

September 1, 2006

Robert A. Taft Laboratories  
MS-C34  
4676 Columbia Parkway  
Cincinnati, Ohio 45226

*Site profile # (027)*

I am writing in regards to the article on the Ra-La Special Exposure Cohort, in the Los Alamos Monitor, dated Sunday, August 27, 2007.

I received my claim denial dated May 4, 2006 in the mail!  
I filed a reconsideration of the claim on May 17, 2006, but have not received any information on this claim!

I am enclosing information I gave on this claim, I have felt from the bottom of my heart my husband had Pancreatic Cancer, the Mother Cancer. For, 14 months he had tests, x-rays and suffered, when he had a chest x-ray and a mass was discovered on his lung, by then he had metastasis of the lung! were his medical doctors.

I have in my possession all of his x-rays from the Los Alamos Medical Center.

I don't have any faith in the dose reconstruction, how can this be Reconstructed without some idea of the work he performed in the 25 years of service! He worked in all areas of the Laboratory, and had been to Jackass Flats in Nevada, I was not privy to the work or the chemicals, but do know he worked with Beryllium, Plutonium, Uranium, Fiberglass, Lead and other solvent chemicals, which he inhaled and breathed.

After, reading the articles in the news about the compensation of the

*Rec'd  
9-17-06*

Los Alamos employees and how most have received denials, and only 31 workers have received compensation, I feel the employees have the right to re-file their claims!

I am enclosing the information I have sent regarding my claim, I hope reconsideration will be given, the dose reconstruction disregarded!

I feel my husband gave 25 years of service, the same as the military, and should be rewarded accordingly.

I don't think his smoking should even be considered, did the spouses of the Twin Towers say whether their deceased smoked?

They received compensation immediately!

I hope you will give this your attention!

Sincerely,

May 17, 2006

Department of Labor  
District Office, DEEOIC  
1999 Broadway, Suite 1120  
P. O. Box 46550  
Denver, CO 80201

I firmly disagree with the decision of the Review Board.  
I would like to request a reconsideration of this claim.

Claimant:

File Number:

Docket Number:

- Enclosures:
1. Dose Construction
  2. History and Physical of (6-12-86)
  3. Results of CT scan 2 - 27 - 86 ( )
  4. Presbyterian Hospital Report (5-15-86)
  5. Report of  
7-18-86 through 1- 12- 87
  6. Newspaper clippings on Compensation (2)
  7. Article on Pancreatic Cancer

I hope each of these enclosures are thoroughly read!  
I have felt all along that had suffered from Pancreatic Cancer,  
the Mother Cancer!

Page 1.

It was not diagnosed until after the lung surgery, when he constantly had complained of his stomach hurting! The Ct Scan of 3/10/86 was read by \_\_\_\_\_, he indicated the scan was normal, the Radiologist at Presbyterian hospital disagreed with this decision, It is a Cancer that is hard to detect!

I also note: \_\_\_\_\_ MD., noted on his report \_\_\_\_\_ demise on \_\_\_\_\_ of this disease! At this time the MD was dealing with the Pancreatic Cancer!

I am asking for reconsideration of this claim!

Sincerely,

Phone.

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## Report: Lab slow on compensation

March 19, 2002

By JEFF TOLLEFSON/The New Mexican

More than 350 people with ties to Los Alamos National Laboratory have filed claims under a federal compensation program for people who became ill or died working with radioactive and toxic materials at nuclear-weapons facilities, but only a few of those have been paid, according to a report by local worker advocates.

To read the full report online, [click here](#).

"The bottom line is the program is not yet benefiting people in New Mexico," said Ken Silver, a consultant working on the Los Alamos Project on Worker Safety, an effort by various local organizations to oversee implementation of the compensation program. Silver spoke during a news conference with Los Alamos employees and others in Española on Monday.

Ill workers who qualify are eligible to receive \$150,000 plus reimbursements for medical expenses. Survivors of people who died as a result of their illnesses are eligible for the \$150,000.

