

## Fax Cover Sheet

To: Rachel Leiton, Jim Bibeault,  
Hon. Secretary of Labor  
Hilda Solis

From: Gary S. Vander Boegh

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Date: 4-7-10

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Pages: \_\_\_\_ Pages including the Cover Sheet

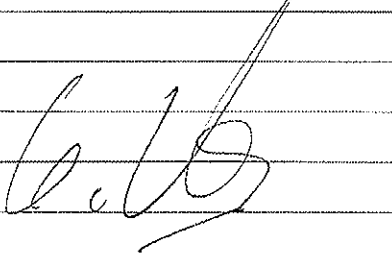
Re: Ezra Freeman

CC: Attention Ms. Leiton

File: xxx-xx-4418

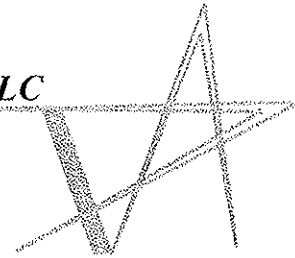
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Comments:



**COMMONWEALTH ENVIRONMENTAL SERVICES, LLC**

"A Native American Women Owned Company"



Gary Vander Boegh, Vice President  
Commonwealth Environmental Services, LLC  
4645 Village Square Drive, St. F  
Paducah, Kentucky 42001  
Telephone: (270) 450-0850  
Facsimile: (270) 450-0858

April 5, 2011

U. S. Department of Labor,  
Frances Perkins Building, 200 Constitution Ave., NW  
Room S-2018  
Washington, DC 20210  
Facsimile (904) 357-4704  
Attention: Jim Bibeault & Madam Secretary Hilda Solis

**RE: Request for Reopening/ Approval of CBD Claim Due to New Evidence of Beryllium/  
Neutron Exposure at Paducah Gaseous Diffusion Plant.**

Employee: Ezra Freeman  
File Number: XXX-XX-4428  
Claimant: Lynda L. Freeman

Dear Ms. Leiton, Mr. Bibeault and Madam Secretary Solis,

As "Authorized Representative" (AR) for claimant's daughter Lynda L. Freeman, I hereby respectfully submit the attached "EE-1 form" and "Claimant Attachments" that support the claimant's Part B claim for compensation for Chronic Beryllium Disease (CBD). Per the statutes and the regulations, a claimant is required to provide the appropriate documentation in support of the claim for compensation for Parts B and E of the Energy Employee Occupational Illness Compensation Program (EEOICP) ("the Act).

Recently Commonwealth Environmental Services, LLC presented evidence to the Paducah Citizens' Advisory board (CAB) that confirmed the presence of radioactive beryllium from nuclear reactor fuel received from Hanford, Washington. Therefore, the claimant Lynda L. Freeman respectfully requests reopening of her for CBD since she now provides "new evidence of toxic chemical (radioactive beryllium) exposure in support of her pre-1993 CBD criteria. Mrs. Freeman has met her "burden of proof" per the statutes and regulations for re-opening of her CBD claim and subsequent approval based on meeting 4 of 5 statutory criteria for Part B compensation in the amount of \$150,000.

The pre-1993 CBD criteria qualifies the claimant Lynda Lou Freeman since her father's medical records confirm her father's respiratory disease diagnosis prior to January 1, 1993 and allows his Energy Employee Occupational Illness Compensation Program (EEOICP) CBD claim to be evaluated per the pre-1993 criteria based on statutory requirements 42 USC § 7384l (13) (B) set forth as follows:

(B) For diagnoses before January 1, 1993, the presence of—

(i) 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).

The Department of Labor has further stated, "For beryllium disease prior to January 1, 1993, a specific diagnosis of CBD IS NOT REQUIRED (emphasis added.)"....

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 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."

#### PRIOR DOL CASE DECISION PRECEDENT

(Excerpt)

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. (emphasis added)...**

....”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 (emphasis added)** based upon the reduction in force notice.[2]....”

.....”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(emphasis added).** 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. (emphasis added)**

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.

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 § 7384l(15) of the EEOICPA as "a covered beryllium illness, cancer. . .or chronic silicosis, as the case may be." 42 U.S.C. §§ 7384l(15) and 7384s. 42 U.S.C. § 7384l.

**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). (emphasis added)**

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 § 73841(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

[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/facility/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. (emphasis added) If the earliest dated document is prior to January 1, 1993, the pre-1993 CBD 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."** (emphasis added)

**Ezra Freeman Medical Reports, Radiology Report, Tissue Analysis Report  
Established Lung Diseases Reflecting Hyperinflation, Chronic Obstructive  
Pulmonary Disease, Emphysema, Fibrosis, & Lung Cancer Reflecting  
Compliance With 4 of 5 Pre-1993 CBD Criteria**

Lynda Lou Freeman provides Claimant Attachment (CA) – 001 (Q/A #1 – Q/A #5) – That confirms both claims examiner Judy K. Allen and District Medical Consultant (DMC) William Wright have acknowledge compliance with the pre-1993 statutes.

1/ CA-001, (Q/A #1, On a DMC report dated December 17, 2008 it is noted that Mr. Freeman had multiple chest X-rays showing lung abnormalities. On a X-ray dated December 17, 1979 shows both lungs show some linear fibrosis. 3/15/86 shows very hyper inflated lungs indicating advanced emphysema. 3/09/88 shows hyper aerated lung fields consistent with obstruction.

5/01/88 shows hyper inflated lungs consistent with obstructive lung disease. 5/04/88 hyper expansion consistent with COPD. 7/18/88 advanced COPD with markedly hyper inflated lungs. 12/21/89 left perihilar mass. Chest CT on 12/22/89 left upper lobe mass, slight soft tissue, prominence in the left hilum. 1/26/90 left perihilar mass. 5/17/90 left perihilar mass. 11/01/90 left hilar fullness and probable fibrosis in that area. 1/01/91 left hilar mass, enlarging. 3/07/91 left hilar mass.

