

**SPECIAL EXPOSURE COHART PETITION**

02-15-12 12:48 RCVD

**KANSAS CITY BANNISTER COMPLEX**

03-12-13 P12:48 RCVD

Completed and signed SEC Petition Form

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SEC PETITION

KANSAS CITY PLANT

March 8, 2013

**Special Exposure Cohort Petition**

under the Energy Employees Occupational  
Illness Compensation Act

**U.S. Department of Health and Human Services**

Centers for Disease Control and Prevention  
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

Expires: 09/20/2013

**Special Exposure Cohort Petition — Form B**

Page 1 of 7

Use of this form and disclosure of Social Security Number are voluntary. Failure to use this form or disclose this number will not result in the denial of any right, benefit, or privilege to which you may be entitled.

**General Instructions on Completing this Form** (complete instructions are available in a separate packet):

Except for signatures, please **PRINT** all information clearly and neatly on the form.

Please read each of Parts A — G in this form and complete the parts appropriate to you. If there is more than one petitioner, then each petitioner should complete those sections of parts A — C of the form that apply to them. Additional copies of the first two pages of this form are provided at the end of the form for this purpose. A maximum of three petitioners is allowed.

If you need more space to provide additional information, use the continuation page provided at the end of the form and attach the completed continuation page(s) to Form B.

If you have questions about the use of this form, please call the following NIOSH toll-free phone number and request to speak to someone in the Division of Compensation Analysis and Support about an SEC petition: 1-877-222-8570.

<b>If you are:</b>	<input type="checkbox"/> A Labor Organization,	Start at D on Page 3
	<input checked="" type="checkbox"/> An Energy Employee (current or former),	Start at C on Page 2
	<input type="checkbox"/> A Survivor (of a former Energy Employee),	Start at B on Page 2
	<input checked="" type="checkbox"/> A Representative (of a current or former Energy Employee),	Start at A on Page 1

**A Representative Information — Complete Section A if you are authorized by an Employee or Survivor(s) to petition on behalf of a class.**

A.1 Are you a contact person for an organization?  Yes (Go to A.2)  No (Go to A.3)

A.2 Organization Information:  
Name of Organization: [Redacted]  
Position of Contact Person: [Redacted]

A.3 Name of Petition Representative:  
Mrs./Ms. First Name Middle Initial Last Name

A.4 Address:  
Street Apt # P.O. Box  
City State Zip Code

A.5 Telephone Number [Redacted]

A.6 Email Address: [Redacted]

A.7  Check the box at left to indicate you have attached to the back of this form written authorization to petition by the survivor(s) or employee(s) indicated in Parts B or C of this form. An authorization

**If you are representing a Survivor, go to Part B; if you are representing an Employee, go to Part C.**

Name or Social Security Number of First Petitioner: [Redacted]

**Special Exposure Cohort Petition**

under the Energy Employees Occupational Illness Compensation Act

**U.S. Department of Health and Human Services**

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**General Instructions on Completing this Form** (*complete instructions are available in a separate packet*):

Except for signatures, please **PRINT** all information clearly and neatly on the form.

Please read each of Parts A — G in this form and complete the parts appropriate to you. If there is more than one petitioner, then each petitioner should complete those sections of parts A — C of the form that apply to them. Additional copies of the first two pages of this form are provided at the end of the form for this purpose. A maximum of three petitioners is allowed.

If you need more space to provide additional information, use the continuation page provided at the end of the form and attach the completed continuation page(s) to Form B.

If you have questions about the use of this form, please call the following NIOSH toll-free phone number and request to speak to someone in the Division of Compensation Analysis and Support about an SEC petition: 1-877-222-8570.

<b>If you are:</b>	<input type="checkbox"/> A Labor Organization,	Start at D on Page 3
	<input type="checkbox"/> An Energy Employee (current or former),	Start at C on Page 2
	<input type="checkbox"/> A Survivor (of a former Energy Employee),	Start at B on Page 2
	<input checked="" type="checkbox"/> A Representative (of a current or former Energy Employee),	Start at A on Page 1

**A Representative Information — Complete Section A if you are authorized by an Employee or Survivor(s) to petition on behalf of a class.**

A.1 **Are you a contact person for an organization?**  Yes (Go to A.2)  No (Go to A.3)

A.2 **Organization Information:**

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Position of Contact Person

A.3 **Name of Petition Representative:**

\_\_\_\_\_  
Mr./Mrs.  First Name Middle Initial Last Name

A.4 **Address:**

\_\_\_\_\_  
Street Apt. # P.O. Box

\_\_\_\_\_  
City State Zip Code

A.5 **Telephone Number:** \_\_\_\_\_

A.6 **Email Address:** \_\_\_\_\_

A.7  Check the box at left to indicate you have attached to the back of this form written authorization to petition by the survivor(s) or employee(s) indicated in Parts B or C of this form. An authorization

**If you are representing a Survivor, go to Part B; if you are representing an Employee, go to Part C.**

Name or Social Security Number of First Petitioner: \_\_\_\_\_



Special Exposure Cohort Petition — Form B

**D Labor Organization Information — Complete Section D ONLY if you are a labor organization.**

**D.1 Labor Organization Information:**

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Position of Contact Person

**D.2 Name of Petition Representative:**

\_\_\_\_\_

**D.3 Address of Petition Representative:**

\_\_\_\_\_  
Street

\_\_\_\_\_  
Apt #

\_\_\_\_\_  
P.O. Box

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

**D.4 Telephone Number of Petition Representative:** (\_\_\_\_) \_\_\_\_\_

**D.5 Email Address of Petition Representative:** \_\_\_\_\_

**D.6 Period during which labor organization represented employees covered by this petition  
(please attach documentation):** Start \_\_\_\_\_ End \_\_\_\_\_

**D.7 Identity of other labor organizations that may represent or have represented this class of  
employees (if known):**

\_\_\_\_\_

**Go to Part E.**



**Special Exposure Cohort Petition**

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U.S. Department of Health and Human Services

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**Special Exposure Cohort Petition — Form B**

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**E Proposed Definition of Employee Class Covered by Petition — Complete Section E.**

E.1 Name of DOE or AWE Facility: Bendix - Honeywell - Bannister Complex

E.2 Locations at the Facility relevant to this petition:  
1500 E. BANNISTER Rd, Kansas City, MO

E.3 List job titles and/or job duties of employees included in the class. In addition, you can list by name any individuals other than petitioners identified on this form who you believe should be included in this class:  
MACHINIST / APPRENTICE / ALL CLASSIFICATIONS

E.4 Employment Dates relevant to this petition:  
Start 1968 End 2010  
Start \_\_\_\_\_ End \_\_\_\_\_  
Start \_\_\_\_\_ End \_\_\_\_\_

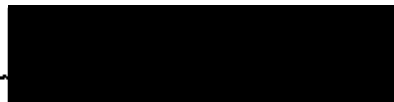
E.5 Is the petition based on one or more unmonitored, unrecorded, or inadequately monitored or recorded exposure incidents?  Yes  No

If yes, provide the date(s) of the incident(s) and a complete description (attach additional pages as necessary):



Go to Part F.

Name or Social Security Number of First Petitioner: \_\_\_\_\_



Special Exposure Cohort Petition — Form B

**F Basis for Proposing that Records and Information are Inadequate for Individual Dose —  
Complete Section F.**

Complete at least one of the following entries in this section by checking the appropriate box and providing the required information related to the selection. You are not required to complete more than one entry.

- F.1  I/We have attached either documents or statements provided by affidavit that indicate that radiation exposures and radiation doses potentially incurred by members of the proposed class, that relate to this petition, were not monitored, either through personal monitoring or through area monitoring.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that potential radiation exposures were not monitored.

See Representative [redacted] Affidavit  
attached

- F.2  I/ We have attached either documents or statements provided by affidavit that indicate that radiation monitoring records for members of the proposed class have been lost, falsified, or destroyed; or that there is no information regarding monitoring, source, source term, or process from the site where the employees worked.

(Attach documents and/or affidavits to the back of the petition form.)

Describe as completely as possible, to the extent it might be unclear, how the attached documentation and/or affidavit(s) indicate that radiation monitoring records for members of the proposed class have been lost, altered illegally, or destroyed.

Part F is continued on the following page.



