



1224 M Street, NW
Washington, DC 20005-5180

(202) 628-2700
(202) 628-6800 fax
Finance (202) 628-5881 fax

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To: Ann Callison

From: Kelli Willard

Date: 2-23-93 Total Pages (Excluding this page) 6

Send to Fax No.:

Comments: Ann - this is still just a working document and doesn't have official approval, so please use it accordingly. Give me a call if you have any questions. Thanks.

Kelli

This is internal working document.
We can only use the ideas
in it - not the language

AGENT ORANGE/RELATED MATTERS

Agent Orange Compensation Act of 1993

It seems evident enough that the next, best, available opportunity to further resolve the issue of Agent Orange compensation will come in mid to late summer when the National Academy of Science (NAS) releases its first report. This report, mandated by PL. ~~102-6~~¹⁰²⁻⁴, is supposed to identify diseases bearing a significant statistical relationship to exposure to Agent Orange in addition to those diseases already accepted by VA. The report is intended by the statute to signal VA that these diseases too should be authorized for disability compensation on a presumptive basis.

At present, it remains to be seen what shape the NAS report will take. Already one of the NAS panelists had to step down amidst a conflict-of-interest controversy and a cloud of doubt still surrounds the panel's chair who appointed the errant member who was forced to step down. In any event, little congressional interest in Agent Orange compensation legislation can be expected until the report is issued. In the meantime, legislation could be drafted leaving blank the specific diseases for which compensation is to be made available. In this way, a bill can be introduced within 48 hours of the report's issuance.

Should it become clear that the report was influenced by the

chemical companies or others with a stake in diminishing the dangers of dioxin, a compensation bill enumerating all the diseases found by the VVA/Legion and Zumwalt studies should be introduced. In either case, a press conference is advisable at the time of introduction of legislation.

State Research and Study Programs Amendments of 1993

In the last several years some of the most reliable work on Agent Orange has been done by states having subsidized research through special state agencies such as the New Jersey Agent Orange Commission. However unfortunate, the states have had to fill a vacuum created by intransigent resistance by the federal government in assuming responsibility for the consequences of its military actions using herbicides in Vietnam and elsewhere. This resistance has continued for many years on the topic of Agent Orange, but there are troubling indications that subsequent military actions involving health consequences are also being deliberately diminished by the federal government. The distribution of certain drugs to protect against chemical and biological agents thought to be contained in Saddam Hussein's arsenal is one area of concern. The health consequences for Desert Storm personnel exposed to toxics from burning oil wells is another. The most recent revelation of military action with health consequences is the use by our military of artillery projectiles tipped with spent

radioactive materials.

In order to help identify those affected and to ascertain the range of health problems sustained or yet to be sustained by these military personnel and perhaps even their children, it seems wise to encourage states to continue their independent work using federal matching funds. Legislation to establish a matching fund program modeled after the VA's state home program should be considered. This initiative could be done separately or as part of a reintroduced Evans bill mandating a Desert Storm registry and associated federal research programs.

Vietnam Research Appropriations Amendments of 1993

According to Admiral Zumwalt, Appropriations Chairman William Natcher is sympathetic to the plight of veterans exposed to Agent Orange and has responded verbally and favorably to the idea of creating a federal support mechanism for conduct of research in Vietnam. Legislation should be assembled to accomplish this end. In addition to scientific study of Vietnamese exposed to Agent Orange, studies of the children of these Vietnamese should be emphasized. At the last quarterly meeting of Zumwalt's Agent Orange Coordinating Council, assurances were given by groups having exclusively embraced the POW/MIA issue that POW/MIA activists would

accept this type of initiative without objections based on dealings with Vietnam prior to resolution of POW/MIA matters.

DOES EGAN
KNOW ABOUT
MEKDECI'S
REGISTRY? ↓

Children's Registry and VA Subsidized Dependent Care

Either separately or as part of a reintroduced Evans bill mandating a Desert Storm Registry and associated research, a children's registry of birth defected children of Vietnam veterans should be created. Without such a registry, needed research into the prevalence and types of birth defects caused by exposure to dioxin may be difficult to accomplish. Surely, benefits and remedial care for these children will be resisted absent significant credible evidence of the reproductive effects of dioxin exposure.

With imminent serious debate of the future of VA health care in a national health environment, it may now be possible to consider devising a new mission for VA involving remedial treatment of children of veterans with medical problems directly related to the service of their parents. Specialized rehabilitation programs within or subsidized by the VA both could and should be established. Perhaps the specialized Spinal Chord Injury or Blinded Care units that are operated regionally by VA could be used as a model.

Under ordinary circumstances, a child rehabilitation and treatment initiative would be considered heresy by the VA due to its tradition of serving veterans exclusively. However, VA health care, its mission and future will have to undergo a complete rethinking in an emergent national health debate. The VA itself, in this connection, can be expected to be open to new ideas as it is forced to accept the inevitable scaling back of its acute medical care capacity (see later section on health care reform).

Equal Access to Due Process in Tort Litigation Amendments of 1993

Over the course of the last 12 months a series of issues have arisen surrounding tort litigation filed in the Texas state courts relating to damages claimed by veterans and their families resulting from exposure to Agent Orange. The specific case at issue is styled Ivy vs. Diamond Shamrock and was brought by plaintiffs claiming diseases and disabilities arising subsequent to the 1994 Agent Orange class action settlement.

At the request of the defendant chemical companies, jurisdiction over the case was withdrawn from the Texas courts and assumed by the same federal court and judge having presided over the 1984 settlement. In the New York federal court of Jack Weinstein, a decision -- currently under appeal -- was rendered that all exposed individuals including those whose diseases appeared after 1984 were part of the same class that settled.

The result of judge Weinstein's decision is that veterans are being denied access to the courts in their tort claims while non-veterans exposed to dioxin in the workplace or elsewhere are free to press their claims. This predicament has become troublesome because tort litigation by non-veterans is being won in courtrooms across the nation.

What is needed is legislation denying the federal courts from interfering in the jurisdiction of state courts. Perhaps one or more of our allies on the Judiciary Committee could be enlisted to offer assistance. Surely veterans deserve the same access to state courts as non-veterans. But for the federal court decision in Ivy vs. Diamond Shamrock, veterans would have the same access.

EDUCATION, TRAINING AND ECONOMICS

The "Lane Evans" Veterans Readjustment and Middle Class Redevelopment Act of 1993

Throughout the nation's history the individuals serving in the armed forces have constituted the cutting edge of American foreign policy. Not since the end of World War II, however, have military veterans been allowed to serve on the cutting edge of the American economy. The GI bill for World War II veterans was designed as a