

**NATIONAL
VETERANS
LAW
CENTER**

PRACTICING LAW CENTER BUILDING
4400 MASSACHUSETTS AVENUE NW
WASHINGTON, DC 20016
(202) 686-2741

TESTIMONY OF LEWIS M. MILFORD
OF THE
NATIONAL VETERANS LAW CENTER

BEFORE THE
SCIENCE AND TECHNOLOGY COMMITTEE
SUBCOMMITTEE ON NATURAL RESOURCES, AGRICULTURE RESEARCH
AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

JULY 28, 1983

The American University

Washington College of Law

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

My name is Lewis M. Milford. I am a lawyer with the National Veterans Law Center in Washington, D.C. I am also on the faculty of the Washington College of Law, American University, where I direct a law clinic and teach a seminar in toxic substances litigation. The Center is a public interest law firm which represents veterans in federal court litigation and in federal administrative hearings. The Center has been involved in the controversy over Agent Orange since 1978.

Thank you for the opportunity to present my views on the dioxin controversy, particularly as it involves Vietnam veterans. I have this brief statement and I would be pleased to answer questions.

As a lawyer for the National Veterans Law Center (NVLC), I now represent Vietnam veterans who are concerned about the government's policy on Agent Orange. They are deeply distressed about the government's handling of the matter. As a law school teacher of a seminar on occupational disease litigation, I also am disturbed about the failure of the government to make intelligent health care and compensation policy. The Veterans Administration, the agency responsible for making policy on Agent Orange matters, has made every effort to minimize or dismiss available scientific evidence on the dangers of dioxin. At the same time, it has relied almost exclusively on the scientific advice of the Defense Department for guidance in the Agent Orange controversy.

That reliance gets me to the point of my remarks, the Air

Force Ranch Hand report. I would like to discuss briefly the problems with the report; not as a scientist but as a lawyer for veterans who wants fair, objective public health studies to form the basis for government action. I want also to stress the urgent need for scientific investigations of dioxin's possible health effects conducted by governmental or private institutions that are not compromised by real or apparent conflicts of interest. The investigations now under way by the Defense Department and the VA, which numerically at least appear to constitute the bulk of the government's study efforts, are irrevocably tainted by such conflicts.

When the Air Force announced the results of the mortality phase of its Ranch Hand report mid-day Friday at the beginning of the Fourth of July holiday weekend, they were welcomed as good news by the press and the public. They were interpreted as a sign that Agent Orange may not be as dangerous as some believed. Virtually no attention was paid to the fact that an eminent scientific panel of the National Academy of Sciences three years earlier stated that the Ranch Hand study would most likely find no excess mortality or morbidity. The reason was simple -- not enough people are in the study group to make any valid, statistical conclusions about what would be found. In other words, if nothing is found, then it means nothing, a phenomenon called a false negative. A negative finding is as reassuring as looking at ten people in a large neighborhood to determine if there is an increased rate of some disease in a large metropolitan area. No one would expect to find any

occurrences of rare diseases or death in such a small sample.

Nevertheless, the chief scientific advisor of the VA hailed the results as "good news" in the following day's edition of the Washington Post. Why was it good news? Because the study found nothing wrong, or because the study could be sold to the American public as having found nothing wrong? The American public and Vietnam veterans, in particular, were supposed to be reassured that Agent Orange had caused no fatalities; but the lack of public credibility of these insignificant data was precisely the reason that the same NAS panel recommended three years ago against having the Air Force study its own chemical warfare operation in Vietnam. The panel predicted that false negatives would be used by the government as evidence of no effect. This is precisely what has happened with the report.

Unfortunately, Vietnam veterans are left to sort out the meaning and direction of scientific studies conducted by agencies that have a clear political stake in their outcome. Science for Vietnam veterans means VA or Defense Department science. Only after four years of intense political pressure did the VA turn over to the Centers for Disease Control the conduct of the congressionally mandated epidemiological study of Agent Orange. More outside scientific inquiry is essential both for Vietnam veterans and the American public. We should try to save the public the same turmoil that has plagued veterans' efforts to get to the bottom of the dioxin issue. The public has an important stake in seeing that impartial scientific studies are done on an issue as important as dioxin. They can help

Vietnam veterans by demanding that these studies be done quickly, with public participation and by respectable scientific institutions that are untainted by any suggestion of a conflict of interest.

We welcome the important work of the National Institute for Occupational Safety and Health (NIOSH) studies on the death rate of workers in dioxin industries. Vietnam veterans and their families need work done by disinterested public health professionals in NIOSH. Apparently, NIOSH has not yet decided whether to do more than its current mortality studies. We strongly urge the agency to do more studies on the morbidity and reproductive health of these workers. What we believe is that the most extensive dioxin study now underway, the CDC Agent Orange effort, will take several years to complete and it should not be the principal governmental study on the health effects of dioxin. More work certainly is needed.