**Special Exposure Cohort Petition**

under the Energy Employees Occupational  
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**U.S. Department of Health and Human Services**

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**Special Exposure Cohort Petition — Form B**

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F.3  I/We have attached a report from a health physicist or other individual with expertise in radiation dose reconstruction documenting the limitations of existing DOE or AWE records on radiation exposures at the facility, as relevant to the petition. The report specifies the basis for believing these documented limitations might prevent the completion of dose reconstructions for members of the class under 42 CFR Part 82 and related NIOSH technical implementation guidelines.

(Attach report to the back of the petition form.)

F.4  I/We have attached a scientific or technical report, issued by a government agency of the Executive Branch of Government or the General Accounting Office, the Nuclear Regulatory Commission, or the Defense Nuclear Facilities Safety Board, or published in a peer-reviewed journal, that identifies dosimetry and related information that are unavailable (due to either a lack of monitoring or the destruction or loss of records) for estimating the radiation doses of employees covered by the petition.

(Attach report to the back of the petition form.)

**Go to Part G.**

**G Signature of Person(s) Submitting this Petition — Complete Section G.**

All Petitioners should sign and date the petition. A maximum of three persons may sign the petition.

	Date
	Date
	Date

**Notice:** Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided under EEOICPA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both. I affirm that the information provided on this form is accurate and true.

Send this form to: SEC Petition  
Division of Compensation Analysis and Support  
NIOSH  
4676 Columbia Parkway, MS-C-47  
Cincinnati, OH 45226

**If there are additional petitioners, they must complete the Appendix Forms for additional petitioners. The Appendix forms are located at the end of this document.**

Name or Social Security Number of First Petitioner: \_\_\_\_\_

**Special Exposure Cohort Petition**under the Energy Employees Occupational  
Illness Compensation Act**U.S. Department of Health and Human Services**Centers for Disease Control and Prevention  
National Institute for Occupational Safety and Health

OMB Number: 0920-0639

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**Special Exposure Cohort Petition — Form B**

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**Public Burden Statement**

Public reporting burden for this collection of information is estimated to average 5 hours per response, including time for reviewing instructions, gathering the information needed, and completing the form. If you have any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to CDC Reports Clearance Officer, 1600 Clifton Road, MS-E-11, Atlanta GA, 30333; ATTN:PRA 0920-0639. Do not send the completed petition form to this address. Completed petitions are to be submitted to NIOSH at the address provided in these instructions. Persons are not required to respond to the information collected on this form unless it displays a currently valid OMB number.

**Privacy Act Advisement**

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. § 552a), you are hereby notified of the following:

The Energy Employees Occupational Illness Compensation Program Act (42 U.S.C. §§ 7384-7385) (EEOICPA) authorizes the President to designate additional classes of employees to be included in the Special Exposure Cohort (SEC). EEOICPA authorizes HHS to implement its responsibilities with the assistance of the National Institute for Occupational Safety (NIOSH), an Institute of the Centers for Disease Control and Prevention. Information obtained by NIOSH in connection with petitions for including additional classes of employees in the SEC will be used to evaluate the petition and report findings to the Advisory Board on Radiation and Worker Health and HHS.

Records containing identifiable information become part of an existing NIOSH system of records under the Privacy Act, 09-20-147 "Occupational Health Epidemiological Studies and EEOICPA Program Records, HHS/CDC/NIOSH." These records are treated in a confidential manner, unless otherwise compelled by law. Disclosures that NIOSH may need to make for the processing of your petition or other purposes are listed below.

NIOSH may need to disclose personal identifying information to: (a) the Department of Energy, other federal agencies, other government or private entities and to private sector employers to permit these entities to retrieve records required by NIOSH; (b) identified witnesses as designated by NIOSH so that these individuals can provide information to assist with the evaluation of SEC petitions; (c) contractors assisting NIOSH; (d) collaborating researchers, under certain limited circumstances to conduct further investigations; (e) Federal, state and local agencies for law enforcement purposes; and (f) a Member of Congress or a Congressional staff member in response to a verified inquiry.

This notice applies to all forms and informational requests that you may receive from NIOSH in connection with the evaluation of an SEC petition.

Use of the NIOSH petition forms (A and B) is voluntary but your provision of information required by these forms is mandatory for the consideration of a petition, as specified under 42 CFR Part 83. Petitions that fail to provide required information may not be considered by HHS.

Name or Social Security Number of First Petitioner: \_\_\_\_\_



**(Authorized Representative and Health Physicist)**

**Affidavit**

February 28, 2013

SEC Petition

National Institute of Occupational Safety and Health  
Division of Compensation Analysis and Support, MS-C47  
4676 Columbia Parkway  
Cincinnati, Ohio 45226

RE: SEC Petition for the Kansas City Plant

To Whom It May Concern,

On behalf of the following class of employees I wish to submit a request for Special Exposure Cohort under 42 CFR Part 83 of the EEIOCPA (ACT).

I contend, based on my assessment of available information, and as [REDACTED]

[REDACTED] that worker radiation doses at the "Kansas City Plant", as defined by the ACT, cannot be performed with sufficient accuracy as required due to, among others:

- Lack of qualified health physicist professionals
- Inadequate radiation detection and monitoring equipment
- Inadequate application of radiological surveillance techniques and procedures and
- Secrecy of operations.

I further contend that the following classes of employees, from the best of my knowledge, were not monitored for radiation exposure.

Managers and administrators, roof-top workers, day-laborers, contractors, miscellaneous repairers, construction workers, and equipment operators, engineers, tool makers, repair technicians, health technicians, technologist, maintenance worker, electricians, mechanics, pipe fitters, sub-contractors, security personnel, sheet metal workers (operators), plant/system/utility operators, machine set-up operators, welders/solders, precision production workers, drivers, material handlers, machinist, laborers, helpers, nurses, and miscellaneous employees.

According to the Site profile for the Kansas City Plant (document ORAUT-TKBS-0031) provided by the ORAU Team, Dade Moeller & Associates, and the MJW Corporation report dated 05/31/2005 section 5.14.3 (pg. 20), "Due to the nature of the work performed at KCP, and because no accident were found, it is reasonable to assume that intakes of DU from 1953 to 1971 were *chronic* unless the individuals dosimetry records indicate otherwise." However, the following paragraph states, "The results of individual measurements were

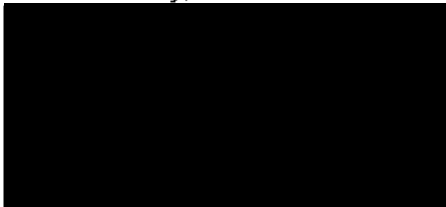
written on cards that were nearly *illegible*." In addition, the findings of this report state under the heading '**UNMONITORED WORKER**,' "*Generally, the occupations for which bioassay data have not been found are nurses, miscellaneous repairers, construction workers, and equipment operators.*"


Finally, under section 6.4 entitled '**DOSE RECONSTRUCTION**' the authors of this document find: "*Evaluation of KCP worker dose to ensure that the occupational dose for each worker claim is not underestimated involves assessment of:*

- *Potential unmonitored dose for workers who were not monitored for occupational radiation exposure throughout their employment at KCP.*"
- *Potential missed dose for monitored workers because of missing dosimeter results, actual dose that was less than the detection capabilities of the dosimeters, or unrecorded doses in a worker's exposure history.*
- *Potential adjustments to the recorded dose because of considerations of the dosimetry technology, calibration methods, and workplace radiation fields that could have resulted in error in the recorded dose.*

Due the above findings, and the attached affidavits of former workers, we seek SEC status for the Kansas City Plant.

Sincerely,



  
**JOSHUA SIANO**  
NOTARY PUBLIC  
Fulton County - State of Georgia  
My Comm. Expires July 28, 2014

US Department of Labor  
DEEOICP-Leiton  
Frances Perkins Building  
200 Constitution Ave. N.W.  
Washington D.C. 20210

**AUTHORIZATION FOR REPRESENTATION**

File Number (SS#) \_\_\_\_\_ WORKER \_\_\_\_\_  
I, \_\_\_\_\_ (CLAIMANT) who resides at \_\_\_\_\_

, do hereby authorize Wayne Knox at 3808 Foxford Dr., Atlanta GA, 30340 to serve as my  
**AUTHORIZED REPRESENTATIVE** in all matters pertaining to the adjudication of my claim under the  
Energy Employees' Occupational Illness Compensation Act, (EEOICPA).

