

September 9, 2008

Office of Compensation Analysis and Support
NIOSH
4676 Columbia Parkway, MS-C-47
Cincinnati, Ohio 45226

SPECIAL EXPOSURE COHORT PETITION

Petitioner:

Attached is a petition to establish a Special Exposure Cohort for workers at the AWE Standard Oil Development Company in Linden, NJ for the period 1942 – 1964. This SEC is requested on the basis that there are no surviving records of radiological conditions or personnel exposures for Manhattan Project work during WWII, and/or any exposures that may have occurred due to residual contamination for decades thereafter.

This petition is filed using SEC Form B and attachments. Please initiate review of this petition and inform me when the SEC is approved.

Thank you for your prompt attention,

Cc: Congressman Gresham Barrett
233 Pendleton St, NW
Aiken, SC 29801

Energy Employees Compensation Center
1718 Bunting Dr.
North Augusta, SC 29841

Special Exposure Cohort Petition — Form B

Use of this form and disclosure of Social Security Number are voluntary. Failure to use this form or disclose this number will not result in the denial of any right, benefit, or privilege to which you may be entitled.

General Instructions on Completing this Form (complete instructions are available in a separate packet):

Except for signatures, please PRINT all information clearly and neatly on the form.

Please read each of Parts A — G in this form and complete the parts appropriate to you. If there is more than one petitioner, then each petitioner should complete those sections of parts A – C of the form that apply to them. Additional copies of the first two pages of this form are provided at the end of the form for this purpose. A maximum of three petitioners is allowed.

If you need more space to provide additional information, use the continuation page provided at the end of the form and attach the completed continuation page(s) to Form B.

If you have questions about the use of this form, please call the following NIOSH toll-free phone number and request to speak to someone in the Office of Compensation Analysis and Support about an SEC petition: **1-800-356-4674**.

| | | |
|--------------------|---|----------------------|
| If you are: | <input type="checkbox"/> A Labor Organization, | Start at D on Page 3 |
| | <input type="checkbox"/> An Energy Employee (current or former), | Start at C on Page 2 |
| | <input checked="" type="checkbox"/> A Survivor (of a former Energy Employee), | Start at B on Page 2 |
| | <input type="checkbox"/> A Representative (of a current or former Energy Employee), | Start at A on Page 1 |

A Representative Information — Complete Section A if you are authorized by an Employee or Survivor(s) to petition on behalf of a class.

A.1 **Are you a contact person for an organization?** Yes (Go to A.2) No (Go to A.3)

A.2 **Organization Information:**

 Name of Organization

 Position of Contact Person

A.3 **Name of Petition Representative:**

 Mr./Mrs./Ms. First Name Middle Initial Last Name

A.4 **Address:**

 Street Apt # P.O. Box

 City State Zip Code

A.5 **Telephone Number:** () - _____

A.6 **Email Address:** _____

A.7 Check the box at left to indicate you have attached to the back of this form written authorization to petition by the survivor(s) or employee(s) indicated in Parts B or C of this form. An authorization

If you are representing a Survivor, go to Part B; if you are representing an Employee, go to Part C.

Name or Social Security Number of First Petitioner: _

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B Survivor Information — Complete Section B if you are a Survivor or representing a Survivor.

B.1 **Name of Survivor:** _____
Mr./Mrs./Ms. First Name Middle Initial Last Name

B.2 **Social Security Number of Survivor:** _____

B.3 **Address of Survivor:** _____
Street Apt # P.O. Box
City State Zip Code

B.4 **Telephone Number of Survivor:** _____

B.5 **Email Address of Survivor:** _____

B.6 **Relationship to Employee:** Spouse Son/Daughter Parent
 Grandparent Grandchild

Go to Part C.

C Employee Information — Complete Section C UNLESS you are a labor organization.

