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AGENT ORANGE: WHAT EFFORTS ARE BEING MADE TO ADDRESS THE CONTINUING IMPACT OF DIOXIN IN VIETNAM?

HEARING

BEFORE THE

SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

OF THE

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HOUSE OF REPRESENTATIVES

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AGENT ORANGE: WHAT EFFORTS ARE BEING MADE TO ADDRESS THE CONTINUING IMPACT OF DIOXIN IN VIETNAM?

THURSDAY, JUNE 4, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA, THE PACIFIC
AND THE GLOBAL ENVIRONMENT,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:13 p.m., in room 2172, Rayburn House Office Building, Hon. Eni F.H. Faleomavaega (chairman of the subcommittee) presiding.

Mr. FALEOMAVAEGA. The subcommittee will now come to order.

This is a hearing of the Foreign Affairs Subcommittee on Asia, the Pacific and the Global Environment.

I do want to make a personal invitation to one of my distinguished colleagues and dear friend, not only as a historical point but certainly someone that we should all be proud in making America great. I would like to invite my dear friend and colleague representing his district in New Orleans in the State of Louisiana, Congressman Anh Cao, our first Vietnamese-American elected Member of Congress. I personally welcome him and want him to join us in this hearing.

My colleague and ranking member from Illinois, Mr. Manzullo, is not here yet. He has asked me to go ahead and begin the hearing. I will open the hearing at this time with a statement.

Last year, the subcommittee held a historic hearing with the US-Vietnam Dialogue Group and the Aspen Institute regarding our forgotten responsibility to the victims of Agent Orange. To my knowledge, this was the first time in the history of the U.S. Congress that a hearing was held on Agent Orange that included the views of our Vietnamese counterparts. And so today I thank the Dialogue Group for agreeing once more to update us on what efforts have been made to address the continuing impact of dioxin in Vietnam.

This subject, though uncomfortable for some, is important to me. Because, in 1966, I joined the U.S. Army and was then deployed to Vietnam in 1967 where I served in Nha Trang as a young soldier at the height of the Tet Offensive.

My younger brother, Tom, also served, as did hundreds of thousands of Americans at that time. None of us knew then what we know now. We did not know if we would come back in a body bag

or live to return to see our own families. How my brother and I made it home, I do not know, but we did.

About 2 years ago, for the first time in nearly 40 years, I returned to Vietnam in honor of those who did not. Although my brother passed away a couple of years ago, I wore his aloha shirt so he could return with me to Vietnam.

Some 40 years later, Vietnam is not the same; neither is the United States. Today, it is the policy of the United States to normalize relations with Vietnam. In part, normalizing relations means coming to terms with our past; and I commend the US-Vietnam Dialogue Group on Agent Orange for openly discussing ways in which the U.S. Congress can be of help.

As I noted in last year's hearing, it is estimated that from 1961 to 1971, the United States military sprayed more than 11 million gallons of Agent Orange in Vietnam. Agent Orange was manufactured under Department of Defense contracts by several companies, including Dow Chemical and Monsanto. Dioxin, a toxic contaminant known to be one of the deadliest chemicals made by man, was an unwanted byproduct, and it is thought to be responsible for most of the medical problems associated with exposure to Agent Orange.

According to the Congressional Research Service, and I quote, "Vietnamese advocacy groups claim that there are over 3 million Vietnamese suffering from serious health problems caused by exposure to the dioxin in Agent Orange."

CRS also reports that in 1995 "a study of over 3,200 Vietnamese nationals found average TEQ blood levels were nearly six times higher among the people from sprayed areas compared to people from unsprayed areas. Average breast milk levels were nearly four times higher, and average fat tissue levels were over 24 times higher. A separate study of blood dioxin levels of Danang residents reported TCDD concentrations of more than 100 times globally accepted levels. Elevated TCDD concentrations were also found in blood samples of Bien Hoa residents."

Despite these findings, as CRS notes, and I quote, "One area of continued disagreement between the U.S. and Vietnamese Governments is the attribution of medical conditions to exposure to Agent Orange-related dioxin. However, a list of conditions developed by the Vietnamese Red Cross and the U.S. Department of Veterans Affairs significantly overlap, indicating some agreement on the health effects."

Assessments of the environmental consequences of dioxin in Vietnam are ongoing, with serious contamination having been found at so-called hotspots or, more specifically, former military bases in Bien Hoa, Danang, Phu Cat, Nha Trang and at a former U.S. military base in the Aluoi Valley. Yet the U.S. State Department and the U.S. Agency for International Development, known as USAID, are only providing technical assistance and financial support for containment and remediation efforts in and around the Danang airport. And support is minimal, with less than $6 million appropriated for environmental remediation and health care assistance.

In contrast, from 2003 to 2006, the United States appropriated $35.7 billion for Iraq reconstruction.

For Germany, according to the Congressional Research Service, in constant 2005 dollars, the United States provided a total of $29.3 billion in assistance from 1946 to 1952, with 60 percent in economic grants and nearly 30 percent in economic loans and the remainder in military aid.

Total U.S. assistance for Japan from 1946 to 1952 was roughly $15.2 billion in 2005 dollars, with 77 percent in grants and 23 percent in loans.

My question is: Why can't we do more for our U.S. veterans and the people of Vietnam? I believe that we could and we should, and this is why I am fully committed to doing everything I can to bring attention to this issue and make it right. As a Pacific Islander, I have a special affinity for the people of Vietnam and what it means to have been exposed to a horrifying poison.