**Conclusion: Compliance pursuit with § 7384L(13)(B) , Criteria I, “Characteristic chest radiographic (or computed tomography (CT)) abnormalities.”**

2/ CA-001, Q/A #2 – Arterial blood gas (ABG) at 93% while breathing 2L/min supplemental oxygen on May 3, 1988. On July 6, 1988 ABG's dropped to 90-91% on room air. In December 1989, oxygen saturations dropped to 82-85% on room air. On April 17, 1991, ABG normal on 2L/min supplemental oxygen. On October 1, 1991, oxygen saturation was at 82% on room air that was corrected to 93-95% respectively with 2L/min supplied oxygen. The DMC summarizes his findings by documenting that Mr. Freeman has oxygen “de-saturation” that is “corrected with supplemental oxygen.

Reports indicate that Dr. Clarke admitted Mr. Freeman to a hospital on July 2, 1988 for shortness of breath and chest congestion, an exacerbation of COPD and possible pneumonia; ...”He was discharged on July 7, 1988 by Dr. Culbertson for respiratory failure, COPD, with infection, and **COR PULMONALE (emphasis added)**. (Reference CBD Chart PM 2-700).

On page 4 of 5, of the DMC, Dr. Wright hospitalizes Mr. Freeman for exacerbation of COPD on January 1, 1991 where he is diagnosed with pneumonia, received treatments including antibiotics, corticosteroids, and bronchodilators.

Dr. Locken on June 13, 1991 reported that radiation treatments of the lung cancer were completed on February 15, 1990.

The death certificate dated August 5, 1991, confirms the immediate cause of death as cardiac arrest, as a “consequence of cancer of lung.”

**Conclusion: Compliance pursuit with § 7384L(13)(B), Criteria I, “Characteristic chest radiographic (or computed tomography (CT)) abnormalities.”, Criteria II, “Restrictive or obstructive lung physiology testing or diffusing lung capacity defect”, Criteria III, “Lung pathology consistent with chronic beryllium disease” & Criteria IV, “Clinical course consistent with a chronic respiratory disorder.”**

3/ The PFT (page 5 of 5) on 5/03/88 shows FEV 1.26L (43%) with FEV /FVC 55% **and no improvement after bronchodilator treatment.** Total lung capacity was 105% , residual volume 217%, diffusion capacity 17%..

**Compliance pursuit with § 7384L(13)(B), Criteria II, “Restrictive or obstructive lung physiology testing or diffusing lung capacity defect.”**

4/ CA-002, "Statement of Accepted Facts" (SOAF) signed by Senior Claims Examiner Judy Allen on November 20, 2008 that confirms Mr. Freeman has met his burden of proof established for the pre-1993 CBE criteria per 42 USC § 7384l (13) (B).

**Conclusion: Compliance pursuit with § 7384L(13)(B), Criteria I, "Characteristic chest radiographic (or computed tomography (CT)) abnormalities.", Criteria II, "Restrictive or obstructive lung physiology testing or diffusing lung capacity defect", Criteria III, "Lung pathology consistent with chronic beryllium disease" & Criteria IV, "Clinical course consistent with a chronic respiratory disorder."**

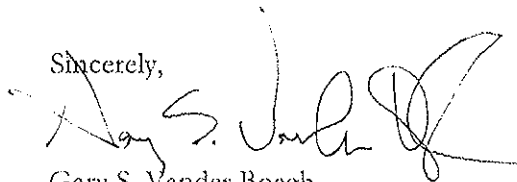
5/ CA-003, Robert Jessing statement that confirms radioactive beryllium producing "neutrons" distributed in the nuclear reactor feed received from Hanford and Savannah River sited were allowed to expose the workers causing their death and illnesses.

**Request for Approval of Part B Compensation for Chronic Beryllium Disease (CBD)**

Based on the above medical evidence, Lynda Freeman has met her statutory burden of proof for EEOICPA Part B lump sum compensation in the amount of \$150,000.

Please feel free to contact me at 270-559-1752 or 270-450-0850.

Sincerely,



Gary S. Vander Boegh  
"Authorized Representative"  
Vice President- Commonwealth Environmental Services, LLC.

Cc. Honorable Secretary of Labor Hilda Solis by facsimile (202) 693-6111

U.S. Department of Labor  
200 Constitution Avenue, NW  
Room S-2018  
Washington, DC 20210

President Barack Obama by facsimile!  
Malcolm Nelson, EEOICP Ombudsman (by email and facsimile)



CLAIMANT ATTACHMENT 001  
PAGE NO. 5 PAGES

**WorkWright, Inc.**  
*for occupational health services*

P.O. Box 1142  
McLean, Virginia 22101-1142  
Phone: 703-556-0092

Date: December 17, 2008

To: Judy K. Allen  
Claims Examiner

From: William E. Wright, MD, MSPH  
President, WorkWright, Inc. *Wright*  
VA#0101038882  
District Medical Consultant  
Jacksonville District Office

Re: Mr. Ezra A. Freeman  
File #: 405-18-4428

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Thank you for your inquiry. I reviewed the Statement of Accepted Facts (SOAF), the entire case file, and your questions.

QUESTION#1: Do the chest x-rays/CT scans show characteristic abnormalities of CBD?

ANSWER#1: No. Please see discussion for details.

QUESTION#2: Are the arterial blood gas tests indicative of restrictive or obstructive lung physiology?

ANSWER#2: No. Please see discussion for details.