C.1 **Name of Employee:** _____
Mr./Mrs./Ms. First Name Middle Initial Last Name

C.2 **Former Name of Employee (e.g., maiden name/legal name change/other):** _____
Mr./Mrs./Ms. First Name Middle Initial Last Name

C.3 **Social Security Number of Employee:** _____

C.4 **Address of Employee (if living):** _____
Street Apt # P.O. Box
City State Zip Code

C.5 **Telephone Number of Employee:** () _____

C.6 **Email Address of Employee:** _____

C.7 **Employment Information Related to Petition:**

C.7a **Employee Number (if known):** _____

C.7b **Dates of Employment:** Start 10/1937 End 8/1962

C.7c **Employer Name:** Standard Oil Development Co.

C.7d **Work Site Location:** Research Center, Linden, NJ
adjacent Bayway refinery

C.7e **Supervisor's Name:** _____

Go to Part E.

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D Labor Organization Information — Complete Section D ONLY if you are a labor organization.

D.1 Labor Organization Information:

Name of Organization

Position of Contact Person

D.2 Name of Petition Representative:

D.3 Address of Petition Representative:

Street

Apt #

P.O. Box

City

State

Zip Code

D.4 Telephone Number of Petition Representative: (____) _____ - _____

D.5 Email Address of Petition Representative: _____

D.6 Period during which labor organization represented employees covered by this petition
(please attach documentation): Start _____ End _____

D.7 Identity of other labor organizations that may represent or have represented this class of employees (if known):

Go to Part E.

Name or Social Security Number of First Petitioner: _

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E Proposed Definition of Employee Class Covered by Petition — Complete Section E.

E.1 Name of DOE or AWE Facility: Standard Oil Development Co.

E.2 Locations at the Facility relevant to this petition:
ALL

E.3 List job titles and/or job duties of employees included in the class. In addition, you can list by name any individuals other than petitioners identified on this form who you believe should be included in this class:
ALL

E.4 Employment Dates relevant to this petition:
Start 01/01/1942 End 01/01/1964
Start _____ End _____
Start _____ End _____

E.5 Is the petition based on one or more unmonitored, unrecorded, or inadequately monitored or recorded exposure incidents? Yes No
If yes, provide the date(s) of the incident(s) and a complete description (attach additional pages as necessary):

Go to Part F.

Special Exposure Cohort Petition — Form B

**F Basis for Proposing that Records and Information are Inadequate for Individual Dose —
Complete Section F.**

Complete **at least one** of the following entries in this section by checking the appropriate box and providing the required information related to the selection. You are not required to complete more than one entry.

- F.1 I/We have attached either documents or statements provided by affidavit that indicate that radiation exposures and radiation doses potentially incurred by members of the proposed class, that relate to this petition, were not monitored, either through personal monitoring or through area monitoring.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that potential radiation exposures were not monitored.

See attachment

- F.2 I/ We have attached either documents or statements provided by affidavit that indicate that radiation monitoring records for members of the proposed class have been lost, falsified, or destroyed; or that there is no information regarding monitoring, source, source term, or process from the site where the employees worked.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that radiation monitoring records for members of the proposed class have been lost, altered illegally, or destroyed.

Part F is continued on the following page.

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F.3 I/We have attached a report from a health physicist or other individual with expertise in radiation dose reconstruction documenting the limitations of existing DOE or AWE records on radiation exposures at the facility, as relevant to the petition. The report specifies the basis for believing these documented limitations might prevent the completion of dose reconstructions for members of the class under 42 CFR Part 82 and related NIOSH technical implementation guidelines.

(Attach report to the back of the petition form.)

F.4 I/We have attached a scientific or technical report, issued by a government agency of the Executive Branch of Government or the General Accounting Office, the Nuclear Regulatory Commission, or the Defense Nuclear Facilities Safety Board, or published in a peer-reviewed journal, that identifies dosimetry and related information that are unavailable (due to either a lack of monitoring or the destruction or loss of records) for estimating the radiation doses of employees covered by the petition.

