

Fax Cover Sheet

То:	U.S Department of James Bibeault/Br		rom: Gary S. Vander Boegh
Fax:	(904) 357-4704	D	ate: 12-16-10
Phone:	(270) 450-0850	P	ages:Pages including the Cover Sheet
Re:	Robert Jeffords File: xxx-xx-714		C:
X Urgent	X For Review	☐ Please Comment	X Please Reply □ Please Recycle
Comment	ts:		
r	Dilbooult and Ma C	N = = la =	

Dear Mr. Bibeault and Mr. Coombs,

Attached please find the information Mrs. Jeffords provides that supports her husband's CBD claim per 42 USC § 73841 (13) (B) "Characteristic" chest radiographic (or computed tomography (CT)) abnormalities" Criteria I. The information is included as follows:

Pg. 1/ Report dated 5/9 & 16/72 indicating Mr. Jeffords had a chest x-ray, "which shows paratracheal nodes which are calcified and gives the impression a distal trachea may be narrowed."

Pg. 2/ March 26, 1991 discharge summary report indicating Mr. Jeffords had another chest x-ray and that reflected "atelectasis within the right mid and left lung base."

Pg. 3/ Consultation report dated August 27, 1995 that confirms Mr. Jeffords history of "chronic obstructive pulmonary disease" and that "HE WAS NOT A SMOKER.

Pgs. 4-6/ Case precedent "Docket Number 57973-2005 dated January 7, 2005 confirms Mrs. Jeffords compliance pursuit with § 7384L(13)(B), Criteria I. COPD was established as consistent with CBD.

If either of you have any further concerns with Mr. Jeffords compliance with the statutes, please let me know! Respectfully Gary

Claim for Survivor Benefits Under the Energy Employees Occupational Illness Compensation Program Act



U.S. Department of Labor Employment Standards Administration Office of Workers' Compensation Programs

Note: Provide all info	ormation requested below. Do not w	vrite in the sh	naded areas.		OMB Number: Expiration Date:	1215-0 08/31/		
Deceased Emplo	yee Information (Please Prin	nt Cieariv)	 		Expiration bater	00,02,		
1. Name (Last, First, N	<u> </u>		2. Sex		3. Social Sec	urity Nu	mber	
Jeffords	Robert	w	X Male	Female				
4. Date of Birth	5. Date of Death	1	6. Was an au	topsy perform	ned on the en	ployee?		
				Medical Facility				
Month Day	Year Month Day	Year	□ NO X	DON'T KNOW	·			
Survivor Inform					0 0			
7. Name (Last, First, N	,		8. Sex		9. Social Sec	urity Nu	mper	
Jeffords 10. Date of Birth	Evelyn 11. Your relationshi	n to the de		X Female				
Month Day		child	d 🗍 si	tep-child	parent			
12. Address (Street, A	grandpan	ent <u> </u>	ndchild 📙 C	ther:	ne Numbers			······································
ZZI Pada CSS (Sacce) P	φ. π, τ.ο. σολ,				\			
(City, State, ZIP Code)				a. Home: (■		* _		
				b. Other: ()	_		
14. Identify the	Diagnosed Condition(s) B	eing Clai	med as Wo		(check box and li	st specific	diagnosis)
Cancer (List Speci	ific Diagnosis Below)	······				15. Dat	e of Dia	gnosis
Cancer (Else speed						Month	Day	Year
а.								
b.								
C.								
Beryllium Sensit	 ivity							
Chronic Berylliur	n Disease (CBD)							
Chronic Silicosis								
Other Work-Rela	ited Condition(s) due to exposu	re to toxic s	substances or	radiation (Lis	t Specific Diagnos	sis Below)		
b.								
D.								
Awards and Othe	er Information							
	work at a location designated as a S	pecial Exposu	ure Cohort (SEC)?			⊠ YES	□ NO
17. Have you or the de condition(s)?	eceased employee filed a lawsuit see	king either n	noney or medica	al coverage for	the claimed		☐ YES	NO
	eceased employee filed any workers'	compensatio	on claims in con	nection with th	e claimed		☐ YES	⊠ NO
19. Have you, the dece above claimed cond							☐ YES	⊠ NO
20. Have you either ple state workers' com	ed guilty or been convicted of any chensation?	narges conne	cted with an ap	plication for or	receipt of fede	ral or	YES	
21. Have you or the er	mployee applied for an award under	Section 5 of	the Radiation E	xposure Comp	ensation Act (R	ECA)?	YES	X NO
	If yes, provide	RECA Claim	#:					
22. Have you or the er	mployee applied for an award under	Section 4 of	the Radiation E	xposure Comp	ensation Act?		☐ YES	NO 🗵

