upon request. Enclosed is the "Recommended Decision from the U.S. Department of Labor and our letter of disagreement with this decision. Any help you can give us with this matter will be much appreciated.

Sincerely,

U.S. DEPARTMENT OF LABOR  
Rosanne Dummer, District Manager  
Final Adjudication Branch  
719 Second Ave, Suite 501  
Seattle, WA. 98104

April 28, 2005

File Number:  
Employee:

Dear Rosanne Dummer,

We, \_\_\_\_\_, the children of \_\_\_\_\_ do not agree with the findings of facts pertaining to our mother with respect to the recommended decision. We are requesting a review of the written record with our objections of the Final Adjudication Branch for the following reasons.

1) The EE-3 indicates a dosimetry badge was worn and the Department of Energy confirmed that she was monitored through the use of a dosimetry badge for exposure to radiation. On numerous reports prior to this latest report it states that she was not monitored, therefore contradicting this report. We request the Department of Energy's specific records of the actual monitoring and reading of her badge with the exposure to radiation that the Department says they did.

2) Twice a week, every week, \_\_\_\_\_ had to go to the 400 Area by herself and work in a building by herself that was always damp, cold and smelled. She was told NOT TO DRINK THE WATER and she always felt nauseated, had headaches and always did not feel good after working out there.

3) \_\_\_\_\_ worked with 10 other co workers and out of these 10 women, 5 women have either passed away from cancer or have been diagnosed with cancer. They are:

- 1)
- 2)
- 3)
- 4)

5)

These are just the one's that we are aware of out of the 10 co workers that \_\_\_\_\_ worked with. There may even be more of the 10, who have either passed away from cancer or have been diagnosed with cancer. This is an alarming revelation and clearly it needs to be looked into.

:

April 28, 2005  
Re:  
File Number:

- 4) The probability of causation for \_\_\_\_\_ was 33.44 percent in regards for the Department of Energy taking responsibility. We believe that this percentage should be much higher since our mother worked for the Department of Energy for 24 plus years. We also believe the dose reconstruction estimates should be much higher than stated.

Sincerely,



## U. S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMPENSATION PROGRAMS  
DIVISION OF ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS COMPENSATION  
SEATTLE DISTRICT OFFICE  
719 SECOND AVENUE, SUITE 601  
SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 373-6750  
TOLL-FREE: 1-888-805-3401

APR 15 2009

File Number:

Employee:

Dear Ms. Martin:

Enclosed is the Notice of Recommended Decision of the District Office concerning your claim for compensation under Part B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The District Office **recommends denial** of your claim for benefits. Please note that this is only a RECOMMENDED Decision; this is not a Final Decision. The Recommended Decision has been forwarded to the Final Adjudication Branch (FAB) for their review and issuance of the Final Decision.

Please read the Notice of Recommended Decision and Claimant Rights carefully.


*If you agree* with the Recommended Decision and wish to waive any objections to it, you must follow the instructions for doing so provided in the section entitled "If You Agree with the Recommended Decision."

- If you submit the attached Waiver Sheet (or a statement waiving the right to object) to the Final Adjudication Branch at 719 Second Ave, Suite 501, Seattle, WA 98104, a final decision can be issued before the end of the sixty (60) day period for filing objections.
- If you fail to submit a Waiver Sheet or statement, the final decision cannot be issued until after the end of the sixty (60) day period.
- Failure to submit the Waiver Sheet or statement may delay the issuance of the lump sum payment to those claimants who are eligible to receive this benefit.

*If you disagree* with the Recommended Decision, you must follow the instructions provided in the section entitled "If You Wish to Object to the Recommended Decision." Your objections must be filed within sixty (60) days from the date of the Recommended Decision by writing to the Final Adjudication Branch at 719 Second Ave, Suite 501, Seattle, WA 98104.

If you have any questions or concerns, you may contact the District Office at (206) 373-6750 or toll-free at 1-888-805-3401.

