



April 22, 2021

Hello Dr. Markowitz and Members of the Board. My name is Terrie Barrie and I'm a founding member of the Alliance of Nuclear Worker Advocacy Groups. Thank you for the work you do and for providing this time so that the stakeholders can share their thoughts on the program.

The Radiation Exposure Compensation Act presumes that uranium workers who developed certain diseases should be compensated. The basic requirements are that they can prove employment for at least one year as a miner, miller or transporter at a covered facility and has a firm diagnosis of the covered illness.

The diseases RECA presumes develop from exposure to uranium for uranium miners, millers and transporters are:

- Lung cancer
- Fibrosis of the lung
- Pulmonary Fibrosis
- Silicosis
- Pneumoconiosis
- Cor pulmonale related to fibrosis of the lung.

Renal cancer and chronic renal disease, including nephritis and kidney tubal tissue injury, is also presumed for uranium millers.

A [report](#) issued by the World Health Organization states,

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Kidney

Long-term studies of workers chronically exposed to uranium have reported impairment of the kidneys (proximal tubular epithelium) that depended on the level of exposure...There is some

evidence that kidney function returns to normal once the source of excessive uranium exposure has been removed.

I'd like to read a thought D'Lanie Blaze shared with me about a problem adjudicating claims involving uranium exposure. I have her permission to do so.

"Uranium is a known nephrotoxin. At worksites where NIOSH has determined that it cannot estimate uranium exposure with sufficient accuracy, it seems illogical for an Industrial Hygienist to opine about an employee's potential uranium exposure when NIOSH has been unable to determine amount, frequency, or duration. Uranium has both radiological and toxicological properties; yet the means of measuring uranium exposure were the same. Therefore, SEC classes should be applied to those workers who may have suffered toxic effects — as opposed to radiological cancers — from exposure to toxic radionuclides."

I realize that you still don't have a contractor to support your work, however, it may be beneficial to some claimants if the Board can determine if a presumption should be recommended for the non-cancerous diseases covered under RECA as to whether the radiological or chemical nature could contribute to the development of these non-cancerous diseases. As for lung and kidney cancer could the chemical properties alone result in the development of these two cancers?

The last issue I want to raise is, frankly, very troubling. Certain concerns have been brought to my attention and I am working to get an in-depth report which could show an emerging pattern of the CEs and FAB cherry picking the evidence that wasn't picked up by DEEOIC' quality assurance program.

Take, for instance, the example is the 14-year plight of a widow of a worker from the Savannah River Site. This [was reported](#) in the Aiken, SC paper, The State.

I won't go into the details about the early years of the case but instead begin when the request for reconsideration was denied on September 28, 2020. The FAB denied the request "...on the ground that the representative's challenges were insufficient to change the June 8, 2020 decision."

The AR is an attorney, and he filed a timely complaint in federal court mid to late November asserting that,

...FAB failed to discuss or meaningfully weigh any of the evidence of employment...and simply concluded that “the District Office and the FAB have appropriately reviewed [the] complete file material in accordance to programmatic guidance, and determines that submitted documentation does not establish additional covered SRS employment for the employee;

And then, surprise! The complaint was withdrawn from the court and “on January 11, 2021, the Director of DEEOIC issued an order vacating FAB’s June 8, 2020 final decision and the September 28, 2020 reconsideration denial.”

The most important statement of the March 5, 2021 Final Decision to finally accept the claim is,

After carefully considering the entirety of the evidence in the case file...

The employment evidence was already in the case file before the September 28, 2020 denial of the request for reconsideration. Let me say that again, the evidence needed to approve this claim was in the case file and the CE and FAB ignored it before a federal complaint was filed.

As I mentioned I’ve heard of similar cases. Now if the Board had a support contractor I would ask that you audit Final Decisions to Deny, Requests for Reconsiderations, and Decisions to Deny the reconsideration to determine how prevalent it is for the CE and FAB to ignore evidence in the file.

I thank you for your time. Again, I will forward the in-depth report to you once I receive it. I will submit these comments to the website for publication.

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