QUESTION#3: Do the records reflect a clinical course consistent with a chronic respiratory disorder?

ANSWER#3: Yes. Please see discussion for details.

QUESTION#4: Do the pulmonary function tests (PFTs) show a restrictive or obstructive lung physiology or diffusion lung capacity defect that is consistent with CBD?

ANSWER#4: Yes. Please see discussion for details.

QUESTION#5: Do the pathology reports show findings consistent with CBD?

ANSWER#5: No. Please see discussion for details.

DISCUSSION: #1, Chest radiograph and CT scan reports: The reports in the file are

DISCUSSION: #1, Chest radiograph and CT scan reports: The reports in the file are cited chronologically. Listings are for conventional chest radiographs (non-CT) unless stated otherwise:

01/20/70: normal  
01/18/77: normal except for increased density near the junction of the heart and diaphragm on the right thought to be either "chronic change" or subsegmental pneumonia.  
02/06/79: early hyper-expansion consistent with emphysema, mild fibrosis right middle lobe (Dr. Boom) -- (NOTE: admission film after a chlorine inhalation injury -- Dr. Shields referred to this chest radiograph as normal -- see notes in clinical course below).  
02/07/79: normally expanded and aerated lungs with no sign of active parenchymal disease, no detectable change from yesterday's film (Dr. Chumley).  
12/17/79: both lungs show some linear fibrosis and no definite acute parenchymal disease.  
03/15/86: very hyperinflated lungs indicating advanced emphysema, small calcified granuloma in right lower lobe.  
03/09/88: hyperaerated lung fields consistent with obstruction, no acute infiltration.  
05/01/88: hyperinflated lungs consistent with obstructive lung disease; left and right lungs clear except for some very minimal interstitial infiltration in the medial aspect of the right lung base -- probably mild interstitial pneumonitis, right medial base. (NOTE: portable film technique -- treated for COPD with infection, see clinical course notes)  
05/04/88: hyperexpansion consistent with COPD, no active infiltrate, density right base is less prominent -- appears to be pulmonary blood vessels.  
07/02/88: interstitial lung disease is present with what appears to be some basilar fibrosis, no definite pneumonia; chronic lung disease with basilar fibrosis. (NOTE: was treated with antibiotics for possible pneumonia -- see notes in clinical course section; also -- this film was done with a portable chest radiograph machine -- can be suboptimal technically).  
07/18/88: advanced COPD with markedly hyperinflated lungs, no acute pulmonary infiltrate.  
12/21/89: hyper-expanded lungs, left perihilar mass, no other lesions of the lung fields.  
Chest CT 12/22/89: left upper lobe mass, no other lung nodules, slight soft tissue prominence in the left hilum, no other abnormalities noted.  
01/26/90: left perihilar mass, hyper-expansion of lungs indicating COPD.  
05/17/90: left perihilar mass, hyperaerated lung fields.  
08/02/90: no sign of recurrent tumor in left anterior upper hilum, scarring seen (prior radiation therapy), diffuse signs of chronic lung disease present (pulmonary emphysema).  
11/01/90: over-expanded lungs, left hilar fullness and probable fibrosis in that area.  
01/01/91: hyper expanded indicating COPD, left hilar mass, enlarging.  
Chest CT 01/02/91: left perihilar mass smaller; tiny stellate parenchymal scar right upper lobe, focal area of scar at left heart border.  
03/07/91: COPD, left hilar mass, lingular pneumonia.

Chest CT 03/19/91: enlarging lingular mass with signs of obstructive pneumonitis; remainder of lungs well inflated with no other abnormalities noted, "No other significant pathologic process" (Dr. Riggs).

04/17/91: markedly hyperaerated lungs, large left suprahilar mass, left lower lung field pneumonia (acute infiltrate) with a small pleural effusion.

In summary, the chest radiograph reports evolve from normal to showing hyper-expansion/hyperinflation of COPD/emphysema. A few readings of conventional chest radiographs refer to signs of fibrosis in several areas of lung – these findings are not consistently present and correlate with occurrence of a chlorine inhalation injury, complication of COPD with infection and/or pneumonia, and post-radiation treatments for lung cancer. The reports of the chest CT scans, which are more sensitive to the presence of fibrosis, have reports that do not mention focal scars likely related to healed infection, but no interstitial fibrosis, diffuse interstitial fibrosis, scattered round opacities or nodular densities, ground glass opacities, scattered reticular-nodular densities, or septal lines, consistent with or characteristic of CBD<sup>1</sup>. In my opinion with a reasonable medical certainty, the available chest radiography does not show characteristic abnormalities of CBD, even on an at least as likely as not basis.

**#2, Arterial blood gas (ABG) tests:** The following test reports were found in the file:

01/23/77 ABG normal;

05/03/88: ABG with 93% saturation while breathing 2L/min supplemental oxygen.

07/02 and 7/06/88: ABGs with 90-91% on room air.

12/89: three serial ABGs with pO<sub>2</sub>s 50-59mmHg, oxygen saturations 82-85% on room air.

04/17/91: ABG normal on 2L/min supplemental oxygen.

10/01/91: two ABGs; pO<sub>2</sub> 55, saturation 82% on room air – corrects to 93 and 95 respectively with 2L/min supplemental oxygen.

In summary, the reports range from normal to showing arterial oxygen desaturation, corrected well with supplemental oxygen treatment, and correlate well with Mr. Freeman's infectious exacerbations of his COPD. In my opinion with a reasonable medical certainty the ABG results are too non-specific to support presence of restrictive or obstructive lung physiology, even on an at least as likely as not basis.