As a nation committed to lending a helping hand, and with America ready to lead once more, we can and must do better. I commend the US-Vietnam Dialogue Group for doing its part to strengthen our bilateral relations in an effort to put our past behind us and focus on a future of cooperation and promise.

We are also joined this afternoon by one of my distinguished colleagues, a former Ambassador to the Federated States of Micronesia, my dear friend Congresswoman Diane Watson from California. Very, very glad to have you.

[The prepared statement of Mr. Faleomavaega follows:]

COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

STATEMENT OF
THE HONORABLE ENI F.H. FALEOMAVAEGA
CHAIRMAN

before the
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT

Agent Orange:
What Efforts Are Being Made To Address The Continuing Impact Of Dioxin In Vietnam?

June 4, 2009

Last year, the Subcommittee held an historic hearing with the U.S.-Vietnam Dialogue Group and the Aspen Institute regarding our forgotten responsibility to the victims of Agent Orange. To my knowledge, this was the first time in the history of the U.S. Congress that a hearing has been held on Agent Orange which included the views of our Vietnamese counterparts and, today, I thank the Dialogue Group for agreeing once more to update us on what efforts are being made to address the continuing impact of dioxin in Vietnam.

This subject, though uncomfortable for some, is important to me because in 1966 I joined the U.S. Army and was deployed to Vietnam in 1967 where I served in Nha Trang as a young soldier. My brother, Tau, also served, as did millions of Americans. None of us knew then what we know now. We did not know if we would come back in a body bag or live to see our loved ones.

How my brother and I made it home, I do not know, but we did, and two years ago, for the first time in nearly 40 years, I returned to Vietnam in honor of those who did not. Although my brother passed away in 2004, I wore his aloha shirt so he could return to Vietnam, too.

Some forty year later, Vietnam is not the same. And neither is the United States. Today, it is the policy of the United States to normalize relations with Vietnam. In part, normalizing relations means coming to terms with our past, and I commend the U.S.-Vietnam Dialogue Group on Agent Orange for openly discussing ways in which the U.S. Congress can be of help.

As I noted at last year's hearing, it is estimated that from 1961 to 1971 the U.S. military sprayed more than 11 million gallons of Agent Orange in Vietnam. Agent Orange was manufactured under Department of Defense (DOD) contracts by several companies including

Dow Chemical and Monsanto. Dioxin, a toxic contaminant known to be one of the deadliest chemicals made by man, was an unwanted byproduct and is thought to be responsible for most of the medical problems associated with exposure to Agent Orange.

According to the Congressional Research Service (CRS), "Vietnamese advocacy groups claim that there are over three million Vietnamese suffering from serious health problems caused by exposure to the dioxin in Agent Orange." CRS also reports that "a 1995 study of over 3,200 Vietnamese nationals found average TEQ blood levels were nearly six times higher among the people from sprayed areas compared to people from unsprayed areas; average breast milk levels were nearly four times higher, and average fat tissue levels were over 24 times higher. A separate study of blood dioxin levels of Da Nang residents reported TCDD concentrations more than 100 times globally acceptable levels. Elevated TCDD concentrations were also found in blood samples of Bien Hoa residents."

Despite these findings, as CRS notes, "one area of continued disagreement between the U.S. and Vietnamese governments is the attribution of medical conditions to exposure to Agent Orange related dioxin. However, the list of conditions developed by the Vietnamese Red Cross and the U.S. Department of Veterans Affairs significantly overlap, indicating some agreement on the health effects."

Assessments of the environmental consequences of dioxin in Vietnam are ongoing, with serious contamination having been found at so-called "hot spots," or more specifically at ex-U.S. military bases at Bien Hoa, Da Nang, Phu Cat, Nha Trang, and at a former U.S. military base in the ALuoi Valley. Yet the U.S. State Department and the U.S. Agency for International Development (USAID) are only providing technical assistance and financial support for containment and remediation efforts in and around the Da Nang airport, and support is minimal, with less than $6 million being appropriated for environmental remediation and health care assistance.

In contrast, from 2003 to 2006, the U.S. appropriated $35.7 billion for Iraq reconstruction. For Germany, according to the Congressional Research Service, "in constant 2005 dollars, the United States provided a total of $29.3 billion in assistance from 1946-1952 with 60% in economic grants and nearly 30% in economic loans, and the remainder in military aid." Total U.S. assistance to Japan for 1946-1952 was roughly $15.2 billion in 2005 dollars, of which 77% was grants and 23% was loans.

Why can't we do more for our U.S. veterans and the people of Vietnam? We can and should more, and this is why I am fully committed to doing everything I can to bring attention to this issue, and make it right. As a Pacific Islander, I have a special affinity for the people of Vietnam and what it means to have been exposed to a horrifying array of disease.

From 1946 to 1958, the United States detonated 66 nuclear weapons in the Marshall Islands including the first hydrogen bomb, or Bravo shot, which was 1,000 times more powerful than the bomb dropped on Hiroshima. Acknowledged as the greatest nuclear explosion ever detonated, the Bravo test vaporized 6 islands and created a mushroom cloud 25 miles in diameter. If one were to calculate the net yield of tests conducted by the U.S. in the Marshall

Islands, it would be equivalent to the detonation of 1.7 Hiroshima bombs every day for twelve years.

Clearly, the U.S. nuclear testing program exposed the people of the Marshall Islands to severe health problems and genetic anomalies for generations to come. The results of these tests were and continue to be devastating and ceased only when nuclear clouds carried radioactive materials from the Pacific Islands to the mainland where strontium 90 was found in milk products from Minnesota and Wisconsin.