Ot	her Potential Survivors			
23.	Are you aware of any person(s) who m	nay also qualify as a su	rvivor of the deceased employee?	YES 🗵 NO
	If YES, please provide the following:			
	Name	Relationship to the deceased employee	Address	Phone Number(s)
•				Home;
a.			†	Other:
b.				Home:
D,			†	Other:
c.				Home:
ζ.			†	Other:
d.				Home:
υ. 			t	Other:
e.				Home:
· ·			†	Other:
f.				Home:
''			†	Other:
g.				Home:
9,			†	Other:
h.				Home:
			†	Other:
i.				Home:
			†	Other:
j.				Home:
			†	Other:
	rvivor Declaration			
to civ punis repor unde Justic Office institu	person who knowingly makes any false statement, in pensation as provided under EEOICPA or who knowinglifor administrative remedies as well as felony criminished by a fine or imprisonment or both. Any change ted immediately to the District Office responsible for EEOICPA and affirm that the information I have prece to release any requested information, including ine of Workers' Compensation Programs (OWCP). Furtuition, corporation, or government agency, including I.S. Department of Labor, Office of Workers' Compensation Programs (DWCP).	ngly accepts compensation to nal prosecution and may, und to the information provided r the administration of the cl- lovided on this form is true, iformation related to my REC thermore, I authorize any ph the Social Security Administr	o which that person is not entitled is subject der appropriate criminal provisions, be on this form once it is submitted must be aim. I hereby make a claim for benefits If applicable, I authorize the Department of A claim, to the U.S. Department of Labor, hysician or hospital (or any other person, ration) to furnish any desired information to	Resource Center Date Stamp
	Claimant \$ignature		12/16/2010	
	Udilliant signature		Date	

Form EE-2 April 2005

MINOR HISTORY

(To be used in short stay cases only)

	BRET First Name	Attending Physician		loom No.	Hosp. 72	5192
Date Age.	\$ex	S. M. W. D. Race	Occupation			
Diagnosis—Working						
						
Complications	•					·····
	· · · · · · · · · · · · · · · · · · ·		<u> </u>			
Family History						
					······································	
The patient of ureteral store	was in the hosp ne. He complains	te male admitted to t ital from March 20, t s of awakening in the rices health problems	nrough March 23 night, somethm	, becau es with	i se oi pr 1 a seven	o o ao 1e e chocl
· · · · · · · · · · · · · · · · · · ·					4	
resent Illness—Onset—History no acute dist	Complaint-Physical Exa	mination Physical exami	ention reveals	a WD,WN	I, white I	male, i
HEAD:		Scalp is clear	,			
EYES:	EOM's intact	. Pupils round, equa	, react to lig	ht	,	
NTM:	Clear	•	•			
NECK:		hea midline, thyroid	not hypertroph	ied		
SPINE:	Straight and				· · · · · · · · · · · · · · · · · · ·	
CHEST:	Herothoraces	move with equal excu	msion limos c	lear to	ausculta	ation
HEART:	No minimize o	r cardiomegaly. BP 12	770 Pilsa 80	70011	ar	
ABDOMEN:	Coft non-to	nder. No abnormal mas	sec No hornia	, noted	Both to	estes i
ABDOMEN:	Sort, non-te	nder. No aunorman nas	ses. No nema	3 110000	., 2001 0	
	scrotum					
ogress NEXTREMITIES:	No abnormali	ties. REflexes physic	logic.			
	iad a chest x-ra	y in the office, which	h shows paratr	acheal	nodes wh	ien are
/ The patient h	gives the impr	ession a distal track	ea may be narr	owed.		
The patient h	PERSON MAC TIME	COOKON A CLOCKE CECON.				
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Calcified and IMPRESSION:	R.O. Tracheo	-bronchial compression				
Calcified and IMPRESSION:	R.O. Tracheo	-bronchial compression				
calcified and IMPRESSION: ndition on Discharge	R.O. Tracheo	-bronchial compression				
Calcified and IMPRESSION: Indition on Discharge. 5/9/72 5/16/72	R.O. Tracheo	-bronchial compression				
calcified and IMPRESSION: ndition on Discharge	R.O. Tracheo	-bronchial compression				M.D