I understand the following applies statute applies to both Part B and Part E payments

**§ 7385g. Attorney fees**

(a) **GENERAL RULE**—Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual for payment of lump-sum compensation under part B of this subchapter, more than that percentage specified in subsection (b) of a payment made under part B of this subchapter on such claim.

(b) **APPLICABLE PERCENTAGE LIMITATIONS**—The percentage referred to in subsection (a) is—  
(1) 2 percent for the filing of an initial claim for payment of lump-sum compensation; and  
(2) 10 percent with respect to objections to a recommended decision denying payment of lump-sum compensation.

(c) **INAPPLICABILITY TO OTHER SERVICES**—This section shall not apply with respect to services rendered that are not in connection with such a claim for payment of lump-sum compensation.

\_\_\_\_\_ CLAIMANT Signature \_\_\_\_\_ Date



**Affidavit**

February 28, 2013

SEC Petition

National Institute of Occupational Safety and Health  
Division of Compensation Analysis and Support, MS-C47  
4676 Columbia Parkway  
Cincinnati, Ohio 45226

RE: SEC Petition for the Kansas City Plant

To Whom It May Concern,

On behalf of the following class of employees I wish to submit a request for Special Exposure Cohort under 42 CFR Part 83 of the ACT. I contend that the radiological program and capability to perform with "sufficient accuracy" worker dose reconstructions has been gravely compromised due to lack monitoring. I also contend that the following classes of employers, from the best of my knowledge, were not monitored for radiation exposure.

- Managers and administrators, engineers, tool makers, repair technicians, health technicians, technologist, maintenance worker, electricians, mechanics, pipe fitters, sub-contractors, security personnel, sheet metal workers (operators), plant/system/utility operators, machine set-up operators, welders/soldiers, precision production workers, drivers, handlers/laborers/helpers, nurses, and miscellaneous employees.

According to the Site profile for the Kansas City Plant (document ORAUT-TKBS-0031) provided by the ORAU Team, Dade Moeller & Associates, and the MJW Corporation report dated 05/31/2005 section 5.14.3 (pg. 20), "*Due to the nature of the work performed at KCP, and because no accident were found, it is reasonable to assume that intakes of DU from 1953 to 1971 were chronic unless the individuals dosimetry records indicate otherwise.*" However, the following paragraph states, "*The results of individual measurements were written on cards that were nearly illegible.*" In addition, the findings of this report state under the heading '**UNMONITORED WORKER,**' "*Generally, the occupations for which bioassay data have not been found are nurses, miscellaneous repairers, construction workers, and equipment operators.*" Finally, under section 6.4 entitled '**DOSE RECONSTRUCTION**' the authors of this document find:

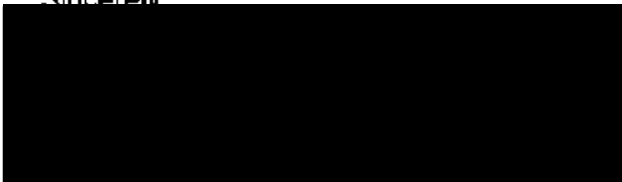


- Potential missed dose for monitored workers because of missing dosimeter results, actual dose that was less than the detection capabilities of the dosimeters, or unrecorded doses in a worker's exposure history.
- Potential adjustments to the recorded dose because of considerations of the dosimetry technology, calibration methods, and workplace radiation fields that could have resulted in error in the recorded dose.

*"Evaluation of KCP worker dose to ensure that the occupational dose for each worker claim is not underestimated involves assessment of:  
Potential unmonitored dose for workers who were not monitored for occupational radiation exposure throughout their employment at KCP."*

Due the above findings, and the attached affidavits of former workers we seek SEC status for KCP.

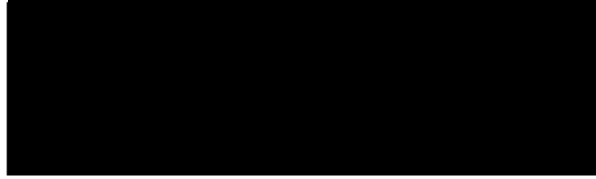
Sincerely,



State of Missouri  
County of Jackson  
Subscribed and Sworn Before Me This  
24 Day of March In The Year 2013

Andrea R. Sartain  
Notary Public

**ANDREA R SARTAIN**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Clay County  
My Commission Expires: April 12, 2014  
Commission # 10870125



**Affidavit**

AFFIDAVIT OF  
NUCLEAR WORKER

STATE OF MISSOURI  
COUNTY OF JACKSON

REQUEST FOR: Special Exposure Cohort (SEC), assigned to The Kansas City Plant (KCP)

Personally came and appeared before me, the undersigned Notary, the within named [REDACTED]  
[REDACTED] who is a resident of [REDACTED] and makes this [REDACTED]  
statement and Affidavit upon oath and affirmation of belief and personal knowledge that the following  
matters, facts and things set forth are true and correct to the best of [REDACTED] knowledge.

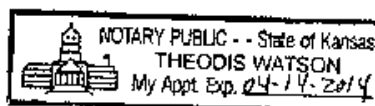
I submit this request, based on the neglect of the monitoring of the workers at the Kansas City Plant,  
covering the years [REDACTED]. The Class employees list to be covered is stated below, with common  
reasoning for justification for inclusion.

REASON FOR INCLUSION

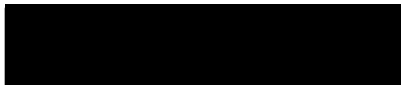
These employees were subject to regular exposures of their daily operating functions. These exposures  
were not monitored, and not known to the employees. Activities of remediation of all types of hazardous  
elements were taking place while these employees performed their duties.

[REDACTED]  
[REDACTED] never was I cautioned or aware of any hazard, or potential hazard.  
Never was I monitored to my knowledge, or wore a dosimeter badge.

- It must be noted here the Nuclear Weapons industry was in the "Build Up Mode" in weapons production. The KCP, was  
in the process of growing the population of the plant from 2000 approx, to 9000 plus employees. Placement of  
employees was a problem. [REDACTED]



State Of Kansas  
County Of Johnson  
Subscribed and sworn before me this  
6<sup>th</sup> day of March, 2013.  
Notary Public [Signature]



Affidavits

**AFFIDAVIT OF NUCLEAR WORKER**

STATE OF Missouri

COUNTY OF Jackson

PERSONALLY came and appeared before me, the undersigned Notary, the within named [REDACTED] and makes this his statement and Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his knowledge.

I was hired by [REDACTED] Kansas City Plant worked from [REDACTED] In the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I am a United States Of America Disabled Viet Nam Veteran, all my medical records and Healthcare are at the United States of America Veterans Hospital.

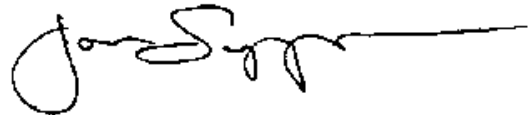
My doctors at V.A. medical center informed me of my condition. My liver specialist informed that I had beryllium in my liver and index finger right hand. My lung doctor informed me that I had beryllium in my lymph nodes

Dated this the 18<sup>th</sup> day of January, 2013.

[REDACTED]

SWORN to the subscribe before me, this 18<sup>th</sup> day January, 2013

NOTARY PUBLIC



JON SUPPES  
Notary Public - Notary Seal  
STATE OF MISSOURI  
JACKSON COUNTY  
MY COMMISSION EXPIRES: NOV. 7, 2015  
COMMISSION # 11364975

DRAFT 1  
AFFIDAVIT OF NUCLEAR WORKER

STATE OF MISSOURI  
COUNTY OF JACKSON

PERSONALLY came and appeared before me, the undersigned Notary, the within named [REDACTED] who is a resident of JACKSON County, State of MISSOURI, and makes this his/her statement and Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth are true and correct to the best of his/her knowledge.

## 1. Introduction

### 1.1. I am filing this affidavit based on 20 CFR 30.111 (c) which states:

*"Written affidavits or declarations, subject to penalty for perjury, by the employee, survivor or any other person, .....may be relied on in determining whether a claim meets the requirements of the Act for benefits if, and only if, such person attests that due diligence was used to obtain records in support of the claim, but that no records exist".*

#### 1.1.1. The records do not exist or misrepresent worker exposure and as established by:

##### 1.1.1.1. Findings the US Congress:

1.1.1.1.1. § 7384 (a) (2) workers were "put at risk without their knowledge and consent for reasons that, documents reveal, were driven by fears of adverse publicity, liability, and employee demands for hazardous duty pay".