To this day, in the same way the U.S. denies the damage it did in Vietnam which went beyond the scope of war and affected the lives of innocent civilians, the U.S. also refuses to accept responsibility for what it did in the South Pacific, only making minimal efforts to clean-up its environmental mess and even less to compensate the people it unfairly exposed to deadly disease throughout generations of time.

As a nation committed to lending a helping hand and with America ready to lead once more, we can and must do better, and I commend the U.S.-Vietnam Dialogue Group for doing its part to strengthen our bilateral relations in an effort to put our past behind us and focus on a future of cooperation and promise.

I now recognize our Ranking Member, the gentleman from Illinois, Mr. Manzullo.

Ms. WATSON. Thank you.

Mr. FALEOMAVAEGA. And, also, we are especially pleased to be joined by my distinguished ranking member from the great State of Illinois and my good friend, Don Manzullo.

Would you care to have an opening statement, sir?

The gentleman waives his opening statement.

Ms. Watson.

Ms. WATSON. Thank you so much, Mr. Chairman, for holding this most important hearing.

I am reminded of the time you went back to the North Pacific, and we attended a tribunal where they were interviewing people because of the effects of other kinds of agents that were used in the Pacific. It was a very, shall I say, deeply felt experience, a sad experience, because there were mutations generation later. So thank you for holding this hearing to address the continuing impact of dioxin or Agent Orange in Vietnam.

We know that between 1961 and 1971, as part of the Operation Ranch Hand, 11–12 million gallons of Agent Orange were sprayed on South Vietnam. As a result of spraying the agent, between 1.2 million and 4.8 million Vietnamese were directly exposed to Agent Orange and other herbicides during the Vietnamese war.

While the damages and effects of any war are devastating to locals and U.S. troops alike, I believe that now is the time to accurately assess the damage to the fullest extent possible and accept our responsibility in dealing with the aftermath of this act. Although Agent Orange has long been attached to uncertainty and controversy, I am pleased that we are seeing progress in our relationship with the Vietnamese Government and nongovernmental organizations. We refer to them as NGOs.

The selfless effects of NGOs are to be commended. Included are the Ford Foundation, UNICEF, the United Nations Development Program, and the Bill and Melinda Gates Foundation, as well as Vietnamese NGOs and the guests on our panel today.

Over the years, in speaking with the many Vietnamese veterans in my congressional district, exposure to Agent Orange has caused many health issues such as, but not limited to, Hodgkin's disease, respiratory cancer in the lungs, bronchus, Loronix in the trachea, as well as prostate cancer and type 2 diabetes.

Many Vietnam veterans in my district as well as around the country are still feeling the effects of Agent Orange some 40 years later. So I am so pleased to see the selected panelists before us today, and I look forward to hearing their testimony. So I think——

Mr. FALEOMAVAEGA. Will the gentlelady yield?

Ms. WATSON. Yes, I will yield.

Mr. FALEOMAVAEGA. I think both of us have had a similar experience to the extent that we also visited the Northern Pacific——

Ms. WATSON. Yes.

Mr. FALEOMAVAEGA [continuing]. And something else took place at the time when we conducted our nuclear testing in the Pacific. So Agent Orange and dioxin occurred in Vietnam, but there were also the effects of the nuclear testing where some 300 Marshallese people, people of the Marshall Islands, were exposed to nuclear contamination. And to this day, they are still feeling the effects of what we did in conducting those tests. So that is another issue that

I am sure the gentlelady and I would love to explore more and see what we can do to help.

Ms. WATSON. If you would yield—I still had zero, zero, zero on my time. But I just want to comment that it was an eye opener.

I had been out in that part of the world in Okinawa many years earlier. But to go into the area where we tested the nuclear bomb—and many of you might not know this, but the wind shifted. And the plan was to test over open water space, not over land. And because the wind shifted, it took that waste over land. And those islands that we visited and looked at, that 18-inch of topsoil is still today nonworkable, not growable. Many people were returned to areas in those islands, and there is nothing growing. There is nothing to do. They put up housing. And we found, if you remember, that girls as young as 12 and 13 were pregnant, having babies. We went to the opening of a hospital over there.

So there is a lot of work to be done in that area. I think this hearing is the beginning of us reviewing what still needs to be done, and I thank you so much.

Mr. FALEOMAVAEGA. I thank the gentlelady.

I might also note a very similar characteristic of the hospitals I visited in Vietnam where many of the children, the young people and even adults had defective birth conditions in the same way that the Marshallese women gave birth to jelly babies, deformed babies, as a result of the nuclear contamination. So the dioxin poison seems to give that same kind of medical problem. It is just a really terrible thing that I have seen.

I thank the gentlelady.

Now I would like to ask my good friend, the gentleman from Louisiana, for his opening statement.

Mr. CAO. Thank you, Mr. Chairman.

Before I begin, I would like to express my deep appreciation for your and the ranking member's concern for the welfare of the Vietnamese people.

Being a native Vietnamese myself, I am also very concerned with the many health issues that are presently facing the Vietnamese people because of Agent Orange.

According to the CRS reports that I have right in front of me, approximately 2.1 million to 4.8 million Vietnamese were directly exposed to Agent Orange; and a Vietnamese advocacy group claims there are over 3 million Vietnamese suffering from serious health problems caused by exposure to dioxin in Agent Orange.

So, as you can see, Mr. Chairman, this is a serious issue that the Vietnamese people face. I believe that how the Vietnamese Government addresses this issue in connection with Agent Orange will show how they deal with the basic rights of the Vietnamese people in Vietnam and how they view their duty to the Vietnamese people.

