



April 22, 2021

Public Comments to Advisory Board on Toxic Substances and Worker Health (ABTSWH)

I'm D'Lanie Blaze. I represent workers of Santa Susana Field Laboratory (SSFL) and its related worksites Canoga, and DeSoto. Thank you for the opportunity to address the Board. Today, I will talk about some major and ongoing problems that I have noticed; problems that have been repeatedly acknowledged by the National Office but have yet to be corrected. The issues persist and often present an unnavigable and even an adversarial situation for claimants who rely on their Claims Examiners (CEs) and Hearing Representatives (HRs) for the fair and thorough evaluation under the Act that was promised by Congress.

Santa Susana, Canoga, and DeSoto operated jointly, under control of the same contractor and under the same DOE contracts. Therefore, they present shared complexities that will require far more time than we have today. But, I am hopeful that the Board will recognize the need to engage in a detailed review of the following issues, which have relevance to claims program-wide.

1. Today, Ms. Pond and the Board discussed the 2019 decision to divert claims away from the originating District Offices. This has gone on long enough now so that we can see exactly why this was a bad idea. Claims are now adjudicated by CE's and HR's who admit to never having heard of the worksites — they openly admit to a lack of familiarity with site operations and history. Subsequently, they are routinely missing the significance of detailed evidence that has bearing on the claim or that even supports a favorable decision; including evidence that has been previously accepted by the originating District Office. This results in decisions that are anything but consistent. Moreover, as CE's and HR's are still pressed to be expedient (and although Ms. Pond has clarified that they can call the originating District Office to ask for guidance), a continued problem is presented: CE's and HR's are so far out of their depth with the complexity of an unfamiliar DOE worksite, they don't even know what questions to ask on the occasion that they realize a need for some adjudicatory guidance.

There are now evaluative errors that blatantly contradict past Final Decisions, resulting in inappropriate, erroneous and inconsistent decisions. Adding insult to injury, this puts the claimant in the position to request a reconsideration — again, reviewed by someone who is likely unfamiliar with the worksites. This can add a year or more to the process, result in errors that are compounded and, ultimately, viable claims are being denied unfairly. The bottom line is that these work sites are highly complex and the evidence is frequently detailed and specific; it relies not only on a willingness to review all of the evidence in the Case File, but the ability to recognize the significance of that evidence — which could be as vague as a job code, a building number, or a reference to a particular project that the worker participated in.

Mr. Vance and Ms. Pond often tell us — rightly so — that every claim is unique. But I respectfully point out that this is largely because every worksite is unique, which requires us to be able to recognize issues that are common among workers associated with a particular worksite. Having District Offices that specialize and that are familiar with specific sites across the complex will compliment this program and enable it to run efficiently for claimants who are often on borrowed time, as it is. Adding confusion makes the program ineffective. Claimants should benefit from the expertise of seasoned and experienced adjudicators with institutional knowledge that has been gathered over 20 years of this program's administration. If we are here to serve the claimants, then we must demonstrate an eagerness to use what we have learned, and to apply it to the review and adjudication of every unique claim.

2. This brings me to Issue 2 — a willingness to review evidence in the Case File. The Case File frequently includes employment records that reflect years or decades of additional "covered" employment that has been overlooked and disqualified in error, in case after case. At Santa Susana, Canoga, and DeSoto, this problem persists throughout the majority of cases I have reviewed over the past ten years — and it is continuing in new claims that are filed, today (although the National Office recognized this issue in 2014). I have lost count of the number of claims I've reviewed where the Case File contains handwritten letters from workers who have since died; letters pleading with the CE to please just review the employment records. These Case Files demonstrate that considerable time was spent drafting multiple letters of denial — to the worker — and later to the widow — and later to the surviving children — when evidence showing that the worker had been telling the truth has languished in the Case File without review since the outset of the claims process. I have looked at cases where this scenario has played itself out over the course of 17 years — multiple denials, but the evidence was right there the entire time. Moreover, this type of problem and relevant evidence is even less likely to be recognized by District Offices who are so unfamiliar with the specifics of a worksite, or even basic details of corporate contractor successorship. Which brings me to the last issue that I'll touch on, today.
3. It appears that there is a need to make a correction in the BTComp database regarding contractor corporate successorship for Canoga Facility. Ultimately, it has been established that Santa Susana, Canoga, and DeSoto operated jointly by the same established contractors and their successors until 2005 — and so the contractor information between the three sites should be consistent. The corporate verifier — which is Boeing — has provided written confirmation indicating that North American Aviation is also known as Boeing North American, and that they were assigned the same tax identification number. In 2016 and 2020, the originating District Office accepted Boeing's written confirmation as sufficient evidence to establish 1950's-era employment at Canoga; but since BTComp doesn't reflect this information, today the other District Offices are now denying 1950's Social Security Administration records and are not accepting Boeing's written confirmation that should easily clarify the situation — and that was recognized by Seattle District Office on more than one occasion. It doesn't help that newly assigned District Offices are totally unaware of shared characteristics between the three worksites; they are not aware of the need to review the BTComp database or the SEM for all three worksites, when adjudicating one claim for a single worker who rotated between the three sites in the performance of his or her job duties.

[Evidence shows that the majority of employees affiliated with the three worksites routinely rotated between them, with no change in badging or administrative affiliation; often several times in the course of a single workday. NIOSH considers the three sites to represent "the same entity," operationally and contractually, and uses the same site profile for workers of all three facilities].

I think this wraps up my time. In closing, Santa Susana, Canoga and DeSoto are three worksites that operated in unison; they are likely deserving of a reclassification as a combined worksite. I intend to submit information in the future that will support such a determination. For now, I am hopeful that the Board will recommend an update to BTComp so that these sites reflect the same contractor successorship; that all records in the Case File will be reviewed without exception; and that adjudicatory jurisdiction may be restored to the originating District Offices that possess the expertise and institutional knowledge befitting of established site complexities.

I know I've covered a lot of ground in just a few minutes. But as always, it is a privilege to represent the claimants, and to address the Board. Thank you.

* Thank you for the opportunity to address the Board! :-)

Sincerely,

A handwritten signature in black ink, appearing to read "D'Lanie Blaze". The signature is fluid and cursive, with a large initial "D" and "B".

D'Lanie Blaze
Advocate / Authorized Representative
CORE Advocacy for Nuclear & Aerospace Workers