**#3, Clinical course consistent with a chronic respiratory disorder:** The records show the following, which in my opinion with a reasonable medical certainty reflect presence of chronic respiratory disorder of COPD/emphysema from 1977 until his death, and of lung cancer from 1989 until his death:

Dr. Coyer's 01/17/77 hospital admission note refers to a history of cigarette smoking and having been told he has early emphysema; no cough, phlegm, wheezing; lung exam hyperresonant with reduced breath sounds at the bases – diagnosis of COPD listed. A 03/10/77 note from Dr. Coyer states his pulmonary function test showed mild small

airways obstruction and he was felt to have severe emphysema with pulmonary artery hypertension; discharge diagnoses included COPD/emphysema.  
hypertension; discharge diagnoses included COPD/emphysema.

02/06/79: admitted to the hospital with a chlorine gas inhalation injury -- had shortness of breath, tightness in chest, difficulty breathing, and wheezing; admission chest radiograph normal, had bilateral wheezing on exam; symptoms and physical exam of the lung improved and he was discharged the next day (Dr. Shields).

On 12/17/79 Dr. Brigance noted smoking three quarters packs of cigarettes daily; has chronic lung disease with mild emphysema and shortness of breath on exertion; lung exam with increased chest diameter and rhonchi.

On 03/18/86 Dr. Shields noted emphysema.

On 05/01/88 he was hospitalized for treatment of COPD with infection. On admission, Dr. Culbertson noted past history of smoking, current respiratory failure, severe COPD; pO2 was 47; he received multiple treatments including bronchodilators, corticosteroids, antibiotics, and supplemental oxygen.

Dr. Jaafar interpreted the 05/03/88 PFTs as showing moderate to severe obstructive lung disease with severe hyperinflation air trapping, severe impairment in diffusion, adequate oxygen tension on supplemental oxygen without any significant desaturation; results compatible with emphysema.

Dr. Clarke admitted Mr. Freeman to a hospital 07/02/88 for shortness of breath and chest congestion, an exacerbation of COPD and possible pneumonia; treated with modalities as in May. He was discharged 07/07/88 by Dr. Culbertson for respiratory failure, COPD with infection, and cor pulmonale.

Admitted to the hospital 12/21/89 for exacerbation of COPD with cough, phlegm, and trouble breathing; found to have a left lung mass. Treated for COPD with infection (*Hemophilus*), respiratory failure, and cor pulmonale, and had bronchial washings and lung biopsy (anterior segment left upper lobe) showing poorly differentiated large cell adenocarcinoma of the lung; signs of acute and chronic bronchitis were found on bronchoscopy, but no bronchiectasis.

Hospitalized for exacerbation of COPD 01/01/91; found to have pneumonia, received treatments including antibiotics, corticosteroids, and bronchodilators.

Dr. Locken on 06/13/91 reported that radiation treatments of the lung cancer (6000R) were completed 02/15/90; records show that the lung mass decreased in size but Dr. Locken reported that on a 03/19/91 CT the lung mass was felt to have increased in size.

Death certificate 08/05/91: immediate cause of death listed as cardiac arrest, as a consequence of cancer of lung. No other consequential or other significant conditions listed.

**#4, Pulmonary function tests (PFTs):** The file contains the following PFT:

PFT 05/03/88 shows FEV<sub>1</sub> 1.26L (43%) with FEV<sub>1</sub> /FVC 55% and no improvement after bronchodilator treatment. Total lung capacity was 105%, residual volume 217%; diffusion capacity 17%.

The test report confirms obstructive physiology and excludes the presence of restrictive physiology. CBD can occur with either normal, obstructive, restrictive, or mixed obstructive/restrictive physiology; diffusion capacity can be normal or reduced. In my opinion with a reasonable medical certainty the PFT report shows obstructive physiology and a diffusion capacity defect that are consistent with CBD.

**#5, Lung pathology:** The file contains the following lung pathology reports:

12/23/89: bronchial washings: mixed epithelial cells with macrophages and neutrophils, many malignant cells.

12/23/89: bronchial biopsies: some normal epithelium and some fragments with extensive invasion by poorly differentiated adenocarcinoma; no fungi on special stains.

12/26/89: 24 hour sputum collection: smears and cell blocks showed acute inflammation with polymorphonuclear cells, superficial squamous cells, and histiocytes; no malignancy identified.

In summary, the reports do not show any diffuse interstitial fibrosis, lymphocytosis, or non-casating granulomas<sup>2</sup>. In my opinion with a reasonable medical certainty, the available lung pathology reports do not show findings consistent with CBD, even on an at least as likely as not basis.

**References:**

1. Copley S, Hansell DM. Imaging, chapter 31 in: Hendrick DJ, Burge PS, Beckett WS, et. al. (eds). Occupational Disorders of the Lung. WB Saunders, London, 2002:498.
2. *Ibid.*, 168.

As required by the U.S. Department of Labor EEOICP Guidance for District Medical Consultants (DMC Handbook) issued 08/28/08, the following statement is made: "I certify that I am an expert in the required areas of medical expertise for the issues raised in this case and this is my objective medical opinion provided in accordance with the DEEOIC program procedures and guidelines. I also certify that I neither have now, nor have had in the past, any relationship with the claimant, his/her physicians, their attorneys, representatives or any employee, employer, manufacturer or entity that may be connected with this case that would influence my opinion in any way. I also certify that my opinion was not influenced by any financial consideration that may benefit me, my family or my heirs".

## STATEMENT OF ACCEPTED FACTS

CLAIMANT ATTACHMENT 002  
PAGE NO. 2 PagesEzra A. Freeman  
File Number: 405184428

Mr. Ezra A. Freeman was born on July 14, 1917. He died on August 5, 1991. Cause of death is listed as cardiac arrest and cancer of the lung (diagnosed 1.5 years prior to death)

Mr. Freeman worked at the Paducah Gaseous Diffusion Plant (GDP) as a laborer and electrician for various subcontractors during the following employment periods:

07/01/1951 to 12/31/1951  
07/01/1953 to 10/31/1953  
10/01/1953 to 12/01/1953

Employment dates were verified using Social Security earning records and affidavits. There are no Department of Energy (DOE) records.