So I look forward to this hearing, and I appreciate your deep concern for the Vietnamese people and that you are holding this hearing. Thank you very much, Mr. Chairman.

Mr. FALEOMAVAEGA. I thank the gentleman for his statement. I think your presence, Congressman, gives a greater emphasis on my part and the part of my ranking member, Mr. Manzullo, and the fact that this is not a Democratic or a Republican issue, this is not a Vietnamese or an American issue—it is a human issue. I think

this is something that we all ought to bear in mind regarding what happens in war. Things like this happen. And maybe we could have prevented a lot of these things from happening. In the course of our hearing today, I hope that we will get more data and information from some of our expert witnesses.

[Discussion off record.]

Mr. FALEOMAVAEGA. Our first witness is Deputy Assistant Secretary Scot Marciel.

Secretary Marciel currently serves as the Deputy Assistant Secretary for the Bureau of East Asian and Pacific Affairs, and also serves as Ambassador to ASEAN.

Mr. Marciel has been a career member of the Foreign Service and State Department since 1985. He served previously as director of the Department's Office of Maritime Southeast Asia, as director of the Office of Mainland Southeast Asia, and has had assignments in our Embassies in Vietnam, the Philippines, Hong Kong, Brazil and Turkey.

A Californian, Mr. Marciel graduated from the University of California at Davis, and he earned a graduate degree from the Fletcher School of Law and Diplomacy.

This is again a reunion with our good friend, Deputy Assistant Secretary Marciel, on this issue.

Please proceed, sir.

Mr. MARCIEL. I thank you very much, Chairman Faleomavaega.

Mr. FALEOMAVAEGA. Is your mike on?

Mr. MARCIEL. Yes, I think it is. Can you hear me?

Mr. FALEOMAVAEGA. Pull it a little closer to you. I am hard of hearing these days. I don't know why.

Mr. MARCIEL. Is this——

Mr. FALEOMAVAEGA. Much better.

Mr. MARCIEL. Is that okay?

Mr. FALEOMAVAEGA. Much better.

STATEMENT OF THE HONORABLE SCOT MARCIEL, DEPUTY ASSISTANT SECRETARY AND AMBASSADOR FOR ASEAN AFFAIRS, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. MARCIEL. Chairman Faleomavaega, Ranking Member Manzullo, and members of the subcommittee, thank you very much for inviting me to testify today on the topic of United States engagement with Vietnam on issues related to Agent Orange.

Since I last testified before your subcommittee on this topic, just over a year ago—I believe it was May of last year—we have continued to make great strides in the U.S.-Vietnam bilateral relationship. We are moving forward on a wide range of issues, and we discuss matters frankly, even those issues on which we don't agree.

As a result of our closer ties, we have made significant gains in areas ranging from accounting for the remains of Americans lost during the Vietnam War, to development of bilateral trade liberalization, to greater cooperation on religious freedom measures. Our success in recovering and accounting for the remains of Americans lost in the Vietnam conflict, with 642 now repatriated to date, deserves special mention as an example of joint collaborative efforts.

Recently, we have expanded our cooperation into new areas—I think it is very important—including education, climate change, investment protection, and even military-to-military relations.

We are implementing a foreign assistance program in Vietnam that is growing in both size and scope; and it is aimed at supporting economic reform and good governance, building a vibrant civil society, and improving health and security for the Vietnamese people.

Our assistance includes programs to address humanitarian needs, including HIV/AIDS treatment and prevention, and support for those with disabilities, without regard to their cause. Since 1989, the United States has funded more than $44 million in programs in Vietnam to support people with disabilities. This includes significant contributions from the Leahy War Victims Fund.

Agent Orange has long been a sensitive issue for both countries, as you mentioned, Mr. Chairman; and we have differed over the lasting impact of the defoliant on Vietnam. I am pleased to say that now we—meaning the United States and the Vietnamese Governments—are engaged in practical, constructive cooperation. Both the United States and Vietnam agree that the health of the Vietnamese people and the safety of the Vietnamese environment are vital for Vietnam's future. With the support of additional funds approved by Congress in Fiscal Year 2007 and again in Fiscal Year 2009, we are moving ahead with collaborative efforts to help Vietnam address environmental contamination and related health concerns.

If I could give you a brief update on our activities, the $3 million included in the Fiscal Year 2007 supplemental appropriations bill for "environmental remediation and health activities" at "hotspots" in Vietnam is central to our efforts to address environmental and health concerns.

Out of the initial $3 million, $1 million has already been spent for health projects. We have utilized a total of $550,000 of that $3 million for support costs, staffing to implement the dioxin/Agent Orange program through Fiscal Year 2010 and invitational travel to Vietnam for U.S. experts in dioxin remediation.

The remaining $1.45 million has been budgeted for environmental containment and remediation activities. We focused our efforts on the Danang hot spot, and that is because the Government of Vietnam has asked us to focus our assistance there.

In September, 2008—so since I last appeared before you—USAID entered into 3-year cooperative agreements with three U.S. private voluntary organizations: Save the Children Foundation, East Meets West Foundation, and Vietnam Assistance for the Handicapped. Under these agreements, people with disabilities in the Danang area are provided with health and rehabilitation services and livelihood development support.

We are pleased to have a Vietnamese government representative on the panel that selected those projects. Already, these organizations have provided a valuable service to the disabled community in Danang.

