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Congress of the United States
Washington, DC 20515

January 9, 2007

The Honorable Elaine Chao
Secretary of Labor
Department of Labor
Frances Perkins Building, Third Street and Constitution Avenue, NW
Washington, DC 20210

The Honorable Michael Leavitt
Secretary of Health and Human Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Paul L. Ziemer, Ph.D., Chairman
Advisory Board on Radiation and Worker Health
920 Southview Drive North
Lafayette, IN 47909

Lewis V. Wade, Ph.D., Executive Secretary
Advisory Board on Radiation and Worker Health
Hubert H. Humphrey Bldg.
200 Independence Ave., S.W., Room 715H
Washington, DC 20201

Dear Secretary Chao, Secretary Leavitt, Dr. Ziemer and Dr. Wade:

On March 16, 2006, we wrote to express our deep concern about the implementation of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) and the operations of the Advisory Board on Radiation and Worker Health. Administration documents demonstrate beyond question that officials of the Bush Administration have sought to reduce expenditures by measures that would result in denying compensation to deserving workers under the EEOICPA program. One proposed step toward that end was to appoint to the Advisory Board only members who could be expected to be hostile to Special Exposure Cohort petitions.

Special Exposure Cohort petitions are allowed under EEOICPA to enable workers to receive benefits in circumstances where the federal government, or its contractors, failed to create or to maintain reliable records of the workers' exposures to radiation. A recent study by an independent consultant has confirmed our view - which was the basis for proposed legislation to include Rocky Flats workers in the Cohort -- that the exposure records of a sample of Rocky Flats employees are grossly incomplete and unreliable.

The response of National Institute for Occupational Safety and Health (NIOSH) to this report was to temporarily block access by this consultant to any further relevant records - and while some access has evidently been restored - that response fit the pattern of resistance to making payments in accordance with the intent of the Act.

In short, this Administration has acted to deny and disguise the inadequacy of the exposure records of the Rocky Flats workers and then, when these workers exercised their statutory right to seek inclusion in the Special Exposure Cohort, the Administration has sought to stack the Advisory Board with reliable opponents of SEC petitions. This conduct is shameful.

We have written to you and have commented publicly on numerous occasions, urging you to stop delaying and impeding the Rocky Flats workers' petition. To demonstrate the depth of our concern, on December 11, Senator Salazar put a hold on the nomination of Leon Sequiera to a Department of Labor position until the composition of the Advisory Board is adjusted so that it will more fairly consider SEC petitions.

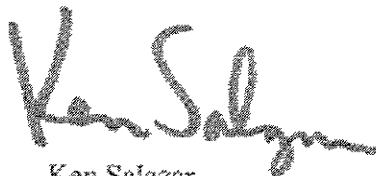
Since that action, we have been advised that the Administration has submitted two nominations to the Advisory Board. We acknowledge that this is a significant step forward, but, even with these two nominations, the Board will not be returned to the balance intended by Congress.

The Advisory Board has also recently announced its intention to make a final determination on the Rocky Flats SEC petition in February, despite the continuing investigation into the inadequacy and unreliability of the Rocky Flats exposure records and despite the continuing imbalance of the Board. Although we - and the Rocky Flats workers and their families - are anxious to reach a conclusion to this drawn out administrative process, it would be wrong to rush to judgment in such circumstances.

We therefore request that the Advisory Board not act on the Rocky Flats SEC petition at the Board's February meeting, and should not act until the independent investigation into the Rocky Flats worker exposure records is concluded and the Advisory Board has been restored to the balance intended by Congress.

In the event that the agenda for the Advisory Board's February meeting includes action on the Rocky Flats SEC petition, it is our intention to appear personally at that meeting to make our position clear and to set forth the facts that have brought us to this position.

Sincerely,



Ken Salazar
United States Senator



Mark Udall
Member of Congress



Ed Perlmutter
Member of Congress