At Los Alamos, 189 claims involve cancer; 37 relate to problems from exposure to beryllium; 27 cite renal disorders; and 90 are linked to various lung conditions, according to the report, released by the union representing lab employees, Citizens for LANL Employee Rights and El Rio Arriba Environmental Health Association.

In all, more the 400 people in New Mexico have submitted claims under the Energy Employees Illness Compensation Program, which was signed into law in the fall of 2000. Those claims include 43 people at Sandia, eight at the Los Alamos Medical Center and two at the South Albuquerque Works, a small nuclear facility that ceased operation in 1967. Federal officials say four claims have been paid in New Mexico; a fifth has been approved.

The federal government has paid the most claims - 168 people - at Oak Ridge National Laboratory, one of four facilities that received blanket coverage for a suite of 21 cancers. Exposed workers who develop any of these cancers receive compensation, no questions asked. At these four sites, according to Silver, worker advocates successfully argued that the government did not properly warn employees of the hazards, monitor those hazards or take proper

U.S. DEPARTMENT OF LABOR

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



EMPLOYEE:

CLAIMANT:

FILE NUMBER:

DOCKET NUMBER:

DECISION DATE: May 4, 2006

**REVIEW OF THE WRITTEN RECORD**  
**NOTICE OF FINAL DECISION**

This is the Review of the Written Record and Notice of Final Decision of the Final Adjudication Branch (FAB) 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). For the reasons stated below, your claim for survivor benefits is denied. Your claim under Part E (formerly Part D) of the Act is pending further development.

**STATEMENT OF THE CASE**

On July 31, 2001, you filed a Form EE-2, Claim for Survivor Benefits under Part B of the EEOICPA, as the surviving spouse of \_\_\_\_\_ an employee of a Department of Energy (DOE) facility. You claimed the diagnosis of "metastatic oat cell carcinoma – pancreatic." You submitted a copy of a certificate of death which listed that the employee expired on \_\_\_\_\_ at the age of \_\_\_\_\_ as the result of respiratory arrest, due to metastatic oat cell carcinoma. You were listed as his surviving spouse. You submitted a copy of a marriage certificate showing that you and the employee were married on \_\_\_\_\_. You submitted a copy of a second marriage certificate which showed that on \_\_\_\_\_ you were married to \_\_\_\_\_ ien, which showed your name change.

You submitted a Form EE-3, Employment History, on which you stated that the employee worked at the Los Alamos National Laboratory (LANL),<sup>1</sup> a DOE contract facility located in Los Alamos, New Mexico. You listed his dates of employment as \_\_\_\_\_ to \_\_\_\_\_. The DOE confirmed his employment at the LANL from \_\_\_\_\_.

The employee's medical record included a copy of a pathology report from SCHS – Presbyterian Hospital in Albuquerque, New Mexico, which listed the employee's diagnosis as adenosquamous carcinoma of the right lung, extending to pleural surface with extensive invasion of endothelial lined spaces, and positive for metastatic carcinoma. The diagnosis date was \_\_\_\_\_.

<sup>1</sup> According to the Department of Energy's (DOE) Office of Worker Advocacy on the DOE website at <http://www.eh.doe.gov/advocacy/faclist/showfacility.cfm>, the Los Alamos National Laboratory in Los Alamos, New Mexico, is a covered DOE facility from 1942-present.

On June 11, 2002, you signed a smoking questionnaire, on which you stated that the employee was a current cigarette smoker who smoked 10-19 cigarettes per day. On June 19, 2002, the district office forwarded the case file and a statement of accepted facts (SOAF) to the National Institute of Occupational Safety and Health (NIOSH) for a dose reconstruction of the employee's primary adenosquamous carcinoma of the right lung. On March 16, 2004, the district office received the employee's Social Security Administration employment records which showed additional employment from [redacted] at ACF (American Car & Foundry) Industries, Inc., which was a DOE facility, owned by the AEC (Atomic Energy Commission), from [redacted]. Subsequently, the district office submitted an amended referral summary to NIOSH which included this additional DOE employment. On January 17, 2006, you signed Form OCAS-1, indicating that you had received the NIOSH Draft Report of Dose Reconstruction and agreed that it identified all the relevant information you provided to NIOSH.