The condition being claimed is pre 1993 chronic beryllium disease.

As a laborer and electrician, the employee was exposed to radiation, beryllium, asbestos and other toxic chemicals.

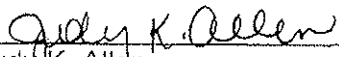
Medical evidence included the following:

- History of COPD and emphysema
- ABG dated 01/23/1977 and 04/19/1991
- Chest x-ray dated 02/06/1979 – indicating mild fibrosis
- Chest x-ray dated 12/17/1979 – indicating linear fibrosis
- Chest x-ray dated 03/15/1986 – indicating advanced emphysema, small calcified granuloma in right lower lobe
- PFT performed on 05/3/1988
- Chest x-ray dated 05/01/1988 and 05/04/1988
- Chest x-ray dated 07/02/1988 – indicating chronic lung disease with basilar fibrosis
- Discharge Summary dated 07/07/1988 indicates the employee was diagnosed with respiratory failure, COPD with infection, cor pulmonale and hypercholesterolemia.
- Chest x-ray dated 12/21/1989 and 12/22/1989
- Bronchoscopy on 12/23/1989
- Pathology Report dated 12/23/1989 – diagnosed lung cancer
- Discharge Summary dated 12/26/1989 indicates left upper lobe large cell carcinoma and severe COPD
- Pathology Report dated 12/26/1989

- Chest x-rays performed on 01/26/1990, 05/17/1990, 08/02/1990, 11/01/1990 (probably fibrosis), 03/07/1991, 03/22/1991, 04/17/1991
- Pathology report dated 01/03/1991 – fiberoptic bronchoscopy with biopsy
- CT Scan of the chest dated 03/19/1991

Medications:

- Sinemet, Procardia, Trental, Ceclor, Persantine, Theo-Dur, Atrovent inhaler, and other drugs

  
\_\_\_\_\_  
Judy K. Allen  
Senior Claims Examiner

11-20-2008  
Date

To whom it may concern

August 24- 2008

Mr. Green worked in the c 340 building most of the time he was in operations. I was the building supervisor, Mr Green reported direct to me or through his shift foreman.

Dave worked mostly in the "Metals area" where UF4 was converted from powder to uranium metal. Some of the metal was then cast and sawed into parts need by the customer.

The most radioactive operation was to clean the graphite crucible after each pour. Most of the radiation did not reach the monitors as it was normally wore over the heart area. cleaning of the crucible required an arm and head inside the crucible to reach the bottom but the monitor did not get inside.

As reactor fuel was returned for reprocessing, several trace elements such as beryllium got into the cascade and then into the uranium metal. Exposure to these "trace" elements were in the metal when sawed and processed by the operators

These elements were not identified to us do to security reasons, but only referred as trace elements.

I hope this clears up some what Mr. Green worked with in c 340.

Robert Jessing Building Supervisor

*Robert Jessing*

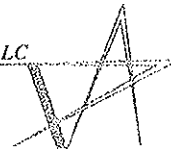


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**COMMONWEALTH ENVIRONMENTAL SERVICES, LLC**  
"A Native American Woman Owned Company"



# Fax Cover Sheet

To: Rachel Leiton, Jim Bibeault,  
Hon. Secretary of Labor  
Hilda Solis

From: Gary S. Vander Boegh

Fax: (202) 693-1465  
(904) 357-4704  
(202) 693-6111

Date: 4-7-00

Phone: (270) 450-0850

Pages: \_\_\_\_\_ Pages including the Cover Sheet

Re: Ezra Freeman  
File: xxx-xx-4418

CC: Attention Ms. Leiton

☐ Urgent ☒ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

**Comments:**

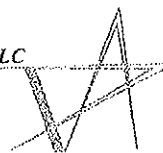
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COMMONWEALTH ENVIRONMENTAL SERVICES, LLC

A Native American Woman Owned Company



## Fax Cover Sheet

To: Rachel Leiton, Jim Bibeault,  
Hon. Secretary of Labor  
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From: Gary S. Vander Boegh

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(904) 357-4704  
(202) 693-6111

Date: 4-7-11

Phone: (270) 450-0850

Pages: \_\_\_ Pages including the Cover Sheet

Re: Ezra Freeman  
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Comments:

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## United States Senate

WASHINGTON, DC 20510

March 7, 2014

Mr. Gary Vander Boegh  
Vice President  
Commonwealth Environmental Services, LLC  
7660 Old Hinkleville Rd  
West Paducah, Kentucky 42086

Dear Mr. Vander Boegh:

I have reviewed the e-mails you sent to the office of U.S. Senator Paul, Constituent Service Division, on February 8 and 9, 2014. Your emails discuss claims against the U.S. Department of Labor as well as denied claims.

Regarding the claims made against the Department of Labor (DOL) with respect to its handling of your clients' Energy Employees Occupational Illness Compensation (EEOICP) claims, the gist of your complaint is that DOL has adopted new procedures contrary to the law, which you believe effectively denies your claimants the relief to which you believe they are entitled.

The Director of Constituent Service for Senator Paul discussed your allegations with appropriate personnel within the Policy Division of the DOL. Our office has been informed that there has been no change in the policy, procedure, or adjudication of EEOICPA claims. The DOL assured this office that they do not now, nor will they, process claims in a manner different from what the law dictates. In speaking directly to your concerns regarding your claimants, the DOL has informed us that they process the claims in accordance with the law and that no action has been taken regarding your claimants' claims that would hinder the proper processing thereof.

