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Cc: Chen, Jihong (Jane) (CDC/NIOSH/EID) (CTR)
Subject: 194 - Ten-Year Review of the NIOSH Radiation Dose Reconstruction Program Comments

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Comments

These comments are being submitted as part of the Ten-Year Review of the NIOSH Radiation Dose Reconstruction Program NIOSH Docket 194 on behalf of the workers and survivors who filed EEOICPA claims resulting from radiation exposure at the Bethlehem Steel plant in Lackawanna NY.

NIOSH Treatment of Claimants

EEOICPA was intended to be claimant friendly. NIOSH's implementation of the program has fallen well short of this goal. The complexity of the key process, namely Dose Reconstruction is well beyond the average claimant, and no meaningful attempts have been made by NIOSH to clarify in detail how the dose reconstructions are done on a case by case basis and how the percentages were derived. There seems to be very little consistency from case to case for workers who should have had very similar profiles based on tenure at the plant, and the departments where they worked. While the scientific detail NIOSH provides is impressive, it is simply unreasonable to expect claimants to understand this process, or to be able to respond to NIOSH in cases where claims have been denied based solely on this information.

In some cases claimants were asked to provide specific dates when their Husband/Father worked at the plant. In other cases they were asked to provide the department where their Husband/Father worked, or they were asked to provide the clock number of their Husband/Father. How could anyone possibly expect that anyone would be able to provide this type of information when the events in question occurred over 60 years ago at a plant that in effect no longer exists.

Incomplete Site Profiles

The initial site profile for Bethlehem Steel contained serious flaws and inaccuracies. Ed Walker and others provided information regarding additional locations within the plant where radioactive material collected after processing; however this information was never fully incorporated into the site profile. The portion of the 10 inch bar mill, under the rollers, where radioactive scale and dust collected and remains to this day, was never considered as part of the profile, even though this condition lead to worker exposure long after the rolling of Uranium rods ceased at the plant.

NIOSH repeatedly stated that the only material processed at the plant was Natural Uranium. In June of 2006 Ed Walker discovered documentation that indicated that during the time period in question, recycled or "Depleted" Uranium and Thorium as well as Natural Uranium was being processed at the Simonds Saw and Steel plant in Lockport NY. Since this mill provided the feedstock for Bethlehem Steel, the deduction Ed made was that this material would also have been finished rolled at Bethlehem Steel. NIOSH has now acknowledged this "possibility" that Depleted Uranium was rolled at Bethlehem Steel, however they discount the threat to worker safety that exposure to this material would have posed.

NIOSH compiled the Bethlehem Steel Site profile before actually interviewing any of the men that worked in the Mill, or even visiting the site in Lackawanna, NY. They were unaware of the topology of the plant, and material handling practices being used at the time at Bethlehem Steel.

NIOSH didn't know that workers routinely were required to grind cobbles when the rods being rolled got jammed in the rollers. Exposure due to this work operation was never documented or accurately modeled. NIOSH also assumed that the dust and particulates accumulated from the rolling process would have been swept up and placed in drums at the end of each shift, even though dirt floors dominated this mill making it very unlikely that all of the radioactive material could have been "cleaned up", resulting in prolonged exposure to radiation, a concept that was never considered during Dose Reconstruction.

Excerpts from a Letter from Ed Walker to Larry Elliott November 2006 ISSUE #7c NIOSH developed an exposure model for BSC claimants based on existing air sampling for which there is none from 1949-1951 and not enough in 1951 to 1952 to accurately do a dose reconstruction. With a lack of 56,000 sq. ft. of unmonitored area, how can NIOSH make the determination that it is claimant favorable and given the benefit of the doubt? Let's not lose the fact that the methods for monitoring 56 years ago and the methods used for air sampling was not as accurate and precise as the state-of-the-art technology used today. In claimant testimony it is a known fact that the samples taken at BSC were taken by the steelworkers themselves. The government employees handed the instruments to BSC workers and instructed them to walk the instrument right up to the rollers in the designated area and then take it back away from the Uranium to make the reports. These workers unknowingly, unprotected and ill instructed were directed to take the tests.