On January 30, 2006, NIOSH provided the district office with a copy of the dose Reconstruction report it had provided to you. Based on the dose estimate for the employee's primary adenosquamous carcinoma of the right lung, the district office claims examiner performed the probability of causation calculation, using NIOSH-IREP, which is an interactive software program. The probability of causation for the employee's right lung carcinoma cancer was determined to be 43.31%. A summary and explanation of information and methods applied to produce these dose estimates, including your involvement through an interview and review of the dose report, are documented in the NIOSH Report of Dose Reconstruction dated January 17, 2006.

On February 21, 2006, the district office claims examiner reviewed the factual and medical evidence in the case record, and issued a recommended decision to deny your claim, since the probability of causation calculation of 43.31% for the employee's primary adenosquamous carcinoma of the right lung, did not meet the "at least as likely as not" (a 50% or greater probability) threshold required under the EEOICPA that it was caused by radiation doses incurred while he was employed at the LANL or ACF Industries, Inc.

### OBJECTIONS

On March 7, 2006, the FAB received your letter of objection to the recommended which stated the following:

- (1) You disagreed with the "conclusions of the reconstruction findings."
- (2) "Only the lung organ was reviewed, and in my earlier statements, I indicated that the pancreas could have been the primary source of the tumor, but it was not located until after the lung surgery."
- (3) You submitted a copy of a memorandum of recognition, dated June 2, 1982, from Harry Dreicer, commending your husband for his skill and efficiency during his employment.

Based on a thorough Review of the Written Record, the Final Adjudication Branch makes the following:

### FINDINGS OF FACT

1. On July 31, 2001, you filed a claim under Part B of the EEOICPA, as the surviving spouse of an employee of a DOE facility. You claimed the diagnosis of "metastatic oat cell carcinoma - pancreatic."

2. The DOE confirmed the employee's work history at the LANL from [redacted]. Social Security Administration employment records confirmed additional employment from [redacted] at ACF (American Car & Foundry) Industries, Inc., which was a DOE facility, owned by the AEC (Atomic Energy Commission), from [redacted].
3. [redacted] the employee was diagnosed with adenosquamous carcinoma of the right lung, extending to pleural surface with extensive invasion of endothelial lined spaces, and positive for metastatic carcinoma.
4. The employee expired on [redacted], at the age of [redacted] as the result of respiratory arrest, due to metastatic oat cell carcinoma.
5. You established that you were the employee's eligible surviving spouse. You submitted a copy of a second marriage certificate which substantiated the change in your last name from [redacted].
6. On February 21, 2006, the district office claims recommended denial of your claim, since the probability of causation calculation of 43.31% for the employee's primary adenosquamous carcinoma of the right lung, did not meet the "at least as likely as not" (a 50% or greater probability) threshold required under the EEOICPA that it was caused by radiation doses incurred while he was employed at the LANL or ACF Industries, Inc.
7. NIOSH reported annual dose estimates for the employee's primary adenosquamous carcinoma of the right lung from the date of initial radiation exposure at the LANL in [redacted] to the date of his right lung cancer diagnosis. A summary and explanation of information and methods applied to produce these dose estimates, including your involvement through an interview and review of the dose report, is documented in the NIOSH Report of Dose Reconstruction dated January 17, 2006.
8. Based on the dose reconstruction performed by NIOSH, the probability of causation calculation was completed by a district office claims examiner and was independently calculated and verified by a Final Adjudication Branch claim examiner. The probability of causation values were determined using the upper 99% credibility limit, which helps minimize the possibility of denying claims to employees with cancers likely to have been caused by occupational radiation exposures. It was shown that the probability of causation calculation of 43.31% verified that the employee's primary adenosquamous carcinoma of the right lung, did not meet the "at least as likely as not" (a 50% or greater probability) threshold required under the EEOICPA that it was caused by radiation doses incurred while he was employed at the LANL or ACF Industries, Inc.
9. On February 3, 2006, the district office issued a recommended decision to deny your claim since the probably of causation calculation of 43.31% for the employee's primary adenosquamous carcinoma of the right lung did not meet the "at least as likely as not" (a 50% or greater probability) threshold required under the EEOICPA that it was caused by radiation doses incurred while he was employed at the LANL or ACF Industries, Inc. Your claim was transferred to the FAB for review and issuance of a final decision.
10. Regarding your first objection, the NIOSH dose reconstruction offers the most in depth explanation of how your husband's radiation exposure was reconstructed and calculated for [redacted].



