

ORIGINAL

U. S. Department of Labor
DEEOIC, FAB
P.O. Box 77918
Washington, DC 20013-7918.

CES, LLC

Date: April 2, 2009

Attention: Reconsideration Request For Part B & E

Employee: Walter Keeling
File Number: 402244547

RE: REQUEST FOR RECONSIDERATION OF FINAL DECISION

To: Rachel P. Leiton, Director
Christy Long, Deputy Director
Michael A. Chance, Chief, Policy Branch
LuAnn Kressley, Chief, Final Adjudication Branch
Eugene Schwartz, M.D., Medical Director

I hereby request a "Reconsideration" of the Department of Labor (DOL) "Final Decision" issued by the Final Adjudication Branch (FAB) on March 6, 2009, to Walter T. Keeling regarding his claim for Part B and E compensation for colon/rectal cancer incurred while employed at the Paducah Gaseous Diffusion Plant (PGDP). Therefore, in reconsidering Sarah J. Keeling's claim for Part B and E (on behalf of her deceased husband Walter T. Keeling), Commonwealth Environmental Services, LLC (CES) respectfully requests that the FAB review and approve the factual "Corrections to the FAB Findings of Fact" as referenced below:

Corrections to FAB Findings of Fact and Confirmation of Paducah SEC Membership

- 1/ According to DOL's employment/ work record, Walter T. Keeling worked at the Paducah Gaseous Diffusion Plant (at a minimum) from at least 1952- 1954 for Rust/Raytheon as an electrician, working in the C-337 building, as noted from the testimony of his family and co-workers. (Reference CES #0098 pg. 126 - Exhibit No. 1).
- 2/ Co-workers indicated Keeling worked in the C-337 uranium enrichment/ "process building" as an "electrician," assigned to his job from the IBEW union hall.
- 3/ EE-4 forms provided testimony from co-workers John E. Poe, Gus White, Robert Howard, James Keeling, John Keeling that Mr. Keeling carpooled to work with them on a regular basis and over an extended period of time. His long time neighbor, Irene Freeman, also confirmed Mr. Keeling's employment and carpooling with co workers.
- 4/ CES Exhibit No. 1 (Subcontractor Worksheet) clearly confirms Mr. Keeling's employment and earnings at the Paducah Gaseous Diffusion Plant working for Rust/Raytheon, Schulman Electric, Donovan Keene, and Foley from 1952 thru 1954. Mr. Keeling's total wages/ earnings for the period were **\$9,614.34.**

5/ Based on the established actual DOL minimum hourly wage rate of \$0.75/ hr. for that period of time and CES utilizing "conservative" estimation of Mr. Keeling's wage per hour equaling \$1.00 per hour (between 1952 thru 1954) Mr. Keeling was estimated to have worked in excess of 9600 hours during his years of employment at the PGDP. (Reference CES #0098, pg. 115 Exhibit No. 2 "DOL minimum wage rate"), thus qualifying Mr. Keeling as a member of the Paducah "Special Exposure Cohort (SEC).

Conclusion

Commonwealth Environmental Services, LLC on behalf of Sarah J. Keeling (wife of Walter T. Keeling deceased) has determined that Mrs. Keeling is, in fact, entitled to compensation under Parts B and E of the Energy Employee Occupational Illness Compensation Program Act (EEOICPA) as a member of the Paducah SEC, having worked over 250 days before February 1, 1992, and after having contracted one of the EEOICPA 22 specified cancers, after his exposure to radioactive transuranics and toxic chemicals in the workplace at the PGDP.

Please contact me at (270) 450- 0850 or (270) 994-3600, if you have any further questions regarding Walter T. Keeling's request for reconsideration.

Sincerely,



Gary S. Vander Boegh

"Authorized Representative"

Vice President- Commonwealth Environmental Services, LLC.

VIA FACSIMILE (W/Exhibits- 202-693-6111

The Honorable Hilda Solis

Secretary of Labor

U.S. Department of Labor

200 Constitution Avenue, NW

Room S-2018

Washington, DC 20210

Senator Richard Durbin via facsimile (202) 228-0400

Senator Mitch McConnell via facsimile and email (202) 224-2499

Senator Jim Bunning via facsimile (202) 228-1373

Senator Harry Reid via facsimile (202) 224-7327

Senator Ted Kennedy via facsimile (202) 224-2417

Congresswoman Sheila Jackson Lee via facsimile (202) 225-3317

Congressman Ed Whitfield via facsimile (202) 225-3547

Congressman Bart Stupak via facsimile (202) 225-4744

CES

EXHIBIT 1

1 of 2

Subcontractor Worksheet

06/11/2007

Claim Number: 402-24-4547

Employee Name: Walter T. Keeling

Occupation: Electrician

01/1954-12/1954	Paducah Gaseous Diffusion	Schulman Electric		754.13	
1952-1954	Paducah Gaseous Diffusion	Rust/Raytheon		8718.61	
1954	Paducah GDP	Donavan Kehne Foley		141.6	
1947-1952	Paducah GDP	Ill. Central RR			

Prepared by: Giorgio RaShedd

2 of 2

**Employment History Affidavit for Claim
Under the Energy Employees Occupational
Illness Compensation Program Act**

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



Note: This form is used to affirm the employment history of a living or deceased individual who incurred a designated illness as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors, and subcontractors.

