

CES 0157

U. S. DEPARTMENT OF LABOR

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



June 18, 2012

Everette E. Bradford

Dear Ms. Bradford:

Enclose please find the Order Granting Request for Reconsideration and Remand Order under the Energy Employees Occupational Illness Compensation Program Act, 42 U.S.C. § 7384 *et seq.*

The case file is being returned to the Jacksonville district office. You may contact the office at 1-877-336-4272 with any questions.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "D. F. Howell". The signature is written in a cursive style with a large initial "D".

David F. Howell
Hearing Representative

Enclosure



EMPLOYEE: Everette E. Bradford
CLAIMANT: Everette E. Bradford
FILE NUMBER: XXX-XX-8019
DOCKET NUMBER: 63078-2005
DECISION DATE: June 18, 2012

ORDER GRANTING REQUEST FOR RECONSIDERATION AND REMAND ORDER

This is the response to your request for reconsideration of the December 19, 2011 Final Decision of the Final Adjudication Branch under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended, 42 U.S.C. § 7384 *et seq.* (EEOICPA or the Act). For the reasons set forth below, your request is granted. Your claim for benefits under Parts B and E of the Act for CBD is remanded to the district office for further development and issuance of a new recommended decision.

On December 19, 2011, a final decision following a hearing was issued denying your claim for CBD under Parts B and E of the Act due to insufficient medical evidence to meet the criteria for a diagnosis of CBD under the Act.

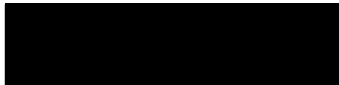
A timely request for reconsideration was filed. In correspondence received on January 18, 2012, your authorized representative, Gary Vander Boegh stated that a diagnosis of CBD was provided by James R. Roush, M.D. Attached to the correspondence from Mr. Vander Boegh was an opinion from Dr. Roush dated January 18, 2012 that your toxic substance exposure at the Paducah GDP was "at least as likely as not" a significant factor in causing, contributing to or aggravating your diagnosis of acute pneumonia, COPD, interstitial fibrosis, and emphysema that are consequential illnesses of and consistent with CBD as defined under the Act. Also included with the letter from Mr. VanderBoegh were treatment notes from Dr. Culbertson, a letter dated July 26, 2010 from Jason R. Lorch, D.O., and treatment records from Dr. Koirala.

Upon receipt of a timely request for reconsideration, the final decision in question will no longer be deemed final until a decision is reached on the reconsideration request. Federal (EEOICPA) Procedure Manual, Chapter 2-1800.9(a)(7). To warrant a review of the evidence, the evidence or argument must be of sufficient weight and probative value to convince the FAB that the potential exists to alter a material finding of fact or conclusion of law referenced in the final decision. In this case, a new medical opinion has been provided from Dr. Roush regarding your claimed CBD that was not considered by the FAB at the time of the issuance of the final decision dated December 19, 2011. Therefore, your request for reconsideration is granted.

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2012 a copy of the Order to Grant Request for Reconsideration and Remand Order was sent by regular mail to the following:

Everette E. Bradford



Authorized Representative
Gary Vander Boegh
Commonwealth Environmental
4645 Village Square Drive
Suite F
Paducah, KY 42001

A handwritten signature in black ink that reads "D. Howell".

David F. Howell
Hearing Representative
Final Adjudication Branch