

Kevin Vander Boegh

From: Gary Vander Boegh
Sent: Tuesday, March 18, 2014 10:50 AM
To: Kevin Vander Boegh; Shanna McLaughlin
Subject: FW: CBD Claims at PGDP Not Consistent with Statutory Requirements __ Procedures "Trumping the EEOICPA at PGDP"__REQUEST FORCONGRESSIONAL OVERSIGHT COMMITTEE REVIEW!!!!

Importance: High

From: Gary Vander Boegh
Sent: Monday, March 10, 2014 4:44 PM
To: Jean Gross (paducah.center@rroho.com); Terrie Barrie (tbarrie@anwag@gmail.com); Denise Brock (ocas@cdc.gov); Deb Jerison (deb@eecap.org); Brian Zinc Esq. (bzawec@gmail.com); Paragon Technical Services (contact@paragon-sw.com); Sec of Labor Thomas Perez; Rachel Leiton (Leiton.Rachel@dol.gov); Joby Warrick (warrickj@washpost.com); Mike Nartker (nartker@exchangemonitor.com); Jack Conway Kentucky Attorney General (jenkins@jackconway.org); jim.arnett@AG.ky.gov; jimmy.morphew@att.net; Jim Carroll (jcarroll@courier-journal.com); Jim Bruggers (jbruggers@courier-journal.com); jason.cherkis@huffingtonpost.com; David Jackson (dyjackson@tribune.com)
Cc: Sen. McConnell-Robert Steurer; Congressman Whitfield Chief of Staff-Cory HICKS; Jack Conway Kentucky Attorney General; John Milliman-Rand Paul; Sec of Labor Thomas Perez; Rachel Leiton; Senator Claire McCaskill; Senator Richard Durbin; Senator Charles Grassley; Michael Pape; JANECE.EVERETT@MAIL.HOUSE.gov; Kate Prince; Moon_Sulfab@mccconnell.senate.gov; Paul, Rand (Paul) (randpaulmd@paul.senate.gov); Greg Terry (judge@ccfck.com); Jason Farmer (massaccountyclerk@hotmail.com); Greg Pruitt (hcfiscrt@vci.net); Chris Lasher; David Gallagher (fcje@bellsouth.net); Vickie Viniard (bcjudge@brtc.net); Paducah Mayor Gayle Kaler (gkaler@paducahky.gov); David Denton (wdenton@dklaw.com); David Manuta (mc2@dmanuta.com); David Nolan (dbnesq1@aol.com); Bill.Campbell@usdoj.gov; Jack Kolar (john.kolar@usdoj.gov); U. S. Attorney General Eric Holder (askdoj@usdoj.gov); eric@pgdpca.org; Miller, Mike K (MRSCO); Freedhoff, Michal (Michal.Freedhoff@mail.house.gov)
Subject: RE: CBD Claims at PGDP Not Consistent with Statutory Requirements __ Procedures "Trumping the EEOICPA at PGDP"__REQUEST FORCONGRESSIONAL OVERSIGHT COMMITTEE REVIEW!!!!
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Ms. Gross,

Please remember to call in to the Gill Hearing in the morning at 9:00 am CST. Again, your testimony is requested and Mr. Gill will be providing the appropriate release forms at the FAB hearing. Should you fail to not respond, we will request that the FAB official reconvene at a later date to capture your company's assistance to Mr. Gill based on the records in the DOL file.

Gary

From: Gary Vander Boegh
Sent: Tuesday, December 10, 2013 9:41 PM
To: Jean Gross (paducah.center@rroho.com); Terrie Barrie (tbarrie@anwag@gmail.com); Denise Brock (ocas@cdc.gov); Deb Jerison (deb@eecap.org); Brian Zinc Esq. (bzawec@gmail.com); Paragon Technical Services (contact@paragon-sw.com); Sec of Labor Thomas Perez; Rachel Leiton (Leiton.Rachel@dol.gov); Joby Warrick (warrickj@washpost.com); Mike Nartker (nartker@exchangemonitor.com); Jack Conway Kentucky Attorney General (jenkins@jackconway.org); jim.arnett@AG.ky.gov; jimmy.morphew@att.net; Jim Carroll (jcarroll@courier-journal.com); Jim Bruggers (jbruggers@courier-journal.com); jason.cherkis@huffingtonpost.com; David Jackson (dyjackson@tribune.com)
Cc: Sen. McConnell-Robert Steurer; Congressman Whitfield Chief of Staff-Cory HICKS; Jack Conway Kentucky Attorney General; John Milliman-Rand Paul; Sec of Labor Thomas Perez; Rachel Leiton; Senator Claire McCaskill; Senator Richard