1.1.1.1.2. § 7384 (a) (3) "Many previously secret records have documented unmonitored exposures to radiation and beryllium and continuing problems at these sites across the Nation"

1.1.1.1.3. § 7384 (a) (5) "...scientific findings have emerged that indicate that certain of such employees are experiencing increased risks of dying from cancer and non-malignant diseases."

1.1.1.1.4. § 7384 (a) (6) ".....scientific evidence supports the conclusion that occupational exposure to dust particles or vapor of beryllium can cause beryllium sensitivity and chronic beryllium disease."

1.1.1.1.5. § 7384 (a) (6) "...98 percent of radiation-induced cancers ..... occurred at dose levels below existing maximum safe thresholds.

##### 1.1.1.2. Presidential Document –Executive Order 13179 states

1.1.1.2.1. "Too often, these workers were neither adequately protected from, nor informed of, the occupational hazards to which they were exposed".

1.1.1.2.2. No State workers' compensation benefits provided "...because of long latency periods, the uniqueness of the hazards to which they were exposed, and inadequate exposure data, long latency periods, the uniqueness of the hazards to which they were exposed,

##### 1.1.1.2.3. "Federal Government" should:

1.1.1.2.3.1. "Provide necessary information and otherwise help employees of the DOE or its contractors determine if their illnesses are associated with conditions of their nuclear weapons-related work

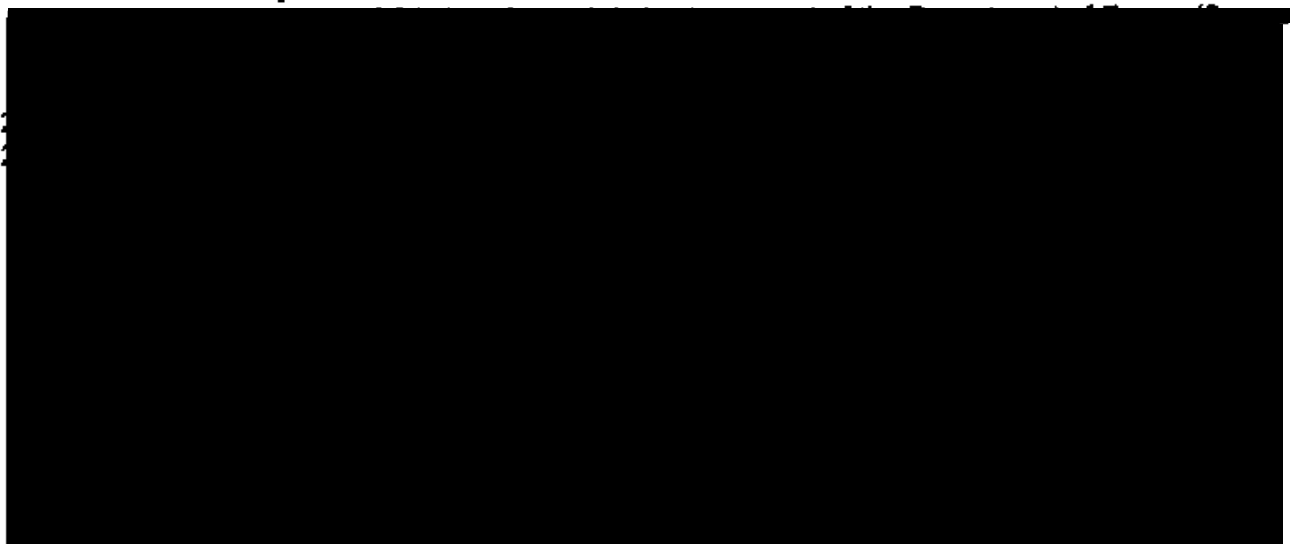
1.1.1.2.3.2. Provide workers and their survivors with all pertinent and available information necessary for evaluating and processing claims;

1.1.1.2.3.3. Ensure that this program minimizes the administrative burden on workers and their survivors, and respects their dignity and privacy.

- 1.2. I was exposed to many types of radioactive materials, chemicals and biological agents without my "knowledge and consent", as acknowledge by the US Congress in the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) cited as 42 USC §7384 *et seq* and Executive Order 17195 .
- 1.3. My primary objective in completing this affidavit is to obtain fair medical treatment and compensation for me and co-worker illnesses under the provisions of the Act and Executive Order.
- 1.4. My name [REDACTED]
- 1.5. I am older than 18 years of age.
- 1.6. I live at [REDACTED]
- 1.7. I was employed by the General Services Administration (GSA) and stationed at the Banister Facility located at N/A
- 1.8. I worked at the facility from [REDACTED] to [REDACTED] under the job title of [REDACTED]
- 1.9. In accordance with the following including Appendices, I satisfy the eligibility requirements of 42 USC §7384 *et seq*.
- 1.10. The following citations refer to sections of 42 USC §7384 *et seq*

## 2. Performance of Duty

2.1.



2.2.

2.3.

## 3. Exposures

I understand the following statutory, regulatory and guidance requirements apply:

- a. 20 CFR § 30.231 (b) states: "Proof of exposure to a toxic substance may be established by the submission of any appropriate document or information that is evidence that such substance was present at the facility in which the employee was employed and that the employee came into contact with such substance. OWCP site exposure matrices may be used to provide probative factual evidence that a particular substance was present at either a DOE facility....."
- b. 20 CFR § 30.111 (d) states: "A claimant will not be entitled to any presumption otherwise provided for in these regulations if substantial evidence exists that rebuts the existence of the fact that is the subject of the presumption. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. When such evidence exists, the claimant shall be notified and afforded the opportunity to submit additional written medical documentation or records."



- c. **For Part E, § 7385s-4. Determinations regarding contraction of covered illnesses (c) (1) ...a** [redacted] shall be determined [ Part E] to have contracted a covered illness through exposure at a Department of Energy facility if—
- (A) it is at least as likely as not that exposure to a toxic substance at a Department of Energy facility was a significant factor in aggravating, contributing to, or causing the illness; and
  - (B) it is at least as likely as not that the exposure to such toxic substance was related to employment at a Department of Energy facility.

I understand the phrase "at least as likely as not" means the exposure was "more than mere suspicion or hunch". This based on the "Guidance for District Medical Consultants", Section 2. "Legal Standards of Certainty and Concepts". The guidance indicates the "at least as likely as not" causation standard for Part E "to fall between" the upper level of "Low - reasonable suspicion (For probable cause and reasonable suspicion cite *La Fave, et al, Criminal Procedure, sec 3.3 and 3.9 (4th ed West 2004)*)" and the "Lowest of mere suspicion (hunch)".

Additionally with regard to "At Least as Likely as Not", "Chapter 2-0700 Establishing Toxic Substance Exposure" § (2) states: "Part E only requires proof that established exposure "at least as likely as not" was a significant factor in aggravating, contributing to or causing the employee's illness, disease or death. As with Part B, "at least as likely as not" means 50% or greater likelihood.

Both phrases, "more likely than not" and "at least as likely as not", as related to Part B mean "50% or greater likelihood"

The phrase "a significant factor" means "any factor" as confirmed by Federal Register / Vol. 71, No. 250 / Friday, December 29, 2006 / Rules and Regulations 78523. The Federal Register states: "Because it is impossible to determine the extent to which any individual factor contributed to the development of cancer, OWCP has concluded that the only way to comply with the statutory mandate in Part E is, in effect, to interpret "a significant factor" as including "any factor."

- 3.1. I fully support the Congressional findings in the 42 USC §7384 *et seq* that I and fellow GSA co-workers listed in Appendix A were exposed to toxic chemicals, radioactive materials, radiation and biological agents "without knowledge and consent" or even proper training and protection.

**3.2. Documented and Accepted Exposure**

20 CFR § 30.231 (b) states: "OWCP site exposure matrices[SEM] may be used to provide probative factual evidence that a particular substance was present at either a DOE facility....."

Chapter 2-0700 Establishing Toxic Substance Exposure §8 (d) states: "All information in SEM is considered valid and factual. The toxic substance, work process, and facility information in SEM is deemed verified by DOE or other sources, and if a certain toxic substance is listed as present in a given building or facility, the data is accepted as fact and no additional confirmation from DOE or any other source is necessary."