The DOL also reiterated that there is a formal claims process (with which I know you are familiar) that fully reviews and adjudicates claims. Each claimant is provided a detailed decision explaining the denial or approval. If the claimant disagrees with the Recommended Decision he or she may exercise their right to reopen their claim by providing new evidence and/or requesting a hearing through the Final Adjudication Branch (FAB). Information on the hearing process is provided to the claimant along with the Recommended Decision. A FAB final decision may be appealed to federal court.

We have seen no evidence of improper actions by the DOL that constitute illegal or improper activity by the agency. Neither a denied claim, nor a difference of opinion as to the merits of a claim, constitutes illegal or improper activity. As I stated in my July 12, 2012 letter, I am not interested in unsupported allegations and accusations. There is an avenue available to you to address a claim once it is denied and it is recommended that you utilize that process on behalf of your claimants.

As I stated in my July 2012 letter, it is not the function of any congressional office to dictate to any federal agency the outcome and decision rendered on a claim. Indeed, it would be ethically and legally improper to do so. It is also not our function to determine whether statutory criteria are met with respect to claims, which is the function of the agency through the claims process. Agency decisions are made based on evidence and a thorough adjudication process.

Further, the office of Senator Paul will be glad to initiate congressional inquiries to agencies on behalf of constituents who contact this office directly for assistance. As I previously stated in my May 12, 2011 letter, our office will not re-address cases already processed by the offices of Senator McConnell or Congressman Whitfield. With respect to the claims referred to in your e-mail, for which we have privacy releases, I indicated in 2011 and 2012 that our involvement at this time would be a duplication of effort. My May 2011 letter outlines our policy on that situation.

You stated that a DOL Ombudsman said the DOL has violated the laws; however, you have failed to provide that opinion or letter.

In conclusion, I find no reason to deviate or re-evaluate the position previously set forth in my July 2012 letter. We have no reason to find that your clients have not received due process and, as well, you and your claimants have been and are continuing to be adequately assisted through the processes by two Members of Congress. Nevertheless, our office has forwarded your allegations to the DOL once again asking for a formal response to your charges. We will advise you of the agency's response upon its receipt.

Sincerely,

A handwritten signature in dark ink, appearing to read "James E. Milliman". The signature is fluid and cursive, with the first name "James" and last name "Milliman" clearly distinguishable.

James E. Milliman  
State Director  
U.S. Senator Rand Paul

PRE 93 CBD CLAIMS			(DENIED)				
Name & Final Decision Date	Characteristic Chest X-Ray or CT Abnormalities	Restrictive or Obstructive Lung Physiology Testing (on PFT) or Diffusing Lung Capacity Defect	Lung Pathology Consistent with CBD	Clinical Course Consistent with a Chronic Respiratory Disorder & Treatment	Immunological Test Showing Beryllium Sensitivity	Address	Phone Number
Scott, Warren (deceased)	X-Ray fibrotic changes, patchy opacities, granulomas present, COPD	PFT (moderate obstructive ventilatory defect)		DMC reported was diagnosed COPD 1991, clinical course respiratory disorder and treatment		Maria Wood (Daughter) 5760 State Route 1628 Bardwell, KY 42023	
Dave Green (deceased)	X-Ray some calcified areas in left mid-lung field, X-Ray parenchymal and hilar calcifications as well as some ectasia of the aorta	Medical Notes shortness of breath, diminished breath sounds, basilar rales, diminished air volume and wheezing. Diagnoses COPD, acute respiratory failure.		prescribed Lasix, was given oxygen		Leila Blacklock (Daughter) 10220 Woodville Road Kevil, KY 42053	(270) 486-3558 (Home)
Langston, Galen (85), COPD, hyperinflation	X-ray granulomatous disease, granuloma	Hyperinflation (Air Trapping)		Chronic Bronchitis, COPD, dyspnea as early as 03/17/81, Clinical course as early as 1981		Galen Langston 270 County Rd 1015 Cunningham, KY 42035	(270) 642-2576 (Home)
Todd, James (deceased)	X-ray COPD, Pleural effusions, basilar atelectasis, bilateral hyperinflation (air trapping)	bilateral hyperinflation (air trapping) DOL ACCEPTED PFT		DOL ACCEPTED STEROID USE (Maximal Bronchodilators)		Nelson Todd (son) 1615 State Route 1022 W Bardwell, KY 42023	(270) 562-1150 (Cell)
Laundorf, Greg (02/26/86), COPD	X-ray lateral view of chest calcified granulomas (02/12/81); few parenchymal hilar calcifications, scattered granulomata	PFT (DOE according to numbers he has moderate obstructive-NOTE this is not interpreted)		Clinical course treatment for COPD, bronchitis (Dr. Eichholz)		Greg Laundorf 2570 Olivet Church Road Paducah, KY 42001	(270) 554-5231 (Home)
Walker, William (deceased)	CT Scan remote granulomatous disease, pulmonary nodules bilaterally, mild bronchial thickening (03/18/91), X-ray Chronic interstitial lung changes(12/12/05), mild interstitial fibrosis, (03/26/07), COPD, pneumothorax	PFT (VERY severe obstructive defect), Pneumothorax		Clinical course treatment for COPD from 03/29/91 until his death		Dorothy Walker (spouse) 145 Stonegate Drive Paducah, KY 42003	(270) 534-5980 (Home)
Allen, Delores (03/25/09)	COPD, X-ray mild left perihilar interstitial changes-interstitial fibrosis favored	Hyperinflation of Lungs		Clinical course mild COPD, chronic bronchitis, benzoate and tussex for cough	Patient's use of steroids may reflect false negative Bept	Lynda Freeman (spouse) 128 New Liberty Church Rd Apt. 104 Kevil, KY 42053	(270) 462-8803 (Home)
Freeman, Ezra (deceased)	X-ray Interstitial lung disease (07/02/88), minimal interstitial infiltration in the medial aspect of the right base (05/01/88), mild fibrosis in the right middle lobe (07/26/93)	PFT (mild obstruction 03/10/77) diffusing lung capacity defect		Clinical course treatment consistent with chronic respiratory disorder		Heleen Featherston (spouse) 1950 US HWY 51 South Bardwell, KY 42023	(270) 628-3530 (Home)
Featherston, Charles (deceased)	X-ray mildly hyper-aerated suggesting possible pulmonary emphysema(05/03/82), scattered granulomas, minimal right basilar atelectasis	PFT (mild restriction)(mild decrease in volume of air in lungs)		Clinical course treatment consistent with bronchitis		Mary Davis (daughter) 466 Old Farm Road Bartow, KY 42024, Jerry Spraggs (son) P.O.Box 50 Wickliffe, KY 42087	(270) 334-3517 Jerry Spraggs (son) (270) 335-5282
Lovelace, Joseph	X-ray old granulomatous changes, COPD	decreased breath sounds, scattered crackles at bases		re-occurring pneumonia			
Spraggs, Melvin (deceased)	throughout the right & left lungs, scarring left & right lungs noted, X-Ray hyperinflated lungs with advanced emphysema, calcified granuloma, X-Ray chronic airway disease, multiple perfusion defects on the right, pulmonary embolus	PFT showing deficits & severe emphysema, hyperinflated		Altrivent inhaler			