missed doses, as well as how his dose was overestimated for his entire work history. This is a challenge of NIOSH methodology and cannot be addressed by the FAB.

11. Regarding your second objection, pathology reports state that your husband's was diagnosed with "adenosquamous carcinoma of the right lung, extending to pleural surface with extensive invasion of endothelial lined spaces, and positive for metastatic carcinoma." Secondary cancers (cancers resulting from metastases of cancer from a primary site) are not considered primary cancers. Therefore, NIOSH considered only the primary adenosquamous carcinoma of the right lung, in the dose reconstruction.
12. Regarding the Memo of Recognition which you submitted with your letter of objection, it does not contain any new evidence which would change the outcome of the dose reconstruction.

Based on the evidence contained in the case record, the Final Adjudication Branch makes the following:

### CONCLUSIONS OF LAW

Pursuant to the regulations implementing the EEOICP, a claimant has 60 days from the date of issuance of the recommended decision to raise objections to that decision to the Final Adjudication Branch. 20 C.F.R. § 30.310(a). If an objection is not raised during the 60-day period, the Final Adjudication Branch will consider any and all objections to the recommended decision waived and issue a final decision affirming the district office's recommended decision. 20 C.F.R. § 30.316(a). On March 7, 2006, the FAB received your letter of objection to the recommended decision, which has been addressed above.

The dose reconstruction estimates were performed in accordance with 42 U.S.C. 7384n(d) of the EEOICPA and 42 CFR Part 82 § 82.10.

The probability of causation calculation was completed in accordance with 42 U.S.C. 7384n(c)(3) of EEOICPA and 20 CFR 30.213, which references Subpart E of 42 C.F.R. Part 81.

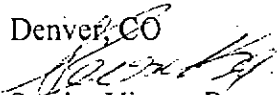
The probability of causation based the employee's primary adenosquamous carcinoma of the right lung, was determined to be 43.31%, therefore it is not "at least as likely as not" (a 50% or greater probability) that it was caused by his employment at the LANL or ACF Industries, Inc., within the meaning of 42 U.S.C. § 7384n(b) of the Act.

The employee does not meet the criteria of a "covered employee with cancer," specifically, that his primary adenosquamous carcinoma of the right lung, was at least 50% as likely as not related to his employment. 42 U.S.C. §§ 7384l(1)(B) and 7384l(9)(B)(ii)(II).

You are not entitled to compensation, as outlined under 42 U.S.C. § 7384s of the Act.

Additionally, metastases are secondary cancers (cancers resulting from metastases of cancer from a primary site) and are not considered primary cancers. Therefore, NIOSH considered only the primary cancer site of the employee's adenosquamous carcinoma of the right lung in the dose reconstruction.

Denver, CO

  
Sandra Vicens-Pecenka  
Hearing Representative

jd

**MEDICAL REPORTS FROM THIS  
SUBMISSION HAVE BEEN FILED IN  
THE CONFIDENTIAL FILES OF THE  
NIOSH DOCKET OFFICE**