Durbin; Senator Charles Grassley; Michael Pape; JANECE.EVERETT@MAIL.HOUSE.gov; Kate Prince; Moon_Sulfab@mccconnell.senate.gov; Paul, Rand (Paul) (randpaulmd@paul.senate.gov); Greg Terry (judge@ccfcky.com); Jason Farmer (massaccountyclerk@hotmail.com); Greg Pruitt (hcfiscrt@vci.net); Chris Lasher; David Gallagher (fcje@bellsouth.net); Vickie Viniard (bcjudge@brtc.net); Paducah Mayor Gayle Kaler (gkaler@paducahky.gov); David Denton (wdenton@dklaw.com); David Manuta (mc2@dmanuta.com); David Nolan (dbnesq1@aol.com); Bill.Campbell@usdoj.gov; Jack Kolar (john.kolar@usdoj.gov); U. S. Attorney General Eric Holder (askdoj@usdoj.gov); eric@pgdpcab.org; Miller, Mike K (MRSCO); Freedhoff, Michal (Michal.Freedhoff@mail.house.gov)

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Importance: High

Jean,

As a former Lockheed Martin project manager working with you as a Lockheed Martin subcontractor, approximately 2 ½ years ago I notified the Department of Justice of an a confrontation with a member of your Paducah staff, Mr. Joe Hatley. When confronted with evidence that Paragon was not processing Part E claims for Allied Chemical/ Honeywell nuclear workers in violation of the statues, Mr. Hatley abruptly protested the viewing of a new internal Paragon procedures manual that Ms. Fuller had provided to all claims workers in her Paducah office. You subsequently filed an unsubstantiated complaint after communicating alleged incident with the DEEOICP Director Rachel Leiton. As a key member of Ms. Leiton's EEOICPA weekly claims review team, you allegedly provided Director Leiton with an affidavit documenting the alleged incident at the Paducah Resource Center. After I provided the DOJ with an incident report, we were surprised to learn that Paragon Technical Services had misrepresented what had occurred during Mr. Hatley's response to the "procedural inquiries." We were dismayed at first by Ms. Leiton's interpretation of events but encouraged by Ms. Leiton's referral to "Homeland Security" to perform an investigation with interviews. Although we were told of pending interviews by Homeland Security officials, none occurred to our knowledge, especially with our claimants who witnessed the alleged incident. Later attempts by CES staff to view and copy internal Paragon procedures located at the Paducah Resource Center were denied.

Questions for Your Consideration

- By what authority does Paragon Technical Services (PTS) base it's position they are the lone claimant representative and thus allowed to interfere with a nuclear worker advocate performing as an "Authorized Representative?"
- It has been documented that Paducah claims workers are not allowed by internal procedure to allow a claimant from Allied Chemical/ Honeywell to file a Part E claim based on these Illinois nuclear workers established statutory requirements of "working on behalf of DOE?" Please confirm or deny this has been the "claim processing standard" applied by staff of PTS at the direction of the Director of the Paducah Resource Center.
- Since it is customary for Paragon Technical Services to encourage CES claimants to terminate the CES representation as the DOL "Authorized Representative" (prior to the approval of a pending EEOICPA claim), by what authority does PTS base it's authority to perform such contract interference after performing ex parte communications?
- Are the weekly meetings held by DOL DEEOICP claims officials with PTS managers that result in the development of internal procedures used by claims examiners to deny valid EEOICPA claims?
- Were PTS officials interviewed by representatives of the Homeland Security Division with regard to the alleged altercation with CES representatives referenced by DEEOICP Director Rachel Leiton?

Your prompt response to the above questions is very much appreciated!

