

## **Dragon, Karen E. (CDC/NIOSH/EID)**

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**From:** DanMcKeel2@aol.com  
**Sent:** Friday, January 21, 2011 12:24 PM  
**To:** NIOSH Docket Office (CDC); Wade, Lewis (CDC/NIOSH/OD) (CTR)  
**Cc:** jwramspott@sbcglobal.net; DanMcKeel2@aol.com; Kinman, Joshua L. (CDC/NIOSH/DCAS)  
**Subject:** Re: Dow on Feb 2011 ABRWH agenda: Docket 113 and 194 comments

NIOSH Dockets 113 (Dow) and 194 (SEC 42 CFR 83 section that is currently open for public) comment)  
Dr. Lewis Wade  
cc: Josh Kinman, SEC counselor; all current ABRWH members

Dear Dr. Wade and the NIOSH Docket 113 (Dow Madison) and 194 officer,

We wish to add this comment to the Public Docket #113 on Dow Madison and to the 10 Year NIOSH Review Docket #194. The comment is germane to both Dockets. We ask that the entire thread, including Mr. Ramspott's contribution, be posted to the referenced NIOSH Dockets on the OCAS website and also be distributed to all current ABRWH members.

**COMMENT:** John Ramspott adds to the recent discussion by myself with Dr. James Melius and Ted Katz, Board DFO, of usual SEC practices, wording from the TBD-6000 work group (WG) that states, specifically, that the WG mission specifically includes making a recommendation to the full Board. We believe that passage refers to work groups assigned specific SECs in general. That's what Dan McKeel has always understood would be the case for the three SECs on which he is authorized co-petitioner: Dow SEC-79 and its extension to cover the residual period, Texas City Chemicals SEC-88, and General Steel Industries SEC-105.

Dr. Melius' assertion below that making a recommendation for work groups to which specific SECs are assigned is "often" not done does not coincide with my experience interacting with the Board since 2004 beginning with the MCW-Destrehan Street SEC-0012-2. The usual practice with work groups assigned specific SECs has been to take a vote among work group members and report that vote and a congruent recommendation to the full Board. The Chapman Valve and Blockson SECs are two instances where multiple WG votes were taken resulting in deadlocks.

We note that in response to Dan McKeel's comments on 11/17/10 in Santa Fe, several Board members expressed a desire to be able to review all of the co-petitioners comments on Dow Madison. We still cannot comment exactly what was said with respect to the Dow SEC-79 extension to the residual contamination period at the November 12 SEC Issues work group meeting and at the full Board meeting on November 17, 2010. The reason is because neither of those transcripts has been released to the public and posted on the OCAS website as of 11:25 AM EST on Friday, January 21, 2011. Ted Katz, Board DFO, had indicated to Dan McKeel that those two transcripts would be released either Jan. 19 or 20, 2011.

It is very disturbing to have a new interpretation of the SEC rules after having interacted extensively with, and submitted many written summaries, to the SEC Issues, Surrogate Data and TBD-6000 Appendix BB work groups, the full Board, SC&A and NIOSH regarding Dow, Texas City Chemicals and GSI since 2005. The interactions for Dow Madison have been extensive and especially complex in order to secure SEC status for Dow Madison, a uranium and thorium AWE site, during the residual period that lasts from 1961 up until October 2007. We believe the petitioners have made a compelling case why NIOSH's recommendation to deny the extension of SEC-79 is scientifically unjustifiable. Among these are inappropriate use of surrogate data, no individual monitoring data at Dow Madison, and failure to account for exposures during active removal of hundreds of rail car loads to mixed AEC/commercial-military Mg-thorium sludge by ERG of Albuquerque, NM in 1993. Dow shared the cost for this removal even though it no longer owned the Madison building complex. We believe the SEC Issues WG should recommend the petitioners' position to be that of the full Board.

