

Agent Orange Coordinating Council

October 9, 1991

The Honorable Don Edwards, Chair
Civil and Constitutional Rights Subcommittee
House of Representatives
Washington, D.C. 20515

The Agent Orange Coordinating Council has been recently formed by veterans organizations to assist Vietnam veterans, and others, exposed to Agent Orange.

A series of novel legal rulings have denied Vietnam veterans who are Agent Orange victims their constitutional rights. The organizations listed below that make up the Council support access to justice for Vietnam veterans, who comprise the largest single group of persons affected by the highly toxic chemical dioxin.

A 1990 report of the Government Operations Committee exposed the federal government's manipulation and coverup of the evidence that dioxin injured Vietnam veterans. Agent Orange Coverup, HR 101-672. However, actions by the federal judiciary inconsistent with existing law and the Constitution have prevented this evidence from being presented to a jury in lawsuits against the responsible chemical companies.

For example, the Government contractor defense, the only ground for upholding the dismissal of the veterans' claims in Agent Orange Product Liability Litigation, 818 F.2d 145, 151 (2d Cir. 1987), cert. denied 487 U.S. 1234 (1988), was legislated by the federal courts in violation of the exclusive powers of Congress to make the laws of the United States. See Boyle v. United Technologies, 487 U.S. 500, 515-16 (1988) (5-4 decision) (Brennan, J. dissenting). Other judicial rulings have similarly violated the constitutional rights of veterans injured by Agent Orange to due process of law and a jury trial of their claims, and have also breached principles of federalism and the separation of powers, as described in the enclosed letter of Vietnam veteran Rodney Tyler to his Congressman.

This continuing denial of justice to Vietnam veterans will not likely be remedied without an investigation and hearings on the conduct of Agent Orange litigation by the federal courts. The Agent Orange Coordinating Council requests that your Subcommittee investigate these numerous new rulings of law, in order to prepare legislation that would restore to Vietnam veterans their constitutional right to a fair hearing of their claims.

Very truly yours,



Admiral Elmo R. Zumwalt, Jr.