Gary S. Vander Boegh

From: Gary Vander Boegh

Sent: Tuesday, December 10, 2013 8:02 AM

To: Sen. McConnell-Robert Steurer (Robert_Steurer@mccconnell.senate.gov); Congressman Whitfield Chief of Staff-Cory Hicks (cory.hicks@mail.house.gov); Jack Conway Kentucky Attorney General (jenkins@jackconway.org); John Milliman-Rand Paul (rand_paul@paul.senate.gov); Sec of Labor Thomas Perez (perez.thomas@dol.gov); Rachel Leiton (Leiton.Rachel@dol.gov); Senator Claire McCaskill (julie_dwyer@mccaskill.senate.gov); Senator Richard Durbin (Bill_Houlihan@durbin.senate.gov); Senator Charles Grassley (david_young@grassley.senate.gov); Michael Pape (Michael.Pape@mail.house.gov); JANECE.EVERETT@MAIL.HOUSE.gov; Kate Prince (Kate.Prince@mail.house.gov); Moon_Sulfab@mccconnell.senate.gov

Cc: David Jackson (dyjackson@tribune.com); jason.cherkis@huffingtonpost.com; Joby Warrick (warrickj@washpost.com); Mike Nartker (nartker@exchangemonitor.com); Worthington, Pat (Pat.Worthington@hq.doe.gov); Greg Terry (judge@ccfky.com); Greg Pruitt (hcfiscrt@vci.net); Vickie Viniard (bcjudge@brtc.net); Vickie Viniard (bcjudge@brtc.net); Jason Farmer (massaccountyclerk@hotmail.com); McCracken County Judge Executive Van E. Newberry (vnewberry@co.mccracken.ky.us); Bill.Campbell@usdoj.gov; Jack Kolar (john.kolar@usdoj.gov); Jack Conway Kentucky Attorney General (jenkins@jackconway.org); jimmy.morphew@att.net; jim.arnett@AG.ky.gov; Terrie Barrie (tbarrieawag@gmail.com); Deb Jerison (deb@eecap.org)

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Senator McConnell & Congressman Whitfield,

In October of 2012, Paducah Mayor Bill Paxton informed PGDP nuclear claimants to "contact their Ky. Congressional members" (Mitch McConnell, Rand Paul, and/or Congressman Ed Whitfield) in lieu of utilizing Commonwealth Environmental Services, LLC (CES) as their "Authorized Representative" as allowed by 20 CFR Section 30.600. Although the former Mayor of Paducah's request was suspect in October 2012, CES (on behalf of the claimant) provided claimant specific evidence to each of your staff. Senator Paul, John Milliman, Bridgett Franklin, and Stacy Goad were provided email documentation of claimant abuse of due process, but chose to have Senator McConnell "take the lead."

Over the last year, with the assistance of Department of Labor Ombudsman Malcolm Nelson, several nuclear worker advocates identified that EEOICPA Director Rachel Leiton had abused the "nations EEOICPA claimants" by directing DEEOICP claims representatives to eliminate claims (especially at the Paducah plant) by ignoring the "statutory plain language of the Act and implementing regulations" issue denials based on internal communications such as "Directives, Orders, Circulars, Bulletins, emails, and newly developed internal "Unified Procedures." By ordering District Directors and their staff to follow newly developed procedures, the OWCP Director Gary Steinberg and DEEOICP Director Rachel Leiton, with the blessing of congressional staff members "stripped" PGDP claimants of their entitlement rights to the EEOICPA compensation and most importantly medical benefits. Kentucky communities recognized the unequal treatment of their local citizens claims and requested a "Congressional Investigation" by local resolution attached as follows:



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Hickman County...



Massac signed
resolution.pdf



McCracken
County Sick Nucl...



signed ballard
county resoluti...