- 3.2.1. Work performed at KCP, a "Department of Energy facility" (§ 7384I. (10)), would fall under the following Department of Labor KCP Site Exposure Matrix (SEM)

3.2.1.1. Labor categories and associated exposures:

- 3.2.1.1.1. [redacted]
- 3.2.1.1.2. [redacted]
- 3.2.1.1.3. [redacted]

3.2.1.1.4. \_\_\_\_\_

3.2.1.2. Process or tasks performed and associated exposures

3.2.1.2.1. \_\_\_\_\_

3.2.1.2.2. \_\_\_\_\_

3.2.1.2.3. \_\_\_\_\_

3.2.1.2.4. \_\_\_\_\_

3.2.1.2.5. \_\_\_\_\_

3.2.1.2.6. \_\_\_\_\_

3.2.1.2.7. \_\_\_\_\_

3.2.1.2.8. \_\_\_\_\_

3.2.1.2.9. \_\_\_\_\_

3.2.1.2.10. \_\_\_\_\_

3.2.1.3. Departments and associated exposures

3.2.1.3.1. \_\_\_\_\_

3.2.1.3.2. \_\_\_\_\_

3.2.1.3.3. \_\_\_\_\_

3.2.1.3.4. \_\_\_\_\_

3.2.1.3.5. \_\_\_\_\_

### 3.3. Unrecorded, Unacknowledged and Casual

I understand the following statutory, regulatory and guidance requirements apply:

- a. 20 CFR § 30.231 (b) states: "Proof of exposure to a toxic substance may be established by the submission of any appropriate document or information that is evidence that such substance was present at the facility in which the employee was employed and that the employee came into contact with such substance.
- b. 20 CFR § 30.111 (d) states: "A claimant will not be entitled to any presumption otherwise provided for in these regulations if substantial evidence exists that rebuts the existence of the fact that is the subject of the presumption. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. When such evidence exists, the claimant shall be notified and afforded the opportunity to submit additional written medical documentation or records."

I interpret the above regulatory requirements to mean the claims examiners must provide me with "substantial evidence" that demonstrates a named person with a "reasonable mind" would say, under oath as I am, that the following is not correct.

Based on the NIOSH Site exposure matrix, DOL SEM and in discussions/consultation with coworkers and \_\_\_\_\_ I now believe I was exposed routinely exposed to the following without my knowledge or provision to minimize my exposure:

#### 3.3.1. Radiation and radioactive materials

3.3.1.1. Many surface and airborne Uranium isotopes, Plutonium, Tritium, weapons grade Uranium-235, Uranium -233, another nuclear weapons material, in addition to daughter radioactive products and toxic chemicals.

3.3.1.2. While working on the roof top and passing by radiation generating machine stations, I believe I was exposed to neutrons and other ionizing radiation from

Industrial X-ray Gauging devices, [REDACTED] Neutron Generators, Neutron Plutonium-Beryllium Sources, Accelerators, Cesium Irradiator, Medical X-ray and Electro Curtain.

- 3.3.1.3. I did not wear a radiation dosimeter or provide a bioassay sample.
- 3.3.1.4. I was informed and the facility was labeled as a "nonnuclear" facility. I believe the facility classification was knowingly misrepresented.

### **3.3.2. Creosote containing many different toxic substances**

- 3.3.2.1. Based on my experience and observation, the floor was made of wooden blocks and was in a continuous state of repair and maintenance: Being coated with a wood preservative.
- 3.3.2.2. I smelled the irritating fumes originating from the floor and now understand that the floor was treated with a wood preservative called creosote.
- 3.3.2.3. The primary chemicals of concern within creosote are polycyclic aromatic hydrocarbons (PAHs), phenols, and creosols. These materials would increase the risk and incidence of pancreatic cancer, respiratory disorders along with other illnesses.
- 3.3.2.4. I understand these creosote wooden blocks were removed in about \_\_\_\_ and buried onsite.

### **3.3.3. [REDACTED]**

- 3.3.3.1. [REDACTED]
- 3.3.3.2. I understand the SEM and other document indicate to releases of many materials during [REDACTED]
- 3.3.3.3. I was not made aware of the presence of these toxic substance or provided respiratory protection.

### **3.3.4. [REDACTED]**

- 3.3.4.1. [REDACTED]
- 3.3.4.2. [REDACTED]
- 3.3.4.3. [REDACTED]
- 3.3.4.4. Some of these vents were located near the air intake and as such the released toxic substances could reenter the facility.

### **3.3.5. Beryllium**

- 3.3.5.1. To the best of my knowledge, I did not work directly with Beryllium; however, [REDACTED]

### **3.3.6. Asbestos**

- 3.3.6.1. To the best of my knowledge, I did not work directly with Asbestos; however, [REDACTED]

### **3.3.7. Diesel and Gasoline Engine Exhaust**

- 3.3.7.1. To the best of my knowledge, I did not work directly with Diesel and Gasoline Engine Exhaust; however [REDACTED]

### **3.3.8. Unrecorded, Unmeasured and Immeasurable Radiological, Chemical and Biological Exposures**

- 3.3.8.1.

**4. Incidents and Unusual Events**

**4.1. Facility or Area Evacuations**

4.1.1. I recall the some of these events occurring.

4.1.2. I reported the event to best of my knowledge and belief in the Attachment \_\_\_\_\_

**4.2. Spills and Leaks**

4.2.1. I recall the some of these events occurring.

4.2.2. I reported the event to best of my knowledge and belief in the Attachment \_\_\_\_\_

**4.3. Unusually High Exposures, Surface and Airborne Contamination**

4.3.1. I recall the some of these events occurring.

4.3.2. I reported the event to best of my knowledge and belief in the Attachment \_\_\_\_\_

**4.4. Involvement Or Knowledge of Recorded Incidents From SEM**

4.4.1. Pm-147 leak

4.4.1.1. I reported the event to best of my knowledge and belief in the Attachment \_\_\_\_\_

4.4.2. ALL LISTED FROM SEM

**5. Medical Treatment and Recording Practices**

5.1. Reporting Clinical Symptoms

5.2. Requesting Personal Protective Measures

5.3. Improper Diagnosis of Medical Conditions

5.4.

**6. Health and Safety Training**

6.1. Chemical

6.2. Radiological Protection

6.3. Biological Agent

**7. Protective Measures**

7.1. Chemical

7.2. Radiological Protection

7.3. Biological Agent

**8. Workplace Monitoring and Assessments**

8.1. Chemical

8.2. Radiological Protection

8.3. Biological Agent

**9. Waste Disposal Practices**

**10. Offsite Transfers of Contaminants**

**11. Environmental Releases**

**12. Legal Actions and Cases**

**12.1. Administrative Under EEOICPA**

**12.1.1. KCP Worker**

**12.1.2. Non-KCP Worker**

**12.2. Judicial**

**12.2.1. KCP Worker**

**12.2.2. Non-KCP Worker**

Dated this the 18 day of JANUARY, 2012

SWORN to subscribe before me this 18 day January, 2012

  
NOTARY PUBLIC

JON SUPPES  
Notary Public - Notary Seal  
STATE OF MISSOURI  
JACKSON COUNTY  
MY COMMISSION EXPIRES: NOV. 7, 2015  
COMMISSION # 11384975

# BANNISTER: Questions linger after tests

FROM A1  
ly eight samples taken inside the building.

Last month, in a press conference, Klumb disclosed that some substance — either beryllium or uranium — had been found at some level in the offices. Monday's town hall was a formal announcement of those results.

The GSA offices have 2 million square feet of office space at the Bannister complex. The largest contractor at the complex and GSA's neighbor is Honeywell FM&T, which uses beryllium to manufacture parts for nuclear bombs.

Federal officials previously had said the wall between the offices and manufacturing areas was sealed.

But current and former GSA employees have been concerned for years because of hundreds of chemicals that have been spilled at Honeywell, and they fear that GSA offices may have been contaminated. Many office workers for GSA and other government agencies have become sick and died, workers say.

Last year, GSA and the Environmental Protection Agency agreed to a work plan to try to detect possible contaminants.

In November, 31 air and dust samples were taken as part of a screening study by a consultant to determine if there was beryllium contamination. Air samples did not detect any harmful levels.

Two of the dust samples had detectable levels of beryllium, but one of those was on the roof. Of the eight samples inside the building, one detected beryllium.

Officials said the levels were comparable to those found in dirt, and were not high enough to be considered a health hazard.

However, the federal government has varying standards for determining hazardous levels of surface beryllium, and some scientists now say any detectable levels can be dangerous to human health.