FORM D-206

PORTER MEMORIAL HOSPITAL

VALPARAISO, INDIANA

faul

DISCHARGE SUMMARY

NAME: JEFFORDS, ROBERT

HOSP.# 145601

ADM.: 3/22/91

ATTENDING PHYSICIAN: MICHAEL WHEAT, M.D.

DIS.: 3/26/91

PAGE 1

FINAL DIAGNOSIS: ATRIAL FIBRILLATION.

SECONDARY DIAGNOSIS:
HISTORY OF HYPERTENSION.
HISTORY OF CHRONIC BRONCHITIS.
HISTORY OF GOUT, MILD CARDIOMEGALY.

OPERATIONS:

None.

TRANSFUSIONS:

None.

COMPLICATIONS:

None.

HISTORY:

This is a 62 year old white male patient with long standing history of hypertension for which he had been taking Lopressor. He has had no prior cardiac history. On the day prior to admission, while working in his yard, he noted the acute onset of mild diaphoresis and general body fatigue. He then felt nauseated and dyspneic which lasted approximately 4 hours. The patient eventually presented to the Convenience Center at which point he was found to be in atrial fibrillation and was subsequently admitted to the hospital for further evaluation and treatment.

Physical examination revealed an obese white male patient in no apparent distress. Blood pressure was 126/80, pulse 48 and irregular, respirations 16 and unlabored. Temperature, afebrile. Height, 6'2". Weight, 250 pounds HEENT was unremarkable. Neck was thick and muscular with no increased jugular venous distension. Carotid upstrokes were brisk bilaterally without bruits. Lungs were clear to A and P. Cardiac exaination revealed irregularly irregular Sl and S2 without abnormal heart sounds. Abdomen was very obese and soft with no pulsatile masses or bruits. Extremities were warm and free of edema.

LAB DATA:

Chest x-ray showed cardiac silhouette to be mildly enlarged with minimal atelectasis within the right mid and left lung base. Hilar regions were prominent. These findings had not significantly changed from prior examination. EKG showed atrial fibrillation at rate of approximately 60 beats per minute and also nonspecific ST-T wave changes and left axis, left anterior vasicular block. SMA showed sodium of 140, potassium 4.1, chloride

PORTER MEMORIAL HOSPITAL Valparaiso, Indiana

CONSULTATION

NAME: JEFFORDS, ROBERT W ATTENDING: K. BLACK, MD CONSULTING: V. DIBIASE, MD

DOB:

PT TYPE: I

ROOM NO: 2N-0264-1 MR#: 145601 ACCT#: 1430147 ADM DATE: 08/21/95

DATE: 08/21/95 DATE: 08/27/95 DIS DATE: 00/00/00

NEUROLOGY

FINDINGS, DIAGNOSIS & RECOMMENDATIONS:

Thank you for asking me to see Robert.

This is a 66 year old white gentleman with a history significant for hypertension, paroxysmal nocturnal dyspnea, and atrial fibrillation controlled on Amiodarone, Chronic obstructive pulmonary disease, benign prostatic hypertrophy, mild diverticulosis, who is admitted with back pain and left leg pain and weakness. He was found to have significant L2-3 spinal stenosis by MRI and lumbar myelogram. He was evaluated by Dr. Zelaya and on 8/23/95 had bilateral foraminotomies at L2-3 but mainly on the left. It appears that postoperatively he developed some disorientation and confusion which escalated over several days and he was not sleeping at all. He is quite sleep deprived. He has received a total of 8 mg of Haldol since 8/25 and a total of 2 mg of Xanax since 8/26. He had received only a few doses of Vicodin on 8/24.

This morning he was found to be extremely lethargic and sleepy and neurological consultation was requested.

His family gives no prior history of dementia or encephalopathy or other central nervous system symptomatology.