DOL Ombudsman Malcolm Nelson, Congressman Ed Whitfield, and Senator McConnell confirmed that procedures had been inappropriately developed and adopted by the DEEOICP Director beginning in 2009 that were more stringent than the federal statutes and regulations that allowed DOL OWCP and DEEOICP to "circumvent the statutes" forcing claimants to file lawsuits in federal court, contrary to the intent of Executive Order 13179 executed by then President Bill Clinton. When confronted with the evidence of "subjective" claims approvals, especially against Paducah Gaseous Diffusion Plant nuclear claimants, Senator McConnell's and Congressman Whitfield's staff became uncooperative. This "change" in their position appeared to confirm CES findings that a "political" process was being utilized by Ky. politicians

to determine who was to be compensated, leading to the appearance of a "qui pro quo" compensation program for PGDP claimants at the Paducah, Kentucky plant site.

Root Cause Analysis

To determine sequence of events that led to the Kentucky Congressional delegation to support the DEEOICP Director's development of "unified procedures" in 2009 that circumvented the federal statutes and regulations associated with the EEOICPA, the "root cause analysis" process was utilized

(reference <http://www.plantsupport.com/download/DOERootCauseAnalysis.pdf>) as follows:

Phase I. Data Collection. It is important to begin the data collection phase of root cause analysis immediately following the occurrence identification to ensure that data are not lost. (Without compromising safety or recovery, data should be collected even during an occurrence.) The information that should be collected consists of conditions before, during, and after the occurrence; personnel involvement (including actions taken); environmental factors; and other information having relevance to the occurrence.

Phase II. Assessment. Any root cause analysis method may be used that includes the following steps:

1. Identify the problem
2. Determine the significance of the problem
3. Identify the causes (conditions or actions) immediately preceding and surrounding the problem
4. Identify the reasons why the causes in the preceding step existed, working back to the root cause (the fundamental reason which, if corrected, will prevent recurrence of these and similar occurrences throughout the facility). This root cause is the stopping point in the assessment phase.

The most common root cause analysis methods are:

Events and Causal Factor Analysis. Events and Causal Factor Analysis identifies the time sequence of a series of tasks and/or actions and the surrounding conditions leading to an occurrence. The results are displayed in an Events and Causal Factor chart that gives a picture of the relationships of the events and causal factors.

Change Analysis. Change Analysis is used when the problem is obscure. It is a systematic process that is generally used for a single occurrence and focuses on elements that have changed.

Barrier Analysis. Barrier Analysis is a systematic process that can be used to identify physical, administrative, and procedural barriers or controls that should have prevented the occurrence.

Management oversight and Risk Tree (MORT) Analysis. MORT and Mini-MORT are used to identify inadequacies in barriers/controls, specific barrier and support functions, and management functions. It identifies specific factors relating to an occurrence and identifies the management factors that permitted these factors to exist.

Human Performance Evaluation. Human Performance Evaluation identifies those factors that influence task performance. The focus of this analysis method is on operability, work environment, and management factors. Man-machine interface studies to improve performance take precedence over disciplinary measures.

Kepner-Tregoe Problem Solving and Decision Making. Kepner-Tregoe provides a systematic framework for gathering, organizing, and evaluating information and applies to all phases of the occurrence investigation process. Its focus on each phase helps keep

them separate and distinct. The root cause phase is similar to change analysis.

Phase III. Corrective Actions. Implementing effective corrective actions for each cause reduces the probability that a problem will recur and improves reliability and safety.

Phase IV. Inform. Entering the report on the Occurrence Reporting and Processing System (ORPS) is part of the inform process. Also included is discussing and explaining the results of the analysis, including corrective actions, with management and personnel involved in the occurrence. In addition, consideration should be given to providing information of interest to other facilities.

Phase V. Follow-up. Follow-up includes determining if corrective action has been effective in resolving problems. An effectiveness review is essential to ensure that corrective actions have been implemented and are preventing recurrence.

Management involvement and adequate allocation of resources are essential to successful execution of the five root cause investigation and reporting phases.

CES, LLC was fortunate enough to initially have the support of the Kentucky Congressional Delegation "until" evidence was obtained from the claimant's record file that confirmed congressional staff members were "unwilling" to enforce the federal laws and regulations their Congressmen promulgated. In fact, staff members from the Kentucky Congressional began an active process of "rubber stamping" DOL basis for claims denial without considering the violations of federal laws and regulations. The evidence within each claimant's DOL record file confirmed "that members of Senator McConnell's and Congressman Whitfield's staff and the DOL District Officials were using newly developed procedures to circumvent the EEOICPA and deny viable PGDP claims. Those requesting assistance from Patrick Foster and Michael Pape (among other members of Congress) appeared to have their claims receive denials of reconsideration due to their "Congressional" contacts for assistance, especially if the claimants had interviewed with or been assisting the Department of Justice (DOJ) in their false claims act investigation of PGDP fraud.