"There is a term for this — smoke and mirrors," said Marcus Iszard, associate professor of pharmacology/toxicology at the University of Missouri-Kansas City. "You have the gov-



PHOTOS BY JILL TOYOSHIBA | THE KANSAS CITY ST  
Jason Klumb, General Services Administration regional administrator, spoke Monday at a town hall meeting about chemical testing done at the Bannister Federal Complex.

ernment hiding behind inconsistent levels of exposure. The only thing I can go by at this point is the best exposure is no exposure."

Joseph Alford, who has worked at the plant for more than 30 years, told officials Monday that he was concerned about where the contaminated beryllium sample was found — next to a wall that separates GSA from Honeywell.

"My concern is, that is right next door to our neighbor where beryllium might come from," Alford said. "You can see lights on (under doorways) from our neighbors. We're connected a lot more than we realize."

Officials said that as part of their study they tried to determine whether the beryllium found in the offices might be naturally occurring, but they had no conclusive evidence of that.

They also said the November results are part of an attempt to identify potential pathways of beryllium from Honeywell into GSA offices.

Officials also had to explain



Delmira Quarles of Kansas City, who worked at the federal complex on Bannister Road, was upset by the length of time it took for test results to be reported.

why the results, which had been rumored for months, took so long to release.

Representatives of two laboratories said Monday that beryllium samples can be processed anywhere from two days to two weeks depending on whether the customer wants the results rushed.

Angela Brees, a GSA spokeswoman, said officials wanted to triple-check the results.

"We want to make sure we get it right," Brees said. "Although the process is extensive, if we received preliminary

data that indicated a health concern, we would immediately consult with EPA ... to inform tenants, and employees."

Quarles told officials that too many of her co-workers are sick or have died, and government needed to be more responsive.

"A lot of people I know when I was young here have passed away," Quarles said. "It's a very sad situation."

To reach Karen Dillon, call 816-234-4430 or send email to kdillon@kstar.com.

Go to [KansasCity.com](http://KansasCity.com) for a photo gallery.

## ATOMIC POWER DEVELOPMENT AND PRIVATE ENTERPRISE

MONDAY, JULY 20, 1953

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON ATOMIC ENERGY,  
Washington, D. C.

The joint committee met at 2 p. m., pursuant to recess, in room 518, Senate Office Building, Representative W. Sterling Cole (chairman) presiding.

Present: Representative Cole, Senator Pastore, and Representatives Patterson, Hollifield, and Price.

Professional staff members present: Corbin C. Allardice, executive director; and Walter A. Hamilton of the professional staff of the joint committee.

Chairman Cole. The committee will come to order.

The first witness we are to hear this afternoon is the representative of the Bendix Aviation Corp., Mr. Malcom P. Ferguson, president.

The Bendix Aviation Corp. operates a classified plant at Kansas City, Mo., for the Atomic Energy Commission. It has also conducted studies of special-purpose reactor systems, such as might be used in isolated military stations.

Bendix officials have indicated an intention of getting into the business of building atomic powerplants eventually. The company already has a very widely diversified line of products, ranging from aircraft to household products.

Mr. Ferguson, I extend to you a very special and personal welcome this afternoon in view of the fact that both you and I originated in the same part of the country. The only difference between us is that I stayed there and you moved out.

In addition to that fact of our personal equation is the fact that your company has one of its main activities in my congressional district at Elmira, N. Y.

I judge it is Mr. Hyland who is with you.

Mr. Ferguson. Yes. I would like to present Mr. Hyland, who is vice president of our corporation in charge of engineering.

Chairman Cole. We are very glad to have you here, and we will be very glad to have your statement, Mr. Ferguson.

### STATEMENTS OF MALCOM P. FERGUSON, PRESIDENT, AND L. A. HYLAND, VICE PRESIDENT (ENGINEERING), BENDIX AVIATION CORP., DETROIT, MICH.

Mr. Ferguson. Thank you, Congressman Cole. I will proceed with my paper.

The Bendix Aviation Corp is very appreciative of the invitation extended by your chairman to testify before the joint committee regard-

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ing the further development of atomic energy for peacetime purposes.

Because our corporation is fundamentally an equipment maker in the automotive, aircraft, and communications industries, it has acquired considerable experience in the planning and operations necessary to bring along the new products and processes. Among our important product lines are instruments and controls of all kinds, and we know that to properly measure, control, and navigate, it is necessary that we ourselves have first-hand knowledge of the primary functions and products with which we are dealing.

Hence, as atomic energy and its power and other applications appeared on the horizon, we began to direct our efforts toward acquiring knowledge, organization, and facilities which would justify our participation in this new field. We have developed a small manufacturing division which specializes in radiation instrumentation. We have had for some time a nuclear department at our research laboratory where we have a balanced staff of nuclear engineers, physicists, and technicians.

We have made, largely at our own expense, four studies of power reactors for the Commission, have just completed a fifth for our own purposes, and are about to release to the Commission a detailed study of isotope reactors and markets. We have operated for the AEC since 1949 a substantial facility at Kansas City devoted to the manufacture of electronic and mechanical devices of various types, and several of the divisions of Bendix are presently producing components and functional devices associated with the military atomic energy program.

We are, of course, well aware of many of the problems faced by your committee and of the political and security considerations which are an important part of the discussions and the actions. We feel that our remarks, however, should largely be confined to those areas where we have first-hand experience and association. We should like to have our comments interpreted as applying generally to the policies and means for continuing the development of atomic energy for peaceful purposes, including power, chemistry, and radiation.

All of our relations with the AEC have confirmed our belief that its administration has been characterized by high purpose, devotion to its responsibilities, and outstanding competence.

We believe that the Atomic Energy Commission and your committee have properly taken the course of restrictive interpretation of the present Atomic Energy Act until a period of experience had been obtained. We believe, too, that the state of knowledge, technology, and military necessity have heretofore required an almost complete concentration on the weapons program.

We would like to state for the committee two broad conclusions to which we have come after thoughtful consideration of the factors that are involved.

It is our first basic conclusion that with the experience in hand and with the weapons program well advanced, the time has now come for a more liberal interpretation of the present act and a stronger support in the field of the peaceful arts.

One of the important factors in any research and development operation is the timeliness of the decision. Does the progress warrant strong support? Should it be expanded? Should more people be employed? Are the potentials being developed? We believe that



the committee is holding its deliberations at a very important time in the development of atomic energy, for we believe that the time is ripe for a review of the progress we have made and a determination of how best to extend our nuclear knowledge into peaceful fields. Some of the reasons underlying this timeliness are the following:

One, the basic information for the design of thermal reactors for the production of power is available, although many difficult development and engineering problems, such as are common to any new field, are foreseen.

Two, the technical soundness of the fissionable-material breeding process has been confirmed by the Commission. Large power reactors can also be primary emergency sources of fissionable material of weapon grade.

Three, the present active construction in England of a nuclear power reactor is independent confirmation of the timeliness of our own considerations and should encourage us to maintain our existing leadership in the atomic-energy field.

Four, the maintenance of a healthy and expanding nuclear technology depends upon the industrial application of the nuclear arts.

Five, the success factor of the activities heretofore undertaken is astonishingly good.

Six, the minimum time required to put a commercial power reactor "on the line" is probably 4 or 5 years after authorization. This time probably cannot be reduced by new discoveries, hence delays now will put reactor power correspondingly further into the future.

The first three reasons have been amply covered in the previous testimony. We shall comment briefly only on the last three.

As to (4) any healthy and expanding technology requires the steady influx of new people and the constant broadening of uses for its knowledge. This we now find restrained in the atomic-energy field. The weapons program is substantial and rapidly improving, but the rate of progress in peaceful applications under present law and policy is comparatively slow. If we are to interest new people and find new uses, we must have a breakthrough from present programs and restraints into the broader industrial markets. What may be the greatest of all technological fields warrants the widest possible participation of industry.

With respect to (5), the percentage of successful accomplishment in the work of the Manhattan District and Atomic Energy Commission is extremely high. This should give us confidence in the judgment of the scientific and technical people, within the scope of their experience, as they approach industrial use, and suggests a readiness to begin more extended applications.

Regarding reason (6) on the matter of lead time, which we view as most important, the consensus of nuclear engineers, with especial support from those who have built successful reactors, is that the time needed for critical experiments, final thermodynamic studies, detail reactor design, site selection, engineering and architectural designs, construction and testing is not less than 5 years for a thermal neutron reactor. It may be as much as 10 years for a fast neutron reactor where much research yet remains to be done.