Name & Final Decision Date	Characteristic Chest X-Ray or CT Abnormalities	Restrictive or Obstructive Lung Physiology Testing (on PFT) or Diffusing Lung Capacity Defect	Lung Pathology Consistent with CBD	Clinical Course Consistent with a Chronic Respiratory Disorder & Treatment	Immunological Test Showing Beryllium Sensitivity	Address	Phone Number
Armstrong, Fried (deceased)	X-ray fibrosis in lung bases, granulomas, granulomatous disease	Was diagnosed with Diffusion capacity defect by Dr. H. Swartz		Clinical course treatment with Lasix		Catherine Armstrong (spouse) 5026 Hinkleville Road LaCenter, Ky 42056	(270) 210-5378
Blankenship, Harold	X-ray opacification and blurring of right base, right pleural effusions, lung cancer diagnosed 03/14/78	PFT show restriction and obstruction and diffusing capacity		Cobalt Therapy		Evelyn Jeffords (spouse) 1342 H.C. Malins Drive Box B-12 Paducah, KY 42001	(270) 564-3440 (Cell)
Simpson, James	Lung Cancer	Lung Cancer Surgery					
Jeffords, Robert (deceased)	X-ray perihilar calcifications, paratracheal nodes, COPD, fibrosis at the left base, parenchymal irregularity in both bases	PFT (mild restrictive lung disease)		Clinical course consistent with a chronic respiratory disorder			
Lerner, Louis	X-ray COPD with left pleural effusion, hyperaeration consistent with obstructive pulmonary disease, scattered areas of crystalloid material in the areas of fibrosis	Hyperaeration with COPD 1989		Clinical course treatment consistent with bronchitis, steroid therapy, and supplemental O2			
Stewart, William	CT bilateral small pleural effusions and basilar atelectasis, COPD, lung cancer, large right hilar mass and right basilar parenchymal mass, interstitial infiltrate in both lung bases	Restrictive obstructive lung physiology		Clinical course consistent with a chronic respiratory disorder			
Freezor, Brooks (deceased)	X-ray COPD, bilateral scarring, infiltrate in the right lung base, scarring in both lungs (02/13/88), infiltrate with the inferior right hilum vs. fibrosis	Emphysema is the obstruction of Alveoli limiting the absorption of oxygen into the blood	Lung Pathology Report 1988: Mode COPD, emphysema w-Provenhil	Clinical course consistent treatment		Vella R. Freezor (spouse) 7560 Benton Road Paducah, KY 42003	(270) 698-2028 (Home)
Poe, John	X-ray buldous emphysema, mild COPD, mild interstitial lung disease, bilateral noncalcified pleural plaques, old granulomatous disease, CT showed ground glass changes in addition to emphysematous in the upper lobes	PFT (mild diffusion impairment)		Clinical course consistent with chronic bronchitis	X		
Gibson, Herbert	Death cert. Chronic Interstitial Pulmonary Fibrosis, X-ray small opacities in 3 lung zones on the right and left, COPD.	ABGs showed 42% on room air, then increased to 86% on 100% O2		Clinical course consistent with treatment for end stage lung disease			
Bradford, Everett	B-read x-ray parenchymal abnormalities, interstitial lung disease, pleural thickening, pleural plaques, scars in the lining around the lung	PFT (moderate obstructive ventilatory defect)		Clinical course consistent with treatment for a chronic respiratory disorder (per DOL)		Everett Bradford 2252 Beach Drive Unit 601 Gulport, MS 39507	(270) 994-0917 (cell) or (228) 207-1811
Conway, Hubert	Pulmonary Fibrosis, interstitial lung disease, interstitial pulmonary fibrosis, and granulomas, COPD, CT SCAN bronchiectasis of the lungs	PFT		Clinical course consistent with the treatment for COPD, pulmonary fibrosis			