For example, Vietnam Assistance for the Handicapped sponsored training for 22 medical professionals in Danang by U.S.-based physicians and provided rehabilitation services to 66 disabled people,

including nine corrective surgeries. The East Meets West Foundation conducted a baseline needs assessment for the disabled population of the greater Danang area and provided medical screening for more than 3,000 people. Save the Children Foundation sponsored the first job fair in Danang to include people with disabilities, and I am pleased to note that 20 of the 72 disabled participants received immediate employment offers. In addition, our partners are working closely with local authorities to develop an integrated action plan to support people with disabilities in Danang.

We are also moving forward on environmental projects. Our Embassy in Hanoi is working closely with the Government of Vietnam to finalize an environmental remediation program for dioxin hotspots at the Danang airport. With support from the U.S. Environmental Protection Agency and building upon important Ford Foundation initiatives, USAID has worked in close coordination with the Vietnamese Government and other donors to design and implement a comprehensive remediation program.

As a first step, USAID has developed a project focusing on an environmental assessment and environmentally sound design and planning for containment of dioxin at the Danang airport. I am happy to report that the procurement process for these efforts is under way.

We are very pleased that an additional $3 million in Fiscal Year 2009 funding is now available for Agent Orange activities in Vietnam. I can tell you how we plan to use these. We plan to use approximately $1 million of this funding for further support for environmental health activities and $2 million for environmental remediation efforts. We will also continue to consult closely with our Vietnamese partners as we do this.

In conclusion, the Governments of the United States and Vietnam have cooperated on the issue of dioxin contamination since 2001. Our aim has been to strengthen the scientific capacity and infrastructure of Vietnam's research institutions and to improve the ability of the Vietnamese authorities to protect the environment and promote public health for future generations.

Our collaboration with Vietnam on Agent Orange/dioxin issues extends well beyond the government-to-government dialog. This week's meeting of the US-Vietnam Dialogue Group on Agent Orange/Dioxin, and the Fourth Annual U.S.-Vietnam Joint Advisory Committee meeting, which is planned for September in Hanoi, are prime examples of the partnerships that are at the heart of our efforts.

As we move forward, we will work hard to ensure U.S. Government assistance complements an open and effective approach to addressing outstanding concerns related to Agent Orange.

Chairman, thank you for giving me the opportunity to make opening remarks; and, of course, I am pleased to answer any questions. Thank you.

Mr. FALEOMAVAEGA. Thank you, Mr. Secretary.

[The prepared statement of Mr. Marciel follows:]

Testimony
of
Deputy Assistant Secretary Scot Marciel
Bureau of East Asian and Pacific Affairs
U.S. Department of State

before the

Subcommittee on Asia, the Pacific, and the Global Environment
Committee on Foreign Affairs

June 4, 2009

U.S.-Vietnam Cooperation
on Issues Related to Agent Orange

Chairman Faleomavaega, Ranking Member Manzullo, and Members of the Subcommittee, thank you for inviting me to testify today on the topic of United States engagement with Vietnam on issues related to Agent Orange.

Overall Relationship

Since I last testified before this committee on the topic of Agent Orange in May 2008, we have continued to make great strides in the U.S.-Vietnam bilateral relationship. We are moving forward on a wide range of issues, and we discuss matters frankly, even those issues on which we do not agree. As a result of our closer ties, we have made significant gains in areas ranging from accounting for the remains of Americans lost during the Vietnam conflict, to development of bilateral trade liberalization measures, to greater cooperation on religious freedom protections. Our success in recovering and accounting for the remains of Americans lost during the Vietnam conflict, with 642 now repatriated to date, deserves special mention as an example of joint collaborative efforts. Recently, we have expanded our cooperation into new areas, including education, climate change, investment protections, and military-to-military relations.

We are implementing a foreign assistance program in Vietnam that is growing in both size and scope aimed at supporting economic reform and

good governance, building a vibrant civil society, and improving health and security for the Vietnamese people. Our assistance includes programs to address humanitarian needs, including HIV/AIDS treatment and prevention, and support for those with disabilities, without regard to their cause. Since 1989, the United States has funded more than $44 million in programs in Vietnam to support people with disabilities; this includes significant contributions from the Leahy War Victims Fund.

U.S.-Vietnam Collaborative Efforts

Agent Orange has long been a sensitive issue for both countries, and we have differed over the lasting impact of the defoliant on Vietnam. I am pleased to say that we are now engaged in practical, constructive cooperation. Both the United States and Vietnam agree that the health of the Vietnamese people and the safety of its environment will be vital for Vietnam's future. With the support of additional funds approved by Congress in FY 2007 and FY 2009, we are moving ahead with collaborative efforts to help Vietnam address environmental contamination and related health concerns.

Update on USG Activities

The $3 million included in the FY2007 supplemental appropriations bill for "environmental remediation and health activities" at "hot spots" in Vietnam is central to our efforts to address environmental and health concerns. Out of the initial $3 million, $1 million was expended for health projects. We also utilized a total of $550,000 for support costs, staffing to implement the Dioxin/Agent Orange program through FY 2010, and invitational travel to Vietnam for U.S. experts in dioxin remediation. The remaining $1.45 million has been budgeted for environmental containment and remediation activities. We have focused our efforts on the Danang "hotspot," as the Government of Vietnam has requested assistance from the United States there.

In September 2008, USAID entered into three-year Cooperative Agreements with three U.S. Private Voluntary Organizations: Save the Children Foundation, East Meets West Foundation, and Vietnam Assistance for the Handicapped. Under these agreements, people with disabilities in the Danang area are provided with health and rehabilitation services and

livelihood development support. We were pleased to have a Government of Vietnam representative on the panel that selected these projects.