Many of the technical areas above have been studied and restudied to the point where the next steps can be taken only after a firm national policy for power development has been pronounced by Congress

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and by the Commission, and the necessary legislative and regulatory changes made to encourage wider industrial participation. Until such a policy is decided upon each passing day is a day added to the years before atomic power can be "on the line."

Our second conclusion is that broad progress of atomic development should not be confined to any single concept; nor should it be channeled in any one direction. Greater private participation may take many forms, determined by the specific needs and opportunities of particular projects and the appropriate contributions by both the Government and private industry. What the Government has to give is a frank of information and experience already acquired, a continuing requirement for further developments applicable to military needs, and invaluable support growing out of its interest in the public welfare.

What industry has to give is the dynamic energy that derives from commercial incentive, the selective judgment required for profit, the cost control resulting from competition, and the diversity of application that is born of the sheer numbers.

The specific combination of the capabilities and participation of Government and industry should vary with the requirements of each particular project. We bespeak broad purpose and administrative latitude for the Commission as the best means to arrive at the most effective combinations.

In reaching these conclusions several considerations have seemed to us to have great significance. I will discuss them briefly.

Private industry is now evidencing in a conspicuous way both enthusiasm and hesitancy toward the potentialities which lie in the field of nuclear development. Whenever organizations such as the National Industrial Conference Board, the NAM, and others have scheduled conferences on private industry's interest in this field, the meetings have been extremely well attended. Interest is undoubtedly high, but the unique legislative and administrative restrictions hedging this new frontier unquestionably are retarding what otherwise might be progress on a broad and diversified front.

The hard business view about the peaceful applications of atomic energy is that development has not yet proceeded to the point where large commercial markets or opportunities are likely to be profitable in the near future. With respect to power, we know that it is possible to generate heat by nuclear processes and that from this heat, power for the propulsion of certain naval vessels can be obtained where performance and other factors are more important than cost.

There is as yet, in our opinion, no clear evidence that power can be generated at a cost which can successfully compete with hydraulic, steam, and diesel equipment in the commercial market. We do not regard this circumstance, which has been supported by expert testimony, as either confusing or disheartening but rather as evidence of the lack of sufficient facts and experience upon which to base a sound investment. When facts are lacking, opinions do vary. The remedy is to do whatever additional research and development are required to provide those facts.

The development of any new energy principle always has been a painful process. Steam, gas engines, and diesels all had their problems and in their original concepts were not economically competitive with the then existing prime movers. As a matter of fact, they are today

competitive with each other only in certain overlapping areas and each has found a particular place in our industrial system, arrived at only after extensive experiment, trial and error, improvement, adaptation, and free selection.

To confine the development of power reactors to units of 100,000 kilowatts or larger would prejudice a potential usefulness before most of the facts had been determined. There is frequently a tendency in undertaking a new enterprise where the facts are limited, to shoot for goals that are too high. This might be likely in the atomic-power program whereby the very nature of the materials and our experiences to date lead us to talk about huge amounts of energy and tremendous installations.

In our opinion there should also be separate developments of powers of 10,000 kilowatts, 100,000 kilowatts, 100 kilowatts, and perhaps even of 10 kilowatts in order that both technical and economic information shall be ascertained over the whole range of this potential energy source. Furthermore, it is not unlikely that these smaller power units may very well provide useful pilot plant information leading to the more effective development of the long-term, large-scale units.

It is well to bear in mind that there is 50 times as much engine power used from small units in this country as is generated by the facilities of the utility industry.

With respect to the chemistry and radiation fields, the situation is somewhat different. No large specific applications such as weapons or power have yet emerged to focus development in these fields upon promising commercial areas. Our studies in these fields, however, have led to the same conclusions reached as to power; for example, that the development as yet has not proceeded to the point where major commercial opportunities can now be profitably undertaken. That is, however, a normal state of affairs in any new art and is a problem faced by managers within Government and industry almost daily. Because atomic energy is such a tremendous force, the facts to be faced have big dollars attached to them, but their basic significance is no different from those frequently met within other research activities.

Our studies of isotope and radiation potentialities indicate to us the need for a reactor having a high neutron flux whose exclusive purpose might be the production of isotopes. Encouraging progress has been made by the use of several Commission facilities to provide a fair range of research and production isotopes. This has been accomplished, however, by the sometimes inefficient use of research reactors designed for other purposes or by occasional help from reactors engaged in the primary production of military plutonium.

We want to emphasize the potential importance of nuclear chemistry and radiation. In our opinion, they may ultimately prove to be as valuable as power in the industrial world; or, as byproducts resulting from or combined with prime uses, they may assure an overall successful venture. More study and more support is needed in this area.

The pattern of other great national laboratories may very well be a helpful guidepost during the transition of atomic energy from military to peaceful uses. The National Advisory Committee on Aeronautics is a fine example of a Government institution which provides basic data with special facilities and personnel which are normally

directed to the general advancement of the aviation art but which in time of necessity direct their efforts particularly to the solution of military problems.

The free flow of basic information from the NACA has provided a valuable foundation stone in the present aviation structure of the country, both military and civil. It is noteworthy that NACA generally limits its activities to research and that industry with military and civilian requirements and specifications accomplishes the engineering and designs of the planes, the engines, and the components that are in military and civil use today. A cooperative program utilizing industry and free enterprise to its fullest has been developed over years of progress, and while atomic energy may not be so simply viewed, the broad principles of such an approach are before us.

We believe it is generally realized that new ground must be broken in working out policies and procedures that open the atomic-energy field to private competitive enterprise. For perhaps the first time a huge industry, based upon a new technology, has come into being almost as a Government monopoly. The familiar pattern whereby private industry has pioneered the use of new technologies for the greater well-being of the people is not fully applicable. That past industrial pattern has involved private investment with the use of judgment in appraising risks and possibilities of profit in a market in which the Government did not have any such original position, or where considerations such as the continuing military role of atomic energy did not have to be taken into account.

We do have, however, such precedents as aircraft, radar, and guided missiles to point to as evidence that private industry can shoulder, in the competitive market, more and more of the responsibility for developing such new industrial lines, while preserving the Government's interest in their military applications.

We feel that the attitude toward security requires thoughtful re-study in the light of the opportunities that wider understanding of nuclear developments hold for the Nation. We, in the Bendix Aviation Corp., have operated in policy and technical-security areas in association with the military departments for many years. We speak from much experience and conviction with respect to security.

Presently there is little distinction in the atomic-energy field between the security of weapons and the security of matters relating to industrial uses. We believe that there should be degrees of security, as in the military services, with weapons and military power as top security and lower or no security classification for other matters. We also advocate the policy of security by progress rather than security by prohibition. We believe that we have more to gain in the stimulation of new ideas by the judicious exchange of information in this area than we would lose to any enemy by removal of the virtually complete exclusions now in being.

We further believe that such a plan of security gradation can be effectively and efficiently applied by industry participating in the commercial phases.

We are sure that other factors, in addition to rigid security, which may be exerting a retarding influence, can be dealt with effectively. For example, we favor safety measures to protect life and property, but it is well to bear in mind that potential hazards are present in a wide variety of activities. Many industries experience potential haz-

Safety measures  
compromised

yards, and, in fact, accidents have caused considerable loss of life and property. However, we still have large oil refineries reasonably close to populated areas and anti-aircraft ammunition dumps near our large cities. We would like to enter the plea that atomic-energy hazards be treated in the same manner as other industrial hazards with due regard to favorable experience and industry's ability and knowledge to handle them under certain regulatory requirements.

It is our opinion that the subject of patent policy should also be faced constructively. The American patent system has succeeded in giving strong incentive to invention. Incentive stimulation under this system is as great for detailed improvements as it is for broad basic invention, so that individuals and companies are encouraged to promote technological progress within their own fields and to the extent of their individual capabilities.

We are particularly familiar with the borders of invention which may surround any prime device or process, for much of our business has to do with the instruments and controls which are accessory or component devices. In many cases the prime device could not function without the specialized assistance of the component which, though created for one field, may be found to apply to many other purposes.