(Attach report to the back of the petition form.)

Go to Part G.

G Signature of Person(s) Submitting this Petition — Complete Section G.

All Petitioners should sign and date the petition. A maximum of three persons may sign the petition.

Signature _____

9/9/2008
Date

Signature _____

Date

Signature _____

Date

Notice: Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I affirm that the information provided on this form is accurate and true.

Send this form to: SEC Petition
Office of Compensation Analysis and Support
NIOSH
4676 Columbia Parkway, MS-C-47
Cincinnati, OH 45226

If there are additional petitioners, they must complete the Appendix Forms for additional petitioners. The Appendix forms are located at the end of this document.

Name or Social Security Number of First Petitioner: _____

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 300 minutes per response, including time for reviewing instructions, gathering the information needed, and completing the form. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to CDC Reports Clearance Officer, 1600 Clifton Road, MS-E-11, Atlanta GA, 30333; ATTN:PRA 0920-0639. Do not send the completed petition form to this address. Completed petitions are to be submitted to NIOSH at the address provided in these instructions. Persons are not required to respond to the information collected on this form unless it displays a currently valid OMB number.

Privacy Act Advisement

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. § 552a), you are hereby notified of the following:

The Energy Employees Occupational Illness Compensation Program Act (42 U.S.C. §§ 7384-7385) (EEOICPA) authorizes the President to designate additional classes of employees to be included in the Special Exposure Cohort (SEC). EEOICPA authorizes HHS to implement its responsibilities with the assistance of the National Institute for Occupational Safety (NIOSH), an Institute of the Centers for Disease Control and Prevention. Information obtained by NIOSH in connection with petitions for including additional classes of employees in the SEC will be used to evaluate the petition and report findings to the Advisory Board on Radiation and Worker Health and HHS.

Records containing identifiable information become part of an existing NIOSH system of records under the Privacy Act, 09-20-147 "Occupational Health Epidemiological Studies and EEOICPA Program Records. HHS/CDC/NIOSH." These records are treated in a confidential manner, unless otherwise compelled by law. Disclosures that NIOSH may need to make for the processing of your petition or other purposes are listed below.

NIOSH may need to disclose personal identifying information to: (a) the Department of Energy, other federal agencies, other government or private entities and to private sector employers to permit these entities to retrieve records required by NIOSH; (b) identified witnesses as designated by NIOSH so that these individuals can provide information to assist with the evaluation of SEC petitions; (c) contractors assisting NIOSH; (d) collaborating researchers, under certain limited circumstances to conduct further investigations; (e) Federal, state and local agencies for law enforcement purposes; and (f) a Member of Congress or a Congressional staff member in response to a verified inquiry.

This notice applies to all forms and informational requests that you may receive from NIOSH in connection with the evaluation of an SEC petition.

Use of the NIOSH petition forms (A and B) is voluntary but your provision of information required by these forms is mandatory for the consideration of a petition, as specified under 42 CFR Part 83. Petitions that fail to provide required information may not be considered by HHS.

Name or Social Security Number of First Petitioner: K

I request to establish or be added to a Special Exposure Cohort on the basis, documented by NIOSH, that no dosimetry or workplace monitoring data exists from which to perform a valid dose reconstruction covering _____ period of employment with the Standard Oil Development Company.

Although NIOSH claims to have completed a dose reconstruction, the draft report I have notes (p. 5, background section)

“... there are no records regarding radiological conditions at the site”

Additionally, there is no personal dosimetry data, there are no operating logs, no incident reports, and I am unaware of even any technical reports documenting the AEC sponsored uranium processing that occurred during the 1940's.

NIOSH claims (p. 4, Information Used) that the primary data source for the dose reconstruction was “dosimetry records obtained from the Department of Energy”. This is patently untrue and misleading. As noted, there is no data for my father's dose or workplace conditions from which to perform a valid dose reconstruction.