Already, these organizations have provided valuable services to the disabled community in Danang. Vietnam Assistance for the Handicapped sponsored training for 22 medical professionals in Danang by U.S.-based physicians and provided rehabilitation services to 66 disabled people, including nine corrective surgeries. The East Meets West Foundation conducted a baseline needs assessment for the disabled population of the greater Danang area and provided medical screening for more than 3,000 people. Save the Children Foundation sponsored the first job fair in Danang to include people with disabilities. I am pleased to note that 20 of the 72 disabled participants received immediate offers of employment. In addition, our partners are working closely with local authorities to develop an integrated action plan to support people with disabilities in Danang.

We are also moving forward on environmental projects. Our Embassy in Hanoi is working closely with the Government of Vietnam to finalize an environmental remediation program for dioxin hotspots at the Danang Airport. With support from the U.S. Environmental Protection Agency and building upon important Ford Foundation initiatives, USAID has worked in close coordination with the Government of Vietnam and other donors to design and implement a comprehensive remediation program.

As a first step, USAID has developed a project focusing on an environmental assessment and environmentally sound design and planning for containment of dioxin at the Danang airport. I am happy to report that the procurement process for these efforts is already underway.

Future USG Activities

We are pleased that an additional $3 million in FY2009 funding is available for Agent Orange/dioxin activities in Vietnam. We plan to use approximately $1 million of this funding for further support of environmental health activities and the remaining $2 million for environmental remediation efforts. We will also continue to consult with our Vietnamese partners to ensure the most productive use of U.S. support.

Conclusion

The governments of the United States and Vietnam have jointly cooperated on the issue of dioxin contamination since 2001. Our aim has been to strengthen the scientific capacity and infrastructure of Vietnam's research institutions and improve the ability of Vietnamese authorities to protect the environment and promote public health for future generations.

Our collaboration with Vietnam on Agent Orange/dioxin issues extends well beyond the government-to-government dialogue. This week's meeting of the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin and the Fourth Annual U.S.-Vietnam Joint Advisory Committee meeting, planned for September in Hanoi, are prime examples of the partnerships that are at the heart of our efforts. As we move forward, we will work hard to ensure U.S. government assistance complements an open and effective multi-actor approach to addressing outstanding concerns related to Agent Orange.

Thank you for giving me the opportunity to appear before you today. I welcome your questions.

Mr. FALEOMAVAEGA. I would like to invite the gentlelady from California for questions.

I will start. Okay.

Well, Mr. Secretary, not only is this a reunion but a collaboration of the time that, yes, we did conduct a hearing—the first of its kind, I believe, ever in the history of the Congress—and this was last year in May. I guess that has given us an opportunity for 1 whole year now since we met last, and I do appreciate some of the activities and the conduct on the part of our State Department, our Government in addressing the issues that we had discussed in May of last year.

As I recall, I think there was a distinct question whether or not the United States has any liability for the problems caused by the usage of Agent Orange and dioxin at the time of the war in Vietnam; and I believe the response from your lawyers or legal department was you have no legal responsibility or liability on this issue.

I believe I also then raised the issue, if we did not have the legal liability, do you think perhaps that we should have a moral responsibility since we are the ones who used the dioxin poison during the war?

What I am trying to get at, Mr. Secretary—and I do appreciate, as you said, all the NGOs in the organization, the Ford Foundation, the Dialogue, even EPA's involvement. I am trying to figure if there is some way that we could put a little more zip into the whole process for 1 whole year. I appreciate you have done all that

you could under the constraints that you have been under, but I wanted to ask you, could there be more that we could do as a government for these people?

I am not an expert on dioxin, but I am curious—maybe this is something that I will ask our other witnesses—what do you consider to be a reasonable amount of resources that we should provide to address this issue of dioxin and the remediation of the environment?

I am told that we have all the different numbers. I had a meeting this morning with the Secretary of Veterans Affairs, General Eric Shinseki. He admitted to the so-called scientific method we have applied as to whether or not dioxin also affected our men and women in the military. And we really cannot confirm scientifically if our men and women were exposed to dioxin, especially those who made the distribution, and carried the gallons around the military bases. I happened to be stationed in Nha Trang, one of our military air bases in Vietnam.

Has there been any conduct or any discussion or dialogue with the new administration since it came into office in January? Has this issue been discussed by the administration?

Mr. MARCIEL. Thank you, Mr. Chairman. I will try to address your questions.

In terms of State Department and the question of Agent Orange/dioxin, there have been discussions certainly in the East Asian Pacific Bureau with our USAID colleagues and on how best to move forward and continue this program. I don't know, to be honest, if there have been broader discussions maybe in other departments in the administration.

In terms of cost and resources involved, one of the reasons I became a diplomat is because I wasn't smart enough to do the science in high school and college. I won't try to comment on the scientific part, because I don't have that expertise.

I would say maybe a couple of things have guided us here. You mentioned the point about no legal liability. My understanding is it is very difficult to determine, if people have health problems in Vietnam or disabilities, what was the cause—was it caused by Agent Orange or was it caused by something else? Rather than try to figure that out, what we have decided to do is let's see if we can help people who need help. If it wasn't caused by Agent Orange, it was caused by something else, that is okay. These are people who still need help.

I think everywhere around the world we try to help people, and certainly part of our relationship with Vietnam has been to try to help people. Our assistance to Vietnam total now is a little over $100 million a year. A very large percentage of that goes toward health. It is not necessarily because of Agent Orange, but it is certainly something we are pleased to do.