The far-reaching development and continuations from a basic concept are beyond the scope of any imagination. As an example, vehicle brakes have been known for a thousand years, yet recent developments in plastics, ceramics, mechanics, hydraulics, electricity, and magnetism are all employed in current improved brake devices. Could anyone have foreseen this? Many of us sometimes little realize the diverse and detailed scrutiny to which every new bit of information is subjected by the technical, sales, procurement, and production people in industry. In our opinion a too restrictive policy applied to a basic concept such as atomic energy may stifle needed and important invention not only in its own field but in many contemporary arts. We therefore recommend application of the benefits of the normal American patent system to atomic energy to the fullest extent consistent with the national security.

A similar situation is found in the Department of Defense where the considerations of Government interest, patent incentive, and secrecy have required resolution. The present military procurement policy which qualifies patent rights in accordance with the individual contract circumstances is a workable arrangement which is in the interest of both Government and industry. Our present-day aircraft testify to the benefits of incentive at work in a growing industry.

Complexity, cost, and sheer magnitude are unique factors in atomic power development which must always be borne in mind. If we examine almost any other technical development, it has always been true that 1 or 2 men with limited resources could undertake the development, job, produce, and demonstrate an operative device. Examples of these, of course, are the Wright brothers, Henry Ford, Alexander Graham Bell, Edison, and uncounted thousands of others who have taken a great faith and backed it with their untiring efforts to produce a new and useful device.

Perhaps it is indicative of the revolution to be brought about by the atomic age that no such single-minded and simple approach is possible for the development of atomic power; that this great new force can only be promoted by the application of many diverse skills,

with support from industries, both large and small, with attention to the national security, and with the blessing of the whole people. Thus, it devolves upon the Congress, as represented by your committee, and upon the Commission to act as a body with the inspiration, the courage, and the energy which have been typified by our great American inventors and to overcome the obstacles that presently retard the broad development of atomic power.

Industry has already recognized the breadth and complexity of the approach to the development of industrial power. For example, the Detroit Edison-Dow Chemical group with which we hope to work is actively studying and organizing to play the industrial part in the cooperative effort which must be made. Other groups—note the group approach—are similarly engaged, many of them in combination with university research institutions or advisers. Small and large industries are teaming up together. The future potential of these many and different group approaches is tremendous.

This diversified attack on a new industrial opportunity is a characteristic of the competitive system and should have legislative and administrative encouragement. The testimony already before your committee and the recommendations from the Commission itself have suggested many of the areas for legislative change.

In conclusion, we of the Bendix Aviation Corp. would sum up our views in four points, which we believe merit emphasis in the deliberations of your committee:

One, that both political and technical developments show that the time for industrial atomic-energy development has arrived.

Two, that this great new force must be developed by and with the mutual support of governments, industry, and science.

Three, that we should interpret the present law in a broad rather than a restrictive sense, implement its purposes to the maximum, and adopt a clear policy for development of atomic energy for peaceful purposes.

Four, that new legislation should permit broad latitude in the administration of the law to the end that sound industrial development shall be fostered, that the necessary flow of knowledge shall be encouraged, and that the Nation shall be adequately secured against the improper use of this tremendous energy.

Chairman Cook. Thank you, Mr. Ferguson. You have given us a very thoughtful statement, well expressed and very well delivered.

On the question of patents, as you no doubt know, there is a resistance in some quarters to allowing private capital to take advantage of patents that might be obtained on improvements in the present knowledge of the art, since the present state of the art has been reached through Federal funds. You have indicated that it is your belief that the patent restrictions should be relaxed so as to bring into play the normal influences which would cause private enterprise, industry, and ingenuity to become active in the field, with the hope of being rewarded for the success of their activities.

I would like to have your thought on the effect of relaxing the patent provisions to the extent of permitting an inventor to have the exclusive right to his invention for any purposes in this country, but requiring of him that he release to the Government the ownership of that patent so far as its uses in foreign countries are concerned.

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I suggest that thought out of two considerations. One is that if the Government retains the foreign rights to any patent developed from the knowledge gained through the expenditure of public funds up to this time, that investment might be partially recaptured through control of foreign use; and also because of the part which this country as a government must necessarily play in a large measure in the atomic field in dealing with foreign countries. Then there are other aspects, such as the raw material sources, the announced Government policy of helping underprovided and distress areas of the world, and the normal interchange of Government responsibilities.

Do you think that such an idea as that might still provide sufficient incentive to private capital to work in this field, perhaps not as a permanent policy of Government but simply as an intermediate policy to cover the intervening period between the present and the time when the industrial uses of atomic power will have been proved and we can relax the law far more completely than is now considered.

Mr. FERGUSON. As an intermediate step, I think it has good possibilities from both the industry and Government viewpoints, and particularly in all the phases that may deal with national security or military end product, or application where the Government would fundamentally be interested in both the domestic and in the foreign usage factor.

In the later stages of it and in the commercial aspects of it, I think we would have to recognize that any commercial enterprise in our country has broad foreign investments, frequently, broad foreign associates, to make the most of the commercial product available abroad. So I think you could not take it as a permanent policy, but as an interim policy during this transition stage and in the interest of national security I think it would be very sound and from my viewpoint as one industrialist, I would favor such a policy.

Mr. HYLANS. May I comment on that, Mr. Chairman?

Chairman COLE. Certainly. I would welcome it.

Mr. HYLANS. There is one aspect of atomic energy that appears to me to be very important with respect to the development of power, and that is the tremendous electrical technological development that has taken place in this country, plus the fact that in effect, we are sitting on huge fuel beds of coal and oil and water power, so to speak.

From the purely competitive standpoint, it is quite likely that there are many other areas of the world than the United States that could more effectively and economically today use atomic power. So we must not lose sight of those markets.

I do think, however, that in order to strengthen the Government's hand, keeping in mind those foreign needs, and to give suitable recognition to the fact that security policy, in trading, must be considered of first importance, as the first stage in the development of our policy we would be well advised to limit the commercial exploitation of foreign patent rights.

I don't think we should lose sight of perhaps the real need for atomic energy in some of the foreign areas, even though we do not now give the unlimited privilege to use our patents in those areas at the present time.

Chairman COLE. If the patents were permitted to inventors but their right limited to the continent of the United States, do you think

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that would provide sufficient incentive for them to become active in the field?

Mr. BYLANDT. I believe it would as a first step.

Chairman COLE. Would not that incentive be substantially as great as though they had the patent rights throughout the world?

Mr. BYLANDT. I think so, for the reason that undoubtedly the Government may want to be just as anxious as we are to exploit these other areas, except that it could be done in an orderly and protected fashion.

Mr. FERGUSON. May I make a comment, Congressman Cole?

Chairman COLE. Surely.

Mr. FERGUSON. There is one thing when we come to the commercial world market that we cannot lose sight of. While it is a far reach from where we are today in atomic energy, let's say that the Bendix Aviation Corp. were able to develop some sort of handling device, a hydraulic or electrical handling device that was used in a commercial phase, let us say for the whole power industry. Let us say it had no connection with the military phase and no connection with the prime product itself. It is a mechanical or electronic gadget, as we call it. If that became a standard item in industry, as many things we produce are, we have the problem of the exportation of that item to the world. Where we do not have a patent background or at least a neutral patent position in those countries, we couldn't develop the export market.

Industry must see the potential of developing this export market. In fact, it is in the best interests of our Government that it should do so.

So all industry is interested in not giving away or signing away its right to develop its own export market on standard items, and particularly in servicing the items which might be shipped out of this country.

That is looking away out in the future, and it is a rather detached phase of atomic energy as we think about it today, but nevertheless in these longer range facets of what we are talking about, we cannot overlook that fact.

One plea on the patent situation is this: Here we are today up in the heart of a funnel, a very restricted region, a very basic region in the atomic-energy field. We would like to see this funnel develop out like this [indicating] with thousands of industries coming into these outlying regions, where hundreds of thousands, literally that, types of devices may be invented in the next 20 or 30 or 40 years applicable to this tremendous technology.

All you have to look at is the automobile as an example. You have heard of the Selden patent. The Selden patent was basic to the automobile engine. Mr. Ford worked years to break that patent. The patent situation surrounding the prime mover in the automobile field has been forgotten about many, many years ago, and instead we have hundreds of thousands of patents today applying to almost inconsequential things in the automotive art.

I do not know how many patents there might be in just a brake alone, but I would guess there have been over 10,000 patents applied for just on a brake alone.

It is the stimulation of that broad development of the future that we would like to see put into this atomic-energy picture at the earliest



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