ISSUE #8

If NIOSH was aware that there were other areas with higher concentrations why were we told for 2 or 3 years that it was the rollers? At a meeting in Cincinnati, I informed NIOSH that the majority of breathing zone samples were taken 500 ft. from the rollers at the Shears. Upon which, within 3 days I was contacted by Stanford & Cohen auditors to set up a meeting with a 10 inch Bar Mill expert and show them a complete layout of the plant. This information certainly should have been available to NIOSH prior to our TBD.

Special Exposure Cohorts

NIOSH believes that Dose Reconstruction is a valid approach to estimating worker exposure at the Bethlehem Steel Plant, even though no direct worker monitoring took place, and records of the amount of material processed and procedures used are nearly nonexistent. When the site monitoring and production records are insufficient to determine that these workers got sick from exposure to radiation, as was the case with Bethlehem Steel, we believe that a Special Exposure Cohort, consistent with the intent of EEOICPA should have been recommended and the claimants compensated. In practice, NIOSH has continued to compile dose reconstructions using surrogate data to compute totally meaningless dose reconstructions and deny the claims of the Bethlehem Steel workers and survivors. This has been born out by the fact that subsequent dose reconstructions for claimants that have challenged or presented new information disputing original dose reconstructions typically explain what changed, and why the dose reconstruction is different, making it nearly impossible for a claimant to dispute the results.

Excerpts from a Letter from Ed Walker to Larry Elliott, April 2006

3.) Areas of Highest Uranium Air Concentration At the St. Louis meeting 2/7/05, 26 months after our TBD was approved and Bethlehem Steel claimants were being denied, I was called out of the meeting by SC&A and asked if any grinding had occurred at Bethlehem Steel. Apparently it didn't show up in two versions of Bethlehem's TBD. After NIOSH's extensive review of the rolling process for three years stating the Uranium concentrations were consistently measured at the rollers. At a NIOSH meeting on 10/6/05 in Cincinnati it was discussed that the BZ's were taken 500 feet from the rollers. Then, I was told that the area with the highest point of concentration was now the Shear area. Now I'm told it was the Grinding process, although I cannot find one air sample taken in the Grinding area in any of the air sample data that I have. Please explain this to us. Were these air samples taken at another facility again?

The use of Surrogate Data in Dose Reconstruction

NIOSH used surrogate data obtained from Simonds Saw and Steel in Lockport, NY as the basis for the dose reconstructions for the workers at Bethlehem Steel. Even though these facilities are different in topology, ventilation and air quality employed, and the basic steel making technologies used, NIOSH insists that it is reasonable to take data from Simonds Saw and use it to compile the Bethlehem Steel dose reconstructions. This is contradictory to the intent of EEOICPA. There has been testimony by prominent members of the scientific and medical committee which support our position. It has been over a year since a sub-committee of the Presidents Advisory Board was formed to evaluate the use of surrogate data. Continued delays in resolving this issue have allowed NIOSH to use surrogate data to deny claims, in effect "making up the rules" as they go along.

Excerpts from a Letter from Ed Walker to Larry Elliott, April 2006

5.) Residual Contamination

It is not only the rafters we are concerned about. How about the Cooling Bed sub-basement area that was only cleaned out once or twice a month and workers were continually working in that area (Documented). Also the rollers that workers put their lunches on to grill sandwiches or heat up soup. (Sworn testimony by workers available) Again, I remind you that no site worker input was requested by NIOSH until approximately 16 months after our TBD was approved. Bethlehem Steel was the first model developed for the 350 facilities across the country. Using Bethlehem Steel as a guinea pig again. Our site TBD was completed without a site profile with worker input. Also, 4 Bethlehem Steel claimants received compensation prior to the dose reconstruction model being approved. How does NIOSH explain this? How can NIOSH determine residual contamination when approximately 28,000 sq. ft. in the heart of the rolling process never had any air samples or smear tests taken in this area?

f.) "Records from rollings matched area air samples from the Fernald Plant". The Fernald Facility is the benefactor of all the latest information acquired from experimental testing at Bethlehem Steel Company. Even Simond Saw had personal monitoring and ventilation but note, none of these safety practices were incorporated at Bethlehem Steel Company for four years of experimental Uranium rolling. Why not? It appears the government deliberately bypassed Bethlehem Steel to any health or worker safety precautions. We feel this is evident according to documentation.