PRESENT MEDICATIONS: Naprosyn, Cardarone, Allopurinol, Altace, Azactam, Kefzol.

PERSONAL HISTORY: (He is not a smoker.) He is not a drinker.

PHYSICAL EXAMINATION:

VITAL SIGNS: He is currently afebrile although he had a temperature maximum of 100 on 8/26. Blood pressure 130/70. Respiration is 20 with a heart rate of 74.

NECK: He has no carotid or extra cranial bruits.

NEUROLOGICAL:

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION OFFICE OF WORKERS' COMPENSATION PROGRAMS DIVISION OF ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FINAL ADJUDICATION BRANCH



EMPLOYEE:

[Name Deleted]

CLAIMANT:

[Name Deleted]

FILE NUMBER:

[Number Deleted]

DOCKET NUMBER:

57973-2005

DECISION DATE:

January 7, 2005

NOTICE OF FINAL DECISION

This is the decision of the Final Adjudication Branch concerning your claim for compensation under Part B of the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended, 42 U.S.C. § 7384 et seq. (EEOICPA or the Act). This decision affirms the recommended acceptance issued on November 30, 2004.

STATEMENT OF THE CASE

On May 28, 2004, you filed a claim for survivor benefits, as the widow of [Employee], Form EE-2, under Part B of the EEOICPA. You identified 'breathing problems' and chronic beryllium disease (CBD) as the claimed conditions. You also filed a Form EE-3 indicating that your husband was employed by F.H. McGraw at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky from 1951 to "I don't remember." The Department of Energy (DOE) was unable to verify employment, however, they did confirm that F.H. McGraw held a number of contracts, during this time, at the Paducah Site. You submitted Social Security records indicating that your husband was employed by F.H. McGraw from the fourth quarter of 1951 to the third quarter of 1954. Social Security reported maximum reportable earnings (\$3600.00) for 1952, 1953 and 1954. The DOE also submitted a "Personnel Clearance Master Card" from F.H. McGraw and Company that indicated [Employee] was terminated on December 17, 1954 due to a reduction in force; this notice also indicated that a Q Clearance was granted on February 14, 1952.[1]

Based upon the DOE response that F.H. McGraw held a number of contracts from 1951 to 1954 and the security Q clearance notification, the district concluded that the DOE had a business or contractual arrangement with F.H. McGraw. The district office further concluded that your husband worked with F.H. McGraw at the Paducah Gaseous Diffusion Plant for at least one day on December 17, 1954 based upon the reduction in force notice.[2]

The death certificate submitted showed that [Employee] died on October 12, 1999, and the immediate cause of death as congestive heart disease. The death certificate indicated that the surviving spouse was [Claimant]. You submitted a marriage certificate showing that [Employee] and [Claimant] were married on March 23, 1940.

You submitted a medical report dated February 23, 1991, from Lowell F. Roberts, M.D., which indicates a history of chronic obstructive pulmonary disease (COPD), shortness of breath, and dyspnea. A February 23, 1991 X-ray report, from D.R. Hatfield, M.D., indicates a diagnosis of COPD. A February 25, 1991 CT-scan, from Barry F. Riggs, M.D., indicates abnormal nodular densities of the right lower lobe and a diagnosis of COPD. A February 26, 1991 medical report from M.Y. Jarfar, M.D. indicated that pulmonary function tests showed mild obstructive defects and mild diffusing lung capacity defects. You also submitted an X-ray report dated September 6, 1994, from Robert A. Garneau, M.D., that indicated diagnoses of COPD and Interstitial Fibrosis. A November 27, 1994 medical report from David Saxon, M.D., indicated findings of rales and wheezing. A December 2, 1994 medical report from Dr. Saxon, indicates hypoxemia to the left lower lung. A December 2, 1994 medical report from Lowell F. Roberts, M.D., indicated diagnoses of shortness of breath, congestive heart failure, dyspnea and cough, and rales in the lung base. An August 13, 1995 X-ray report from Charles Bea, M.D., indicates a diagnoses of bibasilar infiltrates. A December 30, 1996 X-ray report from Sharron Butler, M.D., indicates an increase of lung markings since the September 14, 1992 study. In the March 1, 1998 X-ray report from Dr. Butler diagnoses of "advanced chronic lung changes, mild interstitial prominence diffusely, and patch density of the posterior right lung" are indicated. An August 19, 1998 CT-scan from James D. Van Hoose, indicates diagnoses of pleural thickening and pulmonary calcifications. An August 6, 1999 pulmonary function test from William Culberson, M.D. indicates a diagnosis of moderately severe restrictive disease. An October 12, 1999 discharge summary from Eric B. Scowden, M.D. indicates diagnoses of progressive shortness of breath, congestive heart disease, COPD, and history of right-sided empyema complicating pneumonia necessitating prolonged chest tube drainage with a continued open sinus tract." Based upon these reports the district office concluded that you had CBD prior to January 1, 1993.[3]