We believe the Board should publish a white paper clarifying exactly how it processes SEC petitions that are assigned to specific work groups. Seemingly, the Boards' practices with respect to handling SECs have changed significantly over time, so it would be appropriate to undertake this task now during the Ten Year NIOSH program review period. That analysis could document how many instances there are of work groups with assigned SECs taking or not taking a vote and making or not making a recommendation to the full Board. Are the votes of all work group members supposed to be tallied including members who may miss the meeting when the work group votes on a recommendation to the full Board? In all three SEC petitions that are the subject of this Docket comment, the full Board has not been presented with a full airing of the issues for several years as the petitions have been deliberated upon within the WGs.

Respectfully submitted,

-- Dan McKeel and John Ramspott January 21, 2011

Send correspondence to:

Daniel W. McKeel, Jr., MD  
Co-petitioner SEC-79, SEC-88, SEC-105  
Phone: 573-323-8897  
Fax: 573-323-0043  
E-mail: danmckeel2@aol.com  
US Mail: P.O. Box 15, Van Buren, MO 63965-0015

In a message dated 1/20/11 10:43:22 AM, jwramspott@sbcglobal.net writes:

**In a message dated 1/14/11 2:36:32 PM, melius@nysliuna.org writes:**

Dan

In addition to Ted's response, there is no rule or requirement that the work group must make a recommendation on a petition evaluation or that all work group members must be present. Work groups often do not make a recommendation on an SEC evaluation, and it is not uncommon for work group members to miss meetings. Work groups often do not make a recommendation. After reviewing the available information, the Board at its February meeting can then decide how to proceed on Dow Madison.

Thanks  
Jim

**TBD 6000 Work Group**

This Work Group is responsible for the review of the specified TBDs, as well as the Appendices that apply to specific work sites. They will also review any reports developed by the Board's contractor (SC&A) pertaining to these TBDs and the Appendices, and will assist NIOSH and SC&A in resolving issues that arise through the review process. The initial focus of the Work Group will be on Appendix BB of TBD 6000, dealing with General Steel Industries. **The Work Group will make recommendations to the Board in cases where Appendices involve sites with SEC petitions.** Sites currently being considered under this TBD by the Work Group include General Steel Industries and Bliss & Laughlin Steel.

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On Jan 16, 2011, at 5:58 PM, DanMcKeel2@aol.com wrote:

Jim,

I am not aware of there being many SECs that are not voted on by work groups to which they are assigned. It seems to me that SEC processing should be standardized. I am aware of notable recent AWE SECs such as the Blockson SEC and the Chapman valve SECs that are deadlocked in work groups and then are brought before the full Board for a vote. It is certainly my impression from five years involvement in the program as a co-petitioner that the usual practice on SECs that are assigned to work groups is for the work group to reach a vote and make a consensus recommendation, if they are able to, before the full Board votes.

My concerns still stand about SEC-79 process and I would appreciate including this e-mail in the information Ted circulates from the Dow petitioners to the full Board. Please consider this as a formal request. Thank you.

-- Dan 1/16/11

In a message dated 1/14/11 2:36:32 PM, [melius@nysliuna.org](mailto:melius@nysliuna.org) writes:

Dan

In addition to Ted's response, there is no rule or requirement that the work group must make a recommendation on a petition evaluation or that all work group members must be present. Work groups often do not make a recommendation on an SEC evaluation, and It is not uncommon for work group members to miss meetings, Work groups often do not make a recommendation. After reviewing the available information, the Board at its February meeting can then decide how to proceed on Dow Madison.

Thanks

Jim

Daniel W. McKeel, Jr., MD  
Phone: 573-323-8897  
Fax: 573-323-0043  
E-mail: [danmckeel2@aol.com](mailto:danmckeel2@aol.com)  
US Mail: P.O. Box 15, Van Buren, MO 63965-0015

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Daniel W. McKeel, Jr., MD  
Phone: 573-323-8897  
Fax: 573-323-0043  
E-mail: [danmckeel2@aol.com](mailto:danmckeel2@aol.com)  
US Mail: P.O. Box 15, Van Buren, MO 63965-0015