Former DOE contractor/ subcontractor employees employed by Paragon Technical Services, supposedly performed independent claims processing that included testimonies many of which identified processing the claimants detail evidence of wrongdoing, received inappropriate denials, most likely for divulging their evidence (supposedly in confidence) to Paragon claims officials. By interviewing claimants and learning of their exposure histories, experiences, and subsequent illnesses, DOE and DOL apparently realized controls of claims were necessary and appropriate to mitigate the government's liabilities. Kentucky Congressmen assisted some claimants that were suspect in their eligibility requirements, while denying eligible claimants that had recognized and documented exposures to hazardous toxins and chemicals such as radioactive transuranics (plutonium, neptunium, cesium 137, tritium, thorium, etc.) and beryllium while employed at the PGDP and the Allied Chemical/ Honeywell facility.

To determine the extent of the abuse of claimant's due process, it was necessary to understand why local DOL contractors were not following an objective claims review process but instead a "subjective" claims review process that appeared to be linked to whether a claimant had cooperated with the Department of Justice investigators. For instance, even though CES, LLC provided the DOJ with evidence of "property record cards" associated with used enrichment equipment transported to the PGDP in the late 1951 timeframe to early 1952 time period, Lockheed Martin retirees (now working for Paragon (administrator of the DOL EEOICPA program) insisted no such equipment was shipped to the Paducah site. Paragon appeared to have developed the PGDP site profile using inaccurate site specific information. By utilizing misinformation when developing Directives, Bulletins, and Circulars, DOL and Paragon officials were able to issue claims denials based on misapplication of the law, after withholding information relevant to the workers exposures. Subsequent PGDP EEOICP claims denials were therefore based on misinformation presented in the "Site Exposure Matrices" (SEM) by Paragon Technical Services. Even though evidence was provided to DOL Ombudsman Malcolm Nelson, no corrective action was implemented by the Kentucky Congressional delegation, apparently due to the potential for a criminal investigation.

At this time, CES, LLC is processing information for distribution to the Department of Justice which appears to reflect that certain members of the Kentucky Congressional delegation used political influence and controls to reward claimants and constituents at the PGDP, while denying those claimants represented by Commonwealth Environmental Services, LLC. PGDP claimants should not be subjected to claims interviews by former Lockheed Martin subcontractors without full and complete disclosures of their relationships with Paragon Technical Services, especially since thousands of past claims denials must now be in.

It is important to note that Congressman Whitfield has declined to discuss any role his staff has played in the denial of claims based on the DOL "Unified Procedures Manual" presented during the meeting with Michael Pape, Janece Everett, and Kate Prince on March 7, 2013. During that meeting Ms. Everett and Ms. Prince stated, "they could not help with denials due to the procedures manual."

After providing our evidence of EEOICP claims corruption at Paducah to the U.S. Department of Justice investigators, CES, LLC will share with each of you additional evidence as practical.

Regards,

Gary S. Vander Boegh
DOE Nuclear Worker Advocate
(270) 559-1752
www.commonwealthenvironmentalservices.com

From: Donna Hand [mailto:ctdhkk@aol.com]
Sent: Wednesday, November 27, 2013 2:26 PM
To: Gary Vander Boegh; Senator Claire McCaskill (julie_dwyer@mccaskill.senate.gov); Senator Richard Durbin (Bill_Houlihan@durbin.senate.gov); Senator Charles Grassley (david_young@grassley.senate.gov)
Cc: Bill.Campbell@usdoj.gov; Jack Kolar (john.kolar@usdoj.gov); jim.arnett@AG.ky.gov; Greg Terry (judge@ccfcky.com); Greg Pruitt (hcfiscrt@vci.net); Worthington, Pat (Pat.Worthington@hq.doe.gov)
Subject: Re: FW: CBD Claims at PGDP Not Consistent with Statutory Requirements __ Procedures "Trumping the EEOICPA at PGDP"

It should be noted that the statute does not say "characteristic of" that interpretation is a DEEOIC memo, which we now know cannot be used to adjudicate claims unless notice is given prior according to the Administrative Procedure Act and Fifth Amendment due process.