On November 30, 2004, the district office issued a recommended decision concluding that your husband was a covered beryllium employee, that he was exposed to beryllium, and that he had symptoms and a clinical history similar to CBD prior to January 1, 1993. They further concluded that you are entitled to compensation in the amount of \$150,000 pursuant to § 7384s of the EEOICPA.

Section 30.316(a) of the EEOICPA implementing regulations provides that, "if the claimant does not file a written statement that objects to the recommended decision and/or requests a hearing within the period of time allotted in 20 C.F.R. § 30.310, or if the claimant waives any objection to all or part of the recommended decision, the Final Adjudication Branch (FAB) will issue a decision accepting the recommendation of the district office, either whole or in part." 20 C.F.R. § 30.316(a). On December 1, 2004, the FAB received your signed waiver of any and all objections to the recommended decision. After considering the evidence of record, your waiver of objection, and the NIOSH report, the FAB hereby makes the following:

FINDINGS OF FACT

- 1. You filed a claim for benefits under Part B of the EEOICPA on May 28, 2004.
- 2. Your husband was employed at the Paducah Gaseous Diffusion Plant for at least one day on December 17, 1954.
- 3. Medical evidence has been submitted establishing a diagnosis of chronic beryllium disease before January 1, 1993.
- 4. You were married to the employee from March 23, 1940, until his death on October 12, 1999.

pg. 5

Based on these facts, the undersigned makes the following:

CONCLUSIONS OF LAW

Section 7384s of the Act provides for the payment of benefits to a covered employee, or his survivor, with an "occupational illness," which is defined in § 7384I(15) of the EEOICPA as "a covered beryllium illness, cancer. . .or chronic silicosis, as the case may be." 42 U.S.C. §§ 7384I(15) and 7384s. 42 U.S.C. § 7384I.

Pursuant to § 7384l(13)(B) of the EEOICPA, to establish a diagnosis of CBD before January 1, 1993, the employee must have had "an occupational or environmental history, or epidemiologic evidence of beryllium exposure; and (iii) any three of the following criteria: (I) Characteristic chest radiographic (or computed tomography (CT)) abnormalities. (II) Restrictive or obstructive lung physiology testing or diffusing lung capacity defect. (III) Lung pathology consistent with chronic beryllium disease. (IV) Clinical course consistent with a chronic respiratory disorder. (V) Immunologic tests showing beryllium sensitivity (skin patch test or beryllium blood test preferred)." 42 U.S.C. § 7384l(13)(B).

The evidence of record establishes that the employee was a covered beryllium employee who had at least three of the five necessary medical criteria to establish pre-1993 CBD under the EEOICPA. Therefore, you have provided sufficient evidence to establish that your husband was diagnosed with pre-1993 CBD, pursuant to § 7384l(13)(B) of the EEOICPA.

The undersigned has reviewed the facts and the district office's November 30, 2004 recommended decision and finds that you are entitled to \$150,000 in compensation.

The decision on the claim that you filed under Part E of the EEOICPA is being deferred until issuance of the Interim Final Regulations.

Washington, DC

Tom Daugherty Hearing Representative Final Adjudication Branch

criteria may be used. Once it is established that the employee had a chronic respiratory disorder prior to 1993, the CE is not

limited to use of medical reports prior to 1993 to meet the three of five criteria."