Name & Final Decision Date	Characteristic Chest X-Ray or CT Abnormalities	Restrictive or Obstructive Lung Physiology Testing (on PFT) or Diffusing Lung Capacity Defect	Lung Pathology Consistent with CAD	Clinical Course Consistent with a Chronic Respiratory Disorder & Treatment	Immunological Test Showing Beryllium Sensitivity	Address	Phone Number
Berry, Leslie	X-ray granulomatous disease, fibrotic changes in the left lung base, linear fibrotic changes in both lungs, inspirative disease right lower lobe, interstitial fibrosis in both lungs, COPD, hyperinflation	Hyperinflation of lungs -COPD 1990		Clinical course treatment in support of COPD and unspecified chronic lung disease			
Burton, John Doc	X-ray lung nodules, COPD, fibrotic process, small calcified granulomas, fibrocalcific densities in the right apical region, linear densities in the right apical region representing scarring, lung parenchymal reveals mild emphysematous changes with scattered bullae, non-calcified nodule within the right middle lobe, CT mild emphysematous lung changes, old	Pneumothorax		Clinical course consistent with treatment for COPD, steroids			

## Kevin Vander Boegh

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**From:** Gary Vander Boegh  
**Sent:** Tuesday, March 18, 2014 10:54 AM  
**To:** Kevin Vander Boegh; Shanna McLaughlin  
**Subject:** FW: LINDA LOU REQUEST FOR REOPENING DENIED BY DAVID MILLER DEPUTY DIRECTOR  
**Attachments:** 04-07-11 fax sent CBD claim CES 0051 Ezra Freeman.pdf; 030714\_ltr from rand paul to Gary.pdf; Pre 93 CBD Chart denied-gvb update 2-17-13.xlsx

**Importance:** High

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**From:** Gary Vander Boegh  
**Sent:** Wednesday, March 12, 2014 1:12 PM  
**To:** terry\_karmack@mccconnell.senate.gov; Patrick\_Foster@mccconnell.senate.gov; collin\_johnson@mccconnell.senate.com; Martie Wiles (MARTIE\_WILES@MCCONNELL.SENATE.GOV); John Milliman-Rand Paul (rand\_paul@paul.senate.gov); Jim Paxton (jpaxton@paducahsun.com)  
**Cc:** Jim Carroll (jcarroll@courier-journal.com); Bill.Campbell@usdoj.gov; Jack Kolar (john.kolar@usdoj.gov); Jim Bruggers (jbruggers@courier-journal.com); jason.cherkis@huffingtonpost.com; Senator Charles Grassley (david\_young@grassley.senate.gov); Senator Claire McCaskill (julie\_dwyer@mccaskill.senate.gov)  
**Subject:** LINDA LOU REQUEST FOR REOPENING DENIED BY DAVID MILLER DEPUTY DIRECTOR  
**Importance:** High

Senator McConnell and Senator Rand Paul (and staff),

Before you communicate with the DOL Jacksonville District Manager James Bibeault, who on your staff has previously conferred with DOL over the last 4 weeks? Please make note of how these DOL officials work with your staff to keep a claimant from being approved by issuing inconsistent claims denials based on their own interpretation of their actions. In other words, your staff does not perform the independent "research" as to whether your constituents are being treated differently from what the federal laws and regulations require. They, in fact, only accept what we (CES) already knows and have shared with the Department of Justice (DOJ). PGDP claims are being illegally denied to downplay the toxic chemical health effects from the workers toxic exposures at the PGDP, apparently to mitigate damages against former DOE contractors who allegedly made them ill. Your staff was closely aligned with promoting Paragon Technical Services, and therefore your inquiries into "how much we charge a claimant" by itself was suspicious in nature during our visit to Senator McConnell's Paducah office. In other words, were you actually assisting claimant's in investigating violations of federal laws and regulations, or was you staff performing the gathering of information, but continuing to promote claims denials that may be considered a violation of the PGDP claimants "Civil Rights." Of course your "Politically Correct" response will be "absolutely not", but the evidence indicates to the contrary.

Your staff's actions of deleting informational emails involving your constituent's claims documenting the violations of federal EEOICPA law was the initial "red flag" to the PGDP claimants. It is at this time, we will prepare for receipt of your letter which will agree with Senator Paul that "NO VIOLATIONS OF FEDERAL LAW HAVE BEEN FOUND TO HAVE OCCURRED" (same statement from Martie Wiles on during the claimants visit to your Paducah office). CES,LLC will now accept Senator Paul's recommendation to file federal lawsuits "if claimants wish to dispute the DOL DEEOICP's denials of re-openings and decisions based on the violations of the EEOICPA", which Senator McConnell, Senator Bunning, and Congressman Ed Whitfield were supposed to be supportive!



With Senator Paul's direct recommendation attached and dated March 7, 2014. **EVIDENCE OF CBD CLAIMS DENIALS PROVIDED TO SENATOR MCCONNELL AND THE DEPARTMENT OF JUSTICE REFLECT CBD DENIALS ARE ONLY OCCURRING AT THE PGDP AND NOT OTHER DOE SITES!!**

I leave you with this important question, "How much have the DOE contractors actually paid to the sick nuclear workers for their alleged safety and health violations which led to Congress establishing the EEOICP? Do the Kentucky Senators and Congressmen accept political contributions from DOE contractors, especially after they approved the EEOICPA? If Congress HAD NOT adopted the EEOICPA, would the DOE PGDP contractors have incurred financial liability?

Please let me know when each of you will be available to meet with the Paducah nuclear workers to explain the above basis for claims being denied.

Gary S. Vander Boegh

(Note: A Copy of this email and your subsequent response (including evidence of a continuing to not investigate violations of EEOICPA laws and regulations will placed on the CES web site at <http://commonwealthenvironmentalservices.com/documents.php?orderby=date>), especially in regard to Mrs. Freeman's claim denial, among other anticipated denials you are in the process of developing with the assistance of DOL National Officials.)