Sincerely,



Kelly Reavell  
Senior Examiner



## U. S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMPENSATION PROGRAMS  
DIVISION OF ENERGY EMPLOYEES' OCCUPATIONAL ILLNESS COMPENSATION  
SEATTLE DISTRICT OFFICE  
719 SECOND AVENUE, SUITE 601  
SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 373-6750  
TOLL-FREE: 1-888-805-3401

EMPLOYEE:

CLAIMANTS:

FILE NUMBER:

DATE OF FILING:

DATE OF ISSUANCE:

APR 15 2005

### NOTICE OF RECOMMENDED DECISION

This is the Recommended Decision of the District Office concerning your claim for compensation under Part B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The District Office **recommends denial** of your claim under Part B for survivor benefits for the condition of lung cancer. The District Office defers determination of entitlement to benefits under Part E (formerly Part D) of the EEOICPA.

### STATEMENT OF THE CASE

filed a Part B claim (EE-1) for benefits on 01/31/2002. Prior to the adjudication of her claim, the employee, died.

filed a Part B claim (EE-2) for benefits on 07/06/2004, 07/06/2004, 07/12/2004, 07/19/2004, and 07/26/2004, respectively, seeking benefits pursuant to the EEOICPA as the survivors of covered a employee for the condition of lung cancer.

submitted an EE-3 indicating that she was employed with Westinghouse Hanford, Boeing Computer Services and Lockheed Martin Services at the Hanford Site, Richland, Washington. The EE-3 indicates a dosimetry badge was worn.

The Department of Energy (DOE) confirmed that was a DOE employee at the Hanford Site, Richland, Washington, from to , to and from to . The Department of Energy confirmed that she was monitored through the use of a dosimetry badge for exposure to radiation.

submitted a medical report from , M.D., dated 06/04/2001 indicating a diagnosis of small cell lung cancer. Also submitted was a pathology report

ated 05/30/2001, which formed the basis for the diagnosis of cancer. This medical evidence is sufficient to document the diagnosis of cancer under the EEOICPA.

A copy of the case file and a National Institute for Occupational Safety and Health (NIOSH) Referral Summary was forwarded to NIOSH for dose reconstruction in 04/22/2002. On 03/25/2005, the Office received the "NIOSH Report of Dose Reconstruction under EEOICPA," dated 02/10/2005, which provided the estimates of dose to the primary cancer site of the lung.

NIOSH estimated annual doses totaling 15.949 rem (roentgen equivalent man) for the lung. Based on these dose estimates, the calculation of probability of causation was completed using NIOSH-IREP (NIOSH-Interactive RadioEpidemiological Program), which is an interactive software program. The probability of causation for the one primary cancer was determined to be 33.44 percent.

each submitted a Birth Certificate showing they are the children of the employee. The claimant's also submitted a copy of the employee's Death Certificate showing that was divorced at the time of her death on . Furthermore, ; each filed a copy of their Marriage Certificates showing the change in their last name from to their current last names.

#### FINDINGS OF FACT

1. filed a Part B claim for benefits on 01/31/2002. The employee's children, , and , filed a Part B claim for survivor benefits on 07/06/2004, 07/06/2004, 07/12/2004, 07/19/2004, and 07/26/2004, respectively.
2. was employed with Westinghouse Hanford, Boeing Computer Services and Lockheed Martin Services, Department of Energy facilities, contractors, subcontractors or vendors, at the Hanford Site, Richland, Washington, from to , to and from to respectively.
3. was monitored through the use of a dosimetry badge for exposure to radiation during employment at the Hanford Site, Richland, Washington.
4. On 05/30/2001 was diagnosed with lung cancer.
5. The cancer diagnosis was made after began employment with the Department of Energy.
6. NIOSH reported annual dose estimates for the lung from the date of initial radiation exposure at the Hanford Site, Richland, Washington, to the date of cancer diagnosis. A summary and explanation of information and methods applied to produce these dose estimates, including

, and involvement through an interview and review of the dose report, are documented in the "NIOSH Report of Dose Reconstruction under EEOICPA," dated 02/10/2005.