OMB No. 1215-0197

Expiration Date: 8/31/2007

Print Full Name	JOHN Edward Poe
Street Address	3114 Hwy 89W
City, State, Zip Code	BENTON, Ky. 42025

Print Full Name	WALTER Keeling
Maiden/Formar Name	
Social Security Number (if known)	402-24-4547

- Spouse
 Son/Daughter
 Parent
 Grandparent
 Friend
 Work Associate
 Other

In chronological order, starting with the most recent period of employment, describe your knowledge of the employee's work history. Provide as much identifying information as possible concerning the name of the employer and location (city & state) where work was performed.

Dates of Employment	Start Date 4-15-51	End Date 1953, 5/1/55
Employer name and work site location	F. H. M.S. Braw Paducah Kentucky A.S. SCHULMAN 11 Paducah Ky	
Describe the type of work performed	ALL TYPES of Electrical work Large 500, we did it ALL	
Explain how you know the employee worked for this employer	I have known Mr. Keeling a long time at a time he had only 8 miles from me & worked around him I guess I even worked with him some	

(OVER)

Yes He was There

CES EXHIBIT 2

EEOICP Decision 55619-2004--20041019

Page 3 of 4

employment. 42 U.S.C. § 7384(9) and 20 C.F.R. § 30.210. The EEOICPA at § 7384(14)(A) defines the term "member of the Special Exposure Cohort" as a Department of Energy employee, Department of Energy contractor employee, or atomic weapons employee who was employed for a number of work days aggregating at least 250 work days before February 1, 1992, at a gaseous diffusion plant located in Paducah, Kentucky, Portsmouth, Ohio, or Oak Ridge, Tennessee, and, during such employment—

- i) was monitored through the use of dosimetry badges for exposure at the plant of the external parts of employee's body to radiation; or
- ii) worked in a job that had exposures comparable to a job that is or was monitored through the use of dosimetry badges.

\$0.2

The attempts by the district office and the FAB to clarify your employment history with you were unsuccessful because you could not remember the details. The evidence of record establishes that you received earnings from M. W. Kellogg Co. and Kehne, Donovan and Foley Joint Ventures in the amount of \$2650.75 while employed at the Paducah GDP for one quarter in 1953 and 3 quarters in 1954. The minimum wage during that period of employment was \$0.75 an hour[3] which is equivalent to 3534 hours. The evidence of record establishes that you worked an aggregate of 250 days prior to February 1, 1992 pursuant to the conversion table contained in EEOICPA Bulletin No. 02-09 (issued May 7, 2002). It is presumed that you were monitored through the use of a dosimetry badge for exposure. The basis for this presumption is the results of the Department of Energy's Paducah GDP exposure assessment project report that states:

From 1952 through 1960 approximately 200 to 500 workers were monitored for external radiation exposure. In 1961, the program was broadened and all workers (approximately 1700) were monitored. Dosimetry results obtained after the program expansion show that previously unmonitored groups of workers might have received "missed doses" during the early years of plant operations.[4]

You were diagnosed with colon cancer which is a specified disease as defined by § 7384(17)(A) of the EEOICPA and § 30.5(dd)(iii)(M) of the EEOICPA regulations. 42 U.S.C. § 7384(17)(A), 20 C.F.R. § 30.5dd(ii)(M). You are a member of the Special Exposure Cohort as defined in § 7384(14)(A) of the EEOICPA and §§ 30.210(a)(1) and 30.214(a)(1) of the implementing regulations. 42 U.S.C. § 7384(14)(A), 20 C.F.R. §§ 30.210(a)(1), 30.214(a)(1). I find that the September 9, 2004 recommended decision, of the Jacksonville district office, is in accordance with the facts and the law in this case, and that you are entitled to compensation benefits in the amount of \$150,000.00 and medical benefits commencing March 18, 2004 for the treatment of colon cancer.

Washington, DC

Thomasyne L. Hill
Hearing Representative
Final Adjudication Branch

[1] *Donovan, Kehne, Foley Joint Ventures*. E-mail to FAB Branch Chief LuAnn Kressley from Policy and Procedures Program Analyst Regina Cano. January 16, 2004 letter from IBEW, Business Manager (on union letterhead), Paducah, KY, confirms that Donovan, Kehne, Foley was a subcontractor at the Atomic Energy Commission site during the period of 1953