My understanding is there have been no good estimates of what the total cost of remediation, environmental remediation would be or certainly for dealing with all the health problems. What we have been doing, as I mentioned, is working with NGOs but also other partners. Certainly the Government of Vietnam, the U.N., UNDP, and other governments, including, I believe, the Czech Republic,

have all been active. So it is very much a multilateral effort now that we are pleased to be a part of.

And I think there is more we can do. I can't put a number on it, both because I don't actually have the expertise but also given the budget realities. But certainly we are pleased to continue to do what we are doing. And I think we are in a position where the program is accelerating. A little bit slow starting up in some ways, but now we are accelerating.

Thank you.

Mr. FALEOMAVAEGA. In fairness to you, Mr. Secretary, and the State Department, I realize it wasn't the State Department that administered Agent Orange. It was the Department of Defense. And I do have every intention of calling the appropriate officials from the Department of Defense who should have all the data and information on how the whole process came into being, not only among the military bases, but the information that has also been received recently that it wasn't just the military bases, but all over Vietnam.

And the real sad thing about this situation, Mr. Secretary, is that it was intended to be used to fight the enemy, the North Vietnamese. But the people most affected by this were the South Vietnamese, our own friends. It wasn't just the North Vietnamese Army that we were trying to expose or in some way to defeat in our efforts in fighting the war, but a great number of people were affected by this, not only our soldiers but the South Vietnamese people, who were supposed to be the ones that we were to defend and to protect.

As I said, in fairness to you, I have several questions I wanted to pose in terms of how the Department of Defense went about doing this in connection with several of our major chemical corporations or companies that created the Agent Orange compound, including this dioxin. And I think this is where things really get a little more sensitive. Knowing if dioxin was contained in this compound, why did we continue using it?

It didn't just cause deforestation but also tremendous harm to human beings. I like to think if there is an herbicide or a pesticide, it is not supposed to have an impact on human beings, but just to cause problems to trees and shrubs. How were we able to justify using this chemical compound? And if——

Diane, do you have any questions?

Ms. WATSON. I was tracking the information on the—I guess it was $3 million for the remediation. And I know that without a scientific background you don't have that information at hand. But what I would like to know, Mr. Chairman, and from Mr. Marciel, if you could, when that information is available, let us know how these funds have been used. And if you could provide us the detailed information on how they are—to what extent these grants have achieved their expected results. And what were the hotspots, and have they gone into those hotspots, and to analyze the affect of dioxin over these years.

So if we could get that feedback, we would have a clearer picture as to how we are aiding the Vietnamese and are we receiving the right results. It has been too long, and I think we ought to stand up to our responsibility and have this information. So if you can

get back to us in writing once it is available, we would appreciate it

Mr. MARCIEL. I certainly would be pleased to do that.

I could, just briefly, maybe note that we have spent $1.5 million of the $3 million from Fiscal Year 2007. And $1 million of that was for health in the Danang area and $500,000 for some support costs and staffing and invitational travel. And the other $1.5 million out of that is for environmental containment and remediation planning at Danang Airport, and that procurement process is under way.

In terms of hotspots, we have focused, for environmental remediation, on Danang as one of three hotspots, meaning areas where dioxin was stored, where Agent Orange was stored. And that decision was made in consultation with our Vietnamese colleagues, who asked us to focus on Danang.

But I will get back to you with a fuller answer in writing.

Ms. WATSON. That would be good.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE SCOT MARCIEL TO QUESTION ASKED DURING THE HEARING BY THE HONORABLE DIANE E. WATSON

With the support of funds approved by Congress in FY 2007 and FY 2009, we are working collaboratively with the Government of Vietnam to address the environmental and health issues related to dioxin in Vietnam. The $3 million included in the FY 2007 supplemental appropriations bill for "environmental remediation and health activities" at "hot spots" in Vietnam is central to our efforts. Out of the initial $3 million, $1 million was expended for health projects. In September 2008, after consulting with the Government of Vietnam, USAID entered into three-year cooperative agreements with Save the Children, East Meets West Foundation, and Vietnam Assistance for the Handicapped for health programs for people with disabilities in the Danang area. Under these agreements, the three organizations provide health and rehabilitation services and livelihood development support. We have already seen concrete results as our implementing partners have already provided valuable services to the disabled community in Danang. Vietnam Assistance for the Handicapped sponsored training for 22 medical professionals in Danang by U.S.-based physicians and provided rehabilitation services to 66 disabled people, including nine corrective surgeries. The organization East Meets West Foundation conducted a baseline needs assessment for the disabled population of the greater Danang area and provided medical screening for more than 3,000 people. Save the Children sponsored the first job fair in Danang to include people with disabilities. Of the 72 disabled participants, 20 received immediate offers of employment.

In addition to the health projects, we also utilized a total of $550,000 for staffing to implement the Dioxin/Agent Orange program through FY 2010, invitational travel to Vietnam for U.S. experts in dioxin remediation, and support costs. The remaining $1.45 million has been budgeted for environmental containment and remediation activities. Our Embassy in Hanoi is leading a coordinated effort with the Government of Vietnam to develop an environmental remediation program for the dioxin hotspot at the Danang Airport. With support from the U.S. Environmental Protection Agency and building upon important Ford Foundation initiatives, USAID has worked in close coordination with the Government of Vietnam and other donors to design and implement a comprehensive remediation program.

Also, an additional $3 million in FY 2009 funding is available for Agent Orange/dioxin activities in Vietnam. We plan to use approximately $1 million of the funding for environmental health activities with the remaining $2 million devoted to environmental remediation.

