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

From: DanMcKeel2@aol.com
Sent: Sunday, July 31, 2011 5:29 PM
To: NIOSH Docket Office (CDC)
Cc: danmckeel2@aol.com
Subject: NIOSH Docket 194 comment
Attachments: DWM_Docket194_10yrReview.pdf

Dear NIOSH DOCKET office,

Please accept the attached PDF file as a final comment of mine to the NIOSH Ten Year Phase I Review process. Public comment ends today.

Thank you -- Dan McKeel 7.31.11

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Daniel W. McKeel, Jr., M.D. Comments to NIOSH Docket 194 on the Ten Year Review by NIOSH of its EEOICPA 2000 Implementation Programs (Dose Reconstruction, SEC)

My name is Daniel W. McKeel, Jr., M.D., and I have been and remain the sole authorized co-petitioner at three EEOICPA covered AWE facilities: Dow Chemical (aka Spectrulite, Madison site) [enacted 83.14 SEC-00079], General Steel Industries ("GSI") [pending 83.13 SEC-00105] both in Illinois, and Texas City Chemicals ("TCC") located in Texas [enacted 83.13 SEC-00088]. The use of surrogate data is a major issue at all three sites. At GSI, the presence and importance of several isotope and particle accelerator source terms used for nondestructive testing ("NDT") has uniquely received attention from the ABRWH ("the Board"), their technical contractor Sanford Cohen & Associates ("SC&A") and from NIOSH (OCAS and DCAS). I was also interviewed by SC&A as a site expert at the DOE Weldon Spring site ("WSS") in Missouri and I was active in the deliberations for the original non-legislative SEC-00012-2 enacted at the Mallinckrodt-Destrehan site.

A brief recounting of my credentials and experience in the radiation field might be useful in assessing the validity of my comments as part of the Ten Year Review. I am an M.D. physician (University of Virginia, 1966) and anatomic pathologist with a long time interest in radiation pathobiology, radiation physics, and basic radiation research. I have read extensively about the history of nuclear weapons, and the nuclear power industry. I spent 31 years on the Washington University Medical School (WUMS) faculty after serving in the Army Medical Corps 1971-74. There I authored or co-authored 200 scientific paper, abstracts, books and book chapters. I held 36 N.I.H. research grants, all peer reviewed with very high scientific standards. My collaborations included ones with faculty radiologists and neuroradiologists and the WUSM Mallinckrodt Radiology Institute. I retired from the WUMS medical faculty in July 2005 and have devoted much of my time and efforts to the EEOICPA program.

I first became interested in remediation of the Weldon Spring Superfund (CERCLA) site in Missouri in 2001. I have been engaged in the SEC petitioner's role since 2005, and thereafter have experienced many aspects of both the NIOSH DR and SEC programs.

This comment amplifies and extends my previous comments posted to Docket 194 and the NIOSH Ten Year Review. In particular, they address the six final drafts now posted on the DCAS website **www.cdc.gov/niosh/ocas**.

I will address the six modules in order as follows, preceded for each interest area by a general comment:

The review of the NIOSH Program in support of EEOICPA—and the NIOSH Division of Compensation Analysis and Support (DCAS)-will focus upon the following five areas:

1. *The quality of science practiced in the program at the current time as well as throughout the evolution of the program (Quality of Science).* Authors: Dr. H Spitz, University of Cincinnati and NIOSH Special Government Employee and Doug Daniels, NIOSH. (/niosh/docket/review/docket194A/default.html)

General Comments: What is omitted is important in this analysis by Spitz and Daniels. Nowhere is the word "petitioner" used. The implication is that neither author recognizes the special expertise petitioners often have, and the often crucial new scientific information they provide to the SEC work group process.

Especially distressing is omission of previous , extremely compelling and courageous DOCKET 194 testimony by a NIOSH/OCAS scientific insider, health physicist Tim Taulbee that are reproduced, in part, below:

Comments on DCAS role under EEOIPCA over the past 10 years:

How to return to solid scientific dose reconstructions

By
Timothy D. Taulbee, Ph.D., CHP

Since I have been a Health Physicist at NIOSH since 1997 and have over 15 years of Federal service, I thought it appropriate to provide some thoughts on the role of the Division of Compensation Analysis and Support (DCAS) under EEOICPA and how we can improve. As the first Health Physicist hired into DCAS in September 2001, the first Health Physicist to conduct a Computer Assisted Telephone Interview (CATI), the first Health Physicist to complete a dose reconstruction under EEOICPA, and one of the first Health Physicist to conduct a Special Exposure Cohort (SEC) evaluation, I feel I have a unique non-management perspective from which I can offer some insight into the 10-year review of this program.

Mr. Taulbee goes on to describe how NIOSH the quality of NIOSH/DCAS science has very seriously degraded since he began his work with many "firsts:" DR. CATI, and SEC evaluations. The major blame is placed on NIOSH science becoming dominated by outside influences in the process sacrificing "Scientific Truth." This testimony must be given major weight in attempting to evaluate quality of science.

