

TESTIMONY OF GARRY SEXTON

ON

**THE DEPARTMENT OF ENERGY'S PROPOSED RULE
"GUIDELINES FOR PHYSICIAN PANEL
DETERMINATIONS OF WORKER REQUESTS FOR
ASSISTANCE IN
FILING FOR STATE WORKERS' COMPENSATION
BENEFITS"**

RADISSON HOTEL CINCINNATI AIRPORT

OCTOBER 25, 2001

GARRY SEXTON

My name is Garry Sexton. I have worked at the Portsmouth Gaseous Diffusion Plant in Piketon Ohio for a total of 17 years. I am a Chemical Operator. In addition to radiation, I have been exposed to numerous chemicals which I feel will ultimately take my life early. Two years ago I tested positive for asbestos in my lungs.

The Department of Energy has acknowledged that they are responsible for making workers sick. It now seems through their inaction they are denying this acknowledgement. The Department of Energy has returned to their previous position of denial by allowing workers to be denied state workers compensation cases, who they know and admitted were made sick by the workplace. They are returning to the practice of sticking their head in the sand and allowing others to address these issues.

In a 1985 Government Accounting Office reports the union stated that the workers exposures and occupational injuries were understated. The response to that statement was that the union did not provide documentation to support the allegation. The Union did not have this information, even though Department of Energy and government contractor historical documentation supports these allegations. Historical reports, from the Comptroller General states that the Department of Energy does not adequately enforce its Safety and Health programs. DOE did not acknowledge the wrongdoing until the workers physically handed them the proof many years later. The Department of Energy failed in their regulatory responsibilities and did not take any action or admission until the workers confronted them with specific documented proof.

Certainly you know up to now winning exposure related state compensation cases was an uphill battle. Don Pettit, who had worked 41 years as a District Director and Hearing Officer of Ohio Bureau of Workers' Compensation had this to say and I quote, "I would probably disallow a claim if there were no evidence of a plant allowable limit being exceeded, or if there was no statement from the doctors evaluation indication and illness." When I would investigate claims of occupational disease, I would have to rely heavily on the medical exposure data and the medical facility at the site."

Years later it was discovered by the workers and confirmed by independent agencies that the monitoring data that would have been used in Mr. Pettit's evaluations was manipulated, omitted or misleading. Obviously, this was done in favor of the contractor.

Mr. Pettit said "It was pretty common for the company to fight the claims". He mentioned that the AEC had flown in experts from Oak Ridge to fight one case.

Mr. Pettit investigated many claims, which required him to visit the site. He entered buildings that required radiological monitoring for worker. He said "I never wore a film or thermoluminescent dosimeter badge, which was used for measuring penetrating radiation monitoring. I never received a request to submit a urine sample to check for radionuclide contamination uptake during my visits to the site. I was told that my visits to the site are documented, but my personal radiological or chemical dosimetry records do not exist at the Portsmouth site." This is another example of deficient monitoring programs.

There is also an issue of causation and dose reconstruction that I would like to address even though it is not the focus of this hearing. Under these rules the National Institute of Occupational Safety and Health will assist in determining causation. They will do this by using data that we know either over or underestimated and the answers will be in error. Recently, NIOSH reported on a Mortality study that has been conducted at the Portsmouth, Ohio site. This study admittedly used the same data that is questionable. Even though there are statistically non-significant excesses of cancer identified in the study, not enough workers have died to prove statistically that their exposures caused their illness. How many workers have to die before we have the formal documentation to support future compensation claims?

Many people are sick and have died from radiological and chemical exposures at our site. The only just thing for the Department of Energy to do with respect to workers compensation cases is to help the workers file the claim and to ask the state and companies to not contest the claims. Live up to your commitment of helping these workers.