

Abandoning Heroes

Patriots Struggle to Obtain Compensation from Government

Douglas DelForge sat in a wheelchair during a USW demonstration called to support former Rocky Flats nuclear weapons plant workers seeking expedited compensation and medical care.

DelForge, 45, worked for 24 years at Rocky Flats, which manufactured plutonium triggers for atomic weapons. He cleaned equipment that leaked radioactive contamination in dangerous Building 771.

Confined to a wheelchair because of many falls, DelForge suffers from a palsy that distorts his face and prevents his right eye from opening. He has atypical meningioma, an aggressive nonmalignant brain tumor. So far, he has had four conventional operations and numerous treatments that have caused further health problems.

Thousands of sick former nuclear weapons workers like DelForge are struggling to obtain compensation and medical care from an aid program fraught with delays, red tape and imprecise science.

For many it's an exercise in patience and perseverance as they try to prove their work caused their illnesses and find the data to back it up.

The Department of Labor (DOL) denied DelForge's claim four or five times, said his father Clifford. The DOL said there was no credible evidence the meningioma was caused by ionizing radiation.

Conducted own research

Clifford found information on the Internet claiming ionizing radiation does cause meningioma. He sent the information to the DOL, which passed Douglas's claim to a toxicologist. Soon after, the claim was approved under the program's Part E, which offers compensation and medical benefits to workers sick from exposure to chemicals, acids and metals.

"I don't think workers are getting the compensation they deserve," Douglas said. "It seems to me that the money the government spends trying to avoid the situation could be spent on the workers and getting everybody compensated."

As of June, the government compensated 299 of the 1,253 former Rocky Flats workers who applied for help and turned down 631 sick workers. Nationally, more than 60 percent of 72,000 cases processed were denied.

It was not supposed to be this way. When Congress passed the Energy Employees Occupational Illness Compensation Program Act in 2000, its intent was to help sick workers get compensation and medical care in a timely fashion.

The act applies to employees who develop cancer and other illnesses as a result of their exposure to radiation, beryllium or silica while employed by the Department of Energy (DOE), its contractors and subcontractors.

Under the program's Part B, a lump sum payment of \$150,000 is given to applicants whose cancer is determined to be likely related to their employment. They also receive medical expenses from the date their claim is filed.

Many die waiting

It can take two or more years to process a claim. One in 10 Rocky Flats workers die before the government pays, the *Rocky Mountain News* reported. In those cases, payment goes to survivors.

The DOL sends claims to the National Institute for Occupational Safety and Health (NIOSH), which has hired a contractor to do dose reconstructions that estimate how much radiation a worker was exposed to during his employment.

Film badge readings, medical x-rays, urine analysis, incident reports, co-worker data, environmental exposure records, technical documents, interview information and workplace history are used.

NIOSH's contractor enters this information into a computer program to determine if it is more likely than not that a worker's illness was caused by workplace exposure. If the probability of a link is less than 50 percent, the worker's claim is denied.

Richard Castillo addresses the Advisory Board on Radiation and Worker Health in Denver. Castillo worked at the Rocky Flats nuclear facility for 27 years. He suffers from neuropathy.
Photo by Omar Vega/ The Denver Post



Gathering the information necessary to do a dose reconstruction is not easy. Records are often lost, incomplete, unreliable and inaccessible. For example, 400 boxes of medical records from an Ohio weapons facility were found in a Los Alamos, N.M., landfill contaminated by radiation. Workers cannot access secret government files or personnel records.

There is no guarantee the documentation found is adequate. Nuclear workers tell stories of being told to toss their badges that measure radiation exposure, use their last data or their co-worker's data if the exposure reading was high.

Some question whether science is advanced enough to fulfill the intent of the program. Scientists have had to make so many assumptions and take so many shortcuts in reconstructing estimated radiation exposures that the results may be no more valid than assuming certain cancers are work-related.

A group of workers from a particular site can be recommended by NIOSH and the presidential-appointed Advisory Board on Radiation and Worker Health to be part of a Special Exposure Cohort (SEC) if dose reconstructions cannot be done with accuracy and the harm to the group from radiation exposure is great. Workers with SEC status who have any of 22 radiation-induced cancers and worked at least 250 days at their facility receive the \$150,000 compensation and medical care without having to do a dose reconstruction.

Rocky Flats workers, represented by USW Local 8031, filed a petition on Feb. 15, 2005 for SEC status. NIOSH expanded the class of workers affected to include all employees of DOE, its contractors or subcontractors who worked at Rocky Flats from April 1952 through February 2005, and who were employed 250 workdays.

NIOSH evaluates these petitions and forwards its report to the advisory board which determines whether the government has enough information to accurately gauge a worker's radiation exposure. The advisory board then recommends to the Secretary of Health and Human Services (HHS) whether or not the class of employees should be granted SEC status.

Challenging NIOSH data

At a June two-day public meeting in Denver, Rocky Flats workers challenged

the credibility of NIOSH's data by telling of times where their exposure was not measured or was measured inaccurately.

"People were exposed. I can prove it," said Dennis Romero, a Local 8031 member at Rocky Flats. "I know how work was done on the job. I know how shortcuts were done. I know how management circumvented things so they wouldn't get fines... Safety went out the window."

Last May, the board recommended SEC status to Rocky Flats workers who were exposed to neutron radiation from 1952 to 1958. At the June meeting, the board approved SEC status for "workers who were monitored or should have been monitored for neutron dose from 1959 to 1966." These two groups covered 4,000 former Rocky Flats workers.

However, the board voted 6-4 to not recommend SEC status for workers exposed to radiation and toxic chemicals from 1967 to 2005. It concluded there was enough sufficient data to do individual dose reconstructions. This recommendation left 15,000 to 20,000 former Rocky Flats workers without expedited compensation and medical care.

How many must die?

"How many more workers have to die before NIOSH is 100 percent certain their cancers and illnesses were caused by their on-the-job exposure to radiation and toxic chemicals?" asked District 12 Director Terry Bonds.

International President Leo W. Gerard said our union "is prepared to get justice" for these nuclear workers who sacrificed their lives for our national security.

"The decision was heartbreaking," said Jennifer Thompson, the former Rocky Flats worker who wrote the petition. "We're definitely going to file an appeal based on the process and the science. We're not giving up until we achieve justice for all Rocky Flats workers."

If HHS Secretary Michael Leavitt decides in August against the petition, the USW plans to help the workers appeal his decision. The union also is working with the AFL-CIO and Building Trades unions to draft legislation to change the way the SEC is done.

"The Bush administration has really hurt us," said Michelle Dobrovolny, who has a brain tumor and liver disease. "We are the forgotten bunch and that's how we all feel. They don't care about us and what we did. We served our country."