NIOSH says the way they perform dose reconstruction is (p.:3)

“NIOSH reconstructs radiation doses by evaluating all available, appropriate data relevant to the employee's radiation exposure. Some examples of data that may be included in the dose reconstruction include, but are not limited to, internal dosimetry (such as results from urinalysis), external dosimetry data (such as film badge reading), workplace monitoring data (such as air sample results), workplace characterization data (such as type and amount of radioactive material processed), and descriptions of the type of work performed at the work location.”

In _____ case, they must have invented a new methodology since at best, only a description of the type of work performed was available.

The dose reconstruction seems to have been based primarily on the data and methodology of reference #8 (Battelle-TBD-60001) and its primary source document, a 1960 era study (Chritafano and Harris available only through a FOIA request). Data in these studies comes from other operations at other sites, and may have been representative of the situation at Standard Oil, or may not have been. A single loss of containment incident (e.g. a failure of a glove in a glovebox) can easily translate into more lifetime dose than years of routine operation. In the course of working with uranium for years, such incidents undoubtedly occurred and would have been treated as abnormal, but not catastrophic events, and the uranium dust would have been cleaned up and operations resumed without fanfare. It is unlikely that during Manhattan project days, a little incident like that slowed the rush to success. However, it is also likely that little incidents like that could translate into significant dose, particularly through an inhalation pathway.

Studying the Battelle document invites a whole other set of concerns regarding the claimant favorability of the methodology. In fact, S. Cohen and Associates, contractors to the Advisory Board on Radiation and Worker Health, have pointed out many areas where they believe the methodology is less than claimant favorable. Their executive summary lists 6 findings, and more issues are identified within the report: In particular, it identifies two specific issues with dose estimates from the 1940's, the period my father was most likely exposed. The other findings, as well as other issues identified within the report may also be relevant.

Finding 1: It is not possible to judge whether the basic approach to developing inhalation doses in TBD-6001 is claimant favorable, based on the information presented in that document. However, based on analyses presented in this review, it appears that the average inhalation doses used in TBD-6001 are not claimant favorable, **particularly for the period prior to 1948.**

Finding 2: TBD-6001 oversimplifies the process descriptions from Christofano and Harris (1960) and, as a result, may have missed or understated significant pathways for external and internal exposure.

Finding 3: The approach used in TBD-6001 to calculate the contribution to external exposure of contaminated dust settled on workplace surfaces is not appropriate. SC&A addressed the same issue in its review of TBD-6000 (SC&A 2007, Item 5).

Finding 4: Summary Tables 7.1 and 7.3 in Section 7 of TBD-6001 that address external exposures require additional elaboration to understand the sources of the contained data and how the data were derived.

Petitioner:

NIOSH Tracking:

Finding 5: The approach taken by NIOSH to develop year-specific correction factors to inhalation doses does not appear to be claimant favorable. **Doses in the early years may be understated.**

Finding 6: NIOSH did not consider radon exposures in developing inhalation exposure rates. Since pitchblende ore contains significant quantities of Ra-226 and its progeny, this omission significantly understates inhalation exposure rates for workers involved with operations at the front end (ore processing) of the refining process.

In summary, I request that my claim be considered for Special Exposure Cohort treatment. A defensible dose reconstruction cannot be completed. Conditions or incidents which could have resulted in significant dose are long forgotten and not recorded.

The dose reconstruction that was performed is neither valid nor relevant. It is not claimant favorable because it does consider that conditions or incidents at the work site might have been different (worse) than the reference site. Although Standard Oil may have been more of a lab type operation than the basis facilities, that may have no relationship to an individual's dose. In fact, it is quite possible that lab work would be more "hands on" than a larger scale production operation, and in either case, routine upset conditions or containment breaches may have occurred for which no records survive today.

9/8/08

Date

Lee A. E. Low
Notary State of South Carolina
My Commission Expires July 25, 2015