(URL: www.cdc.gov/nisoh/docket/archive/pdfs/NIOSH-194/0194-060310-Taulbee_sub.pdf

Specific Comments: My comments on this section refer primarily to the period from 2005 to the present. I will use the GSI, Dow and TCC SECs as the departure point for my remarks on each section including the quality of science.

GSI dose reconstructions were based on a scientifically flawed, site-specific, 12 page Appendix BB to Battelle TBD-6000. The parent document lacked a section, namely 7.2 "Thorium. Reserved") that was marked but never completed. I suggested that Mallinckrodt Chemical Works patented "dingots" or single step uranium ingots should have been added to TBD-6000. This suggestion was never seriously discussed or adopted by the Board, th TBD-6000 work group, or by SC&A. Dingot outer crust composition differed significantly from that of two step uranium ingots. NIOSH not adding to TBD-6000 information (1) about dingots as an important aspect of uranium metal fabrication, (2) on covering thorium production, especially intakes, since urine bioassays for thorium were not widely available, and (3) omitting information about nondestructive testing (NDT) and the source terms used for that purpose at GSI, constituted very poor quality science.

More indication that the depth of NIOSH site research was poor came when I alerted NIOSH to the existence of GSI film badge data at RS Landauer 13 months before NIOSH itself followed up and obtained these data. I discovered NRC records via the FOIA process on multiple new radiation sources at GSI, about which I alerted NIOSH and the TBD-6000 work group. The fact that a petitioner rather than NIOSH scientists uncovered this body of key NDT source term licensing documents is further testimony to lack of effort in uncovering crucial site information by NIOSH scientists.

2. *The timing of the accomplishment of NIOSH's program tasks (Timing).*
Authors: Nancy Adams, and Lewis Wade, CDC/NIOSH contractors.

(/niosh/docket/review/docket194B/default.html)

General Comment: Appendix BB Rev 0 was released on June 25, 2007, and has not been revised since. The GSI petitioner has delivered volumes of new information on source terms and operations. NIOSH refuses to amend Appendix BB until the TBD-6000 work group resolves all outstanding SC&A matrix issues with the Board. This is an unreasonable stance to take four years after the original release date. Now NIOSH pledges to write ten (10) new "exposure models" based on the new information provided to it at GSI. These models are supposed to constitute a path forward. Four models are to be delivered July 29, 2011 and the rest on December 30, 2011. This will assure the discussion and revision of Appendix BB will drag on for at least a year more. This whole scenario has held us the TBD-6000 from making a recommendation on SEC-105 for almost three years. This time frame is way outside a reasonable period to make a final disposition of both Appendix BB and SEC-00105 for GSI.

For both Dow and TCC, both DR and the respective SECs 79 and 88 dragged on for years before being decided. No adequate reason for the delays was given by DCAS.

3. *The appropriateness and the consistency of decisions regarding petitions to add groups of claimants to the Special Exposure Cohort established under the statute (Special Exposure Cohort).* Author: Randy Rabinowitz, CDC/NIOSH contractor. (/niosh/docket/review/docket194C/default.html)

General Comment: NIOSH and the Board have both been inconsistent in handling SECs. For Dow Madison, for example, Board Chair Melius moved it out of the SEC Issues work group without having a recommendation vote to the full Board. Surrogate data criteria were applied by SC&A at TCC for SEC-00088 as a test case before the criteria were ratified by the full Board. SEC processing times vary wildly by site.

4. *The appropriateness and the consistency of individual dose reconstructions (Dose Reconstruction).* Authors: Lewis Wade, and Nancy Adams, CDC/NIOSH contractors. (/niosh/docket/review/docket194D/default.html)

General Comment: Claimants were not informed of the assumptions used in their IREP input data. Nor were they informed of IREP assumption changes when undergoing a repeat DR. NIOSH overly and improperly relies on surrogate and coworker data.

5. *The quality and timing of service provided to claimants and petitioners, and their representatives (Customer Service).* Author: Chia-Chia Chang, NIOSH. (/niosh/docket/review/docket194E/default.html)

General Comment: The comments from advocates, claimants and site experts are often taken out of context. The interviews appear to be highly selective and the process by which the interviewees were selected from thousands of candidates is not made clear.

6. *Phase I Report Recommendations*, Author: Dr. Lewis Wade (/niosh/docket/review/docket194F/default.html)

General Comment: The recommendations fail to address the real issues and concerns raised by petitioners, claimants and site experts that reading of the meeting and work group transcripts reveal were brought up repeatedly. Issues such as FOIA and PA abuses that shaded into overt censorship, and the legal challenges brought to NIOSH taking longer than 180 days with SEC evaluations (Bonsignore, Linde) and to the improper use of surrogate data by Congressional staff personnel (Miller) were not covered adequately.

Overall, I have the impressions that the 6 reports (a) were not made by truly independent reviewers. Several were clearly written by persons who were DR and SEC program insiders. (b) the Ten Year Phase I Review puts a far more positive spin on the implementation of the DR and SEC programs by NIOSH during the first ten years of the federal compensation program for former nuclear weapons workers.

Respectfully submitted by,

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