Congress did stipulate that post 1993 be consistent with Chronic Beryllium Disease, (CBD), but not that the x-ray abnormalities be "characteristic" of CBD. Peter Turcic and Rachel Leiton have both stated that the CBD is an administrative/legal diagnosis and not a medical diagnosis. If the claimant has provided the criteria in the statute, then CBD can be accepted. The DEEOIC should not waste time and money on physician's opinions when the past decisions have accepted the medical evidence to be "characteristic of" or "consistent with". The DEEOIC's policy is more restrictive than the statute and the implemented federal regulations.

We need a Congressional Review of how the DEEOIC is implementing the EEOICP program. The Act was amended in 2004 to include Part E and to vacate Part D. The amendment gave DEEOIC the authority to develop site profiles of the toxic substances at the facilities. The Amendment did not give the DEEOIC the authority to designate which site is a DOE site, Atomic Weapons Site, or a beryllium vendor site. The claimants do not have any appeal procedures for site designations or for the time periods to be expanded. The DEEOIC's decisions on site status is not consistent, it is not based on substantial facts to deny, and the

opinion of the asst deputy solicitor Trulley determines the Director Leiton's decision. (Yet the solicitor will not respond to the claimants or send the claimants the information he relied on)

Congress and the claimants are being told fraudulent information and the DEEOIC has been concealing material facts. This is a small federal compensation program, yet the DEEOIC cannot follow the law. Please correct the injustice by a congressional review.

Sincerely Donna Hand worker advocate for Kansas City Plant, Pinellas Plant, Paducah Plant, Oak Ridge plants, Los Alamos Plant, Fernald Plant, Rocky Flats Plant, INEEL plant, and Savannah River Plant.

Donna Hand
ctdhkk@aol.com

On 11/26/2013 5:32 PM, Gary Vander Boegh wrote:

Ms. Dwyer,

As a nuclear worker advocate, I feel Senator McCaskill should know what is going on within the "alleged" nuclear worker compensation program (EEOICPA). Although claims have been paid for some of the luck few, Senator McConnell and Congressman Whitfield have apparently decided against following the laws and regulations and members of their staff are promoting denials based on newly developed procedures that effectively "Trump" the EEOICPA.

The DOL ombudsman agreed that procedures should not be used to trump the statutory provisions of the EEOICPA, however, Congressman Whitfield and Senator McConnell did not agree and failed to intervene! Senator Durbin's staff has been provided with evidence that claims are being denied even though Allied Chemical in Metropolis, Illinois was established as performing work on behalf of the Department of Energy, as was the Mallinckrodt site in St. Louis Missouri.

My question is what is to be gained for applying the provisions of the EEOICPA differently? Is federal grant money being funneled into the local community in exchange for disparate treatment of PGDP nuclear worker claims? Is this why Congressman Whitfield and Senator McConnell and their respective staff promoting claims denials based on procedures, forcing claimants to seek relief in federal court? Wasn't Executive Order 13179 adopted to remove politics from the EEOICPA claims process? Apparently this is not meant to be the case for Paducah nuclear workers.

This email is sent to you to document your knowledge of the abuse of the due process that is occurring presently at the Paducah Gaseous Diffusion Plant.

Respectfully,

Gary S. Vander Boegh

Nuclear Worker Advocate
(270) 559-1752

From: Dwyer, Julie (McCaskill) [mailto:Julie_Dwyer@mccaskill.senate.gov]
Sent: Tuesday, November 26, 2013 3:47 PM
To: Gary Vander Boegh
Subject: Read: CBD Claims at PGDP Not Consistent with Statutory Requirements __ Procedures
"Trumping the EEOICPA at PGDP"
Importance: High

Your message was read on Tuesday, November 26, 2013 3:47:01 PM (GMT-06:00) Central Time (US & Canada).