^[1] The Paducah Gaseous Diffusion Plant was a DOE facility from 1952 to July 28, 1998 and July 29, 1998 to present (remediation) where radioactive and beryllium material were present, according to the Department of Energy Office of Worker Advocacy Facility List (http://www.hss.energy.gov/HealthSafety/FWSP/Advocacy/faclist/findfacility.cfm).
[2] Per Chapter 2-100.3h (January 2002) of the Federal (EEOICPA) Procedure Manual, "The OWCP may receive evidence from other sources such as other state and federal agencies" to support a claim under the EEOICPA.
[3] Per Chapter 2-700.4 (September 2004) of the Federal (EEOICPA) Procedure Manual, "To determine whether to use the Pre or Post 1993 CBD criteria, the medical evidence must demonstrate that the employee was either treated for, tested or diagnosed with a chronic respiratory disorder. If the earliest dated document is prior to January 1, 1993, the pre-1993 CBD

CBD CHART [PM 2-700 eff February 2007]

	CED CHAR! FIM 2-/00 eff February 2007	J eff February 200		٠
**If employee is alive, an BeLPT/BeLTT is required	ne following:		Date of Training: 3/15/2007	na: 3/15/2007
Characteristic Chest X-Ray or CT Abnormalities	Restrictive or Obstructive Lung Physiology Testing (on PFT) or	Lung Pathology Consistent with CBD	Clinical Course Consistent with a	Immunological Test Showing Re
	Diffusing Lung Capacity Defect		Chronic Respiratory Disorder & Treatment	Sensitivity
X - Ray;	Restrictive Defect (i.e.,	Biopsy (including	Hypoxemia	Skin Patch
• Other findings may include	Obstructive Defect (i.e., air	Autopsy) snowing:	Oxygen & supplies	Beryllium Blood Test
interstitial Lung or Pleural Fibrosis (pleural fibrosis alone is not	trapping), or a Combination of Both	FibrosisChronic	Air Flow Obstruction (COPD, Emphysema,	· · Beryllium Lymphocyte
enough, there must be other findings too)	Diffusing Lung Capacity	Inflammatory changes	Asthma, etc) Inhalers	Proliferation Test (BeLPT)
Granulomas (non-calcified and non-caseating)	(DLC) Testing showing . Defects	Non-caseating or caseating	Corticosteroid	Dog .
Coarse Linear Fibrosis (in advanced CBD)	(Ody) so O provide International	Granulomas	Bronchodilators	Lymphocyte
	Test may not be used in	•	 Oxygen therapy 	ransfor- mation Test
© Scan:	lieu of a PFT	C.	Right Hearf Failure, Cor	(BeL1
thickening, diffuse nodules,			Puimonale, Puimonary Hypertension	
(different distributions), interstitial fibrosis, bronchiectasis and	NOTE		 Cardiology consult/ tx 	0133
honeycombing			Diuretics (e.g.,	Results must show
 Other findings may include parenchymal nodules, septal lines, 	Any of the above test results must be interpreted by a	of Slight	Lasix)	abnormal findings and interpreted by
patches of ground-glass	medical doctor or reviewed by a	Secretary of the Secret	oxygen	physician.
thickening and thickening of the	Hodica Colodica II.		 Respiratory Infections	
interlobular septa.			(Pneumonia, Acute	
advanced CBD)			• Antibiotics	
NOTE:	•		Sputum cultures Blood cultures	,
Caseating (decaying) granulomas can at			Bronchoscopy	
however, these findings should be			Sarcoidosis	
reviewed by a medical consultant for a determination.			(i.e., prednisone)	
Calcification in a granuloma is usually associated with healing of a granuloma,				
which is not characteristic of CBD.				

JOB NO.

USAGE T PGS.

RESULT

****** *** FAX TX REPORT *** ******* TRANSMISSION OK 4883 DEPT. ID 151 DESTINATION ADDRESS 919043574704 PSWD/SUBADDRESS DESTINATION ID 12/16 18:40 ST. TIME 02' 57



10

OK

Fax Cover Sheet

To:	U.S Department of	Labor	from:	Gary S. Vand	er Boegh
	James Bibeault/Br	ian Combs			
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Jrgent	X For Review	☐ Please Comment	ΧI	Please Reply	☐ Please Recycle

Comments:

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Fax Cover Sheet

To:	U.S Department of Lat	oor rr	om:	Gary S. Vander Boegh
	James Bibeault/Brian (Combs	•••••	
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	File: xxx-xx-7145			

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