7. Based on the dose reconstruction performed by NIOSH, the probability of causation (the likelihood that a cancer was caused by radiation exposure incurred by the employee while working at a DOE covered facility) was calculated for the one primary cancer. The probability of causation values were determined using the upper 99 percent credibility limit, which helps minimize the possibility of denying claims to employees with cancers likely to have been caused by occupational radiation exposures. It was shown that lung cancer did not meet the "at least as likely as not" (a 50% or greater probability) threshold, as required under the EEOICPA that the cancer was caused by radiation doses incurred while employed at the Hanford Site, Richland, Washington, as the probability of causation was 33.44 percent.


#### CONCLUSIONS OF LAW

1. does not qualify as a covered employee with cancer under Part B, as defined by 42 U.S.C. § 7384i(9)(B) of the EEOICPA.
2. The dose reconstruction estimates were performed in accordance with 42 U.S.C. § 7384n(d) of the EEOICPA and 42 CFR Part 82 §82.10.
3. The Probability of Causation was completed in accordance with 42 U.S.C. § 7384n(c)(3) of the EEOICPA and 20 CFR 30.213, which references Subpart E of 42 CFR Part 81
4. , and are not entitled to compensation under Part B, as outlined under 42 U.S.C. § 7384s(e)(1) of the EEOICPA.
5. Entitlement to Part E benefits under 42 U.S.C. is deferred at this time.

Please review the enclosed Notice of Recommended Decision and Claimant Rights that explains your rights regarding this Recommended Decision.



Christopher M. Green  
Examiner

  
Kelly Reavell  
Senior Examiner

## **NOTICE OF RECOMMENDED DECISION AND CLAIMANT RIGHTS**

The District Office has issued a recommended decision in regard to your claim under the Energy Employees Occupational Illness Compensation Program Act. This notice explains how to file objections to the recommended decision. This notice also explains what to do if you agree with the recommended decision and want the FAB to issue a final decision before the 60-day period has ended. Read the instructions contained in this notice carefully.

### **IF YOU WISH TO OBJECT TO THE RECOMMENDED DECISION:**

If you disagree with all or part of the recommended decision, you **MUST** file specific objections to it **within sixty (60) days from the date of the recommended decision** by writing to the Final Adjudication Branch at:

Rosanne Dummer, District Manager  
Final Adjudication Branch  
719 Second Ave, Suite 501  
Seattle, WA 98104

Your objections **MUST** clearly state the reasons for your disagreement and indicate the specific findings of fact and/or conclusions of law with which you disagree, including any objections to any dose reconstruction performed. If you want an informal oral hearing on your objections, at which you will be given the opportunity to present both oral testimony and written evidence in support of your claim, you **MUST** request a hearing when you file your objections. If you do not include a request for a hearing with your objections, the Final Adjudication Branch will consider your objections through a review of the written record, which will also give you the opportunity to present written evidence in support of your claim. **If you fail to file any specific objections to the recommended decision, it will be affirmed by the Final Adjudication Branch and your right to challenge the recommended decision will be waived for all purposes, even if you have requested an oral hearing.** Any recommended decision that is pending a hearing or review of the written record for more than one year from the date the Final Adjudication Branch receives the claim file will be affirmed.

### **IF YOU AGREE WITH THE RECOMMENDED DECISION:**

If you agree with the recommended decision and wish for it to be affirmed in a final decision without change, you may submit a written statement waiving your right to object to it to the Final Adjudication Branch, at the above address. This action will allow the Final Adjudication Branch to issue a final decision on your claim before the end of the sixty-day period for filing objections. If you wish to object to only part of the recommended decision and waive any objections to the remaining parts of the decision, you may do so. In that situation, the Final Adjudication Branch may issue a final decision affirming the parts of the recommended decision to which you do not object.

**Be sure to print your name, file number and the date of the recommended decision in any correspondence submitted to the Final Adjudication Branch.**