Regarding "hot spots," in June 2006 the U.S.-Vietnam Joint Advisory Committee, a bilateral forum for high-level scientific dialogue, identified three priority "hotspots" or former U.S. bases where Agent Orange was loaded, stored, and transferred: Danang, Bien Hoa, and Phu Cat. We have focused our efforts on the Danang "hotspot," as the Government of Vietnam has requested assistance from the United States there.

On the effects of dioxin, the environmental effects that are well-established include defoliation and a host of adverse effects on a wide range of fish, birds, and mammals due to the contaminants. However, scientific research to date in Vietnam

has not been comprehensive enough to draw accurate conclusions about environmental consequences of dioxin contamination.

Few independent scientific studies have been conducted in Vietnam to assess the possible health effects of dioxin on the local population. The lack of validated scientific data and critical scientific review make it impossible to estimate accurately the number of actual or potentially-affected people or the extent of related health effects.

Mr. FALEOMAVAEGA. And, without objection, your statement, and the statement also of Ambassador Xuan, will be made a part of the record.

And, again, Mr. Secretary, thank you for coming here this afternoon.

Mr. MARCIEL. Thank you.

Mr. FALEOMAVAEGA. Our next panel of witnesses, if we could have our friends here: Mr. Charles Bailey; Mr. Vo Quy; Ms. Mary Dolan-Hogrefe; and Mr. Rick Weidman.

Mr. Charles Bailey has worked in Africa and Asia as a Ford Foundation grant-maker for over 30 years. In 1997, he moved to Hanoi, where he worked as a Ford Foundation representative for Vietnam and Thailand until 2 years ago. In his 10 years heading the office in Vietnam, the Ford Foundation approved some $90 million in grants in the fields of economic development, arts and culture, higher education, and international relations.

In 1998, he began exploring ways to address the Agent Orange/dioxin legacy of the Vietnam War. Since October 2007, Mr. Bailey has continued his work as the director of the Ford Foundation Special Initiative on Agent Orange/Dioxin based in New York City.

As a graduate of Swarthmore College, he joined the Peace Corps and went to Nepal. He currently holds a master's degree in public policy from the Woodrow Wilson School and a doctorate from Cornell University.

Dr. Vo Quy holds a doctorate degree from the State University of Moscow and a bachelor's from the University of Vietnam. He is a teacher at the university level. I have such an extensive resume of Professor Quy, and I really, really appreciate, again, his coming all the way from Vietnam to join us this afternoon.

Professor Quy conducted several research projects involving the investigations of the fauna and the flora of northern Vietnam. He conducted research on the long-term effects of herbicides used during the war on the environment and on living resources in South Vietnam as well.

Chairman of various organizations and committees dealing with environmental issues, he has written 16 books and more than 100 papers on ornithology, sustainable use of natural resources, conservation of nature and wildlife, conservation of the environment, biodiversity and sustainable development. This gentleman comes well-prepared all the way from Vietnam to help us this afternoon.

Ms. Mary Dolan-Hogrefe joined the National Organization on Disability in 1995 and served as vice president and senior advisor to the National Organization on Disability. Since 1995, she has been in charge of the National Organization of Disability's highly regarded survey research program executed by the Harris Poll.

Mary served in various capacities—so many, my gosh. She also served as a staff member for Congressman Norman Lent. Two years ago, Mary was named to the US-Vietnam Dialogue Group on

Agent Orange/Dioxin convened by the Ford Foundation and has visited Vietnam several times.

She holds a master's degree in international relations from the University of Denver and a bachelor's from American University.

Richard Weidman serves as executive director for policy and government affairs on the national staff of Vietnam Veterans of America. As such, he is the primary spokesman for Vietnam Veterans of America here in Washington, DC. And as a veteran himself, he was a medical corpsman during the Vietnam War, with service in Company C, 23rd Medical Group, AMERICAL division, in I Corps in 1969.

I was in II Corps, Mr. Weidman. Cheers.

Mr. Weidman also served as a consultant on legislative affairs to the National Coalition for Homeless Veterans. Mr. Weidman is a graduate of Colgate University and did graduate study at the University of Vermont.

Lady and gentlemen, thank you so much for being with us.

Mr. Bailey, could you start us off?

STATEMENT OF MR. CHARLES BAILEY, DIRECTOR, SPECIAL INITIATIVE ON AGENT ORANGE/DIOXIN, FORD FOUNDATION

Mr. BAILEY. Chairman Faleomavaega and members of the Subcommittee on Asia, the Pacific, and the Global Environment, thank you very much for this opportunity to appear before you today. I am Charles Bailey, director of the Special Initiative on Agent Orange/Dioxin at the Ford Foundation.

The Ford Foundation is an independent, nonprofit, nongovernmental organization. And since 2000, the Foundation has contributed $9.4 million to begin to address the sensitive international and humanitarian issues of the Agent Orange/dioxin legacy, the subject of today's hearing. This issue touches many lives, not only Vietnamese but American Vietnam veterans and their families, as well.

This is a challenging topic, but there is promising news. These problems can now be addressed. Diverse initiatives and efforts have contributed to a new spirit of cooperation between the United States and Vietnam.

The Ford Foundation has taken a leadership role in the philanthropic community on the impact of dioxin on post-war Vietnam. We are seeking to increase awareness and resources around a humanitarian agenda. Our role as a neutral convener, broker, and grant-maker has produced several immediate results.

First, Vietnamese agencies and their partners are delivering enhanced services in health, education, and employment to children and young adults with disabilities, particularly disabilities linked to exposure to dioxin.

Second, the threat to public health has been sharply reduced in neighborhoods near the airport in Danang. And health authorities in Bien Hoa have educated citizens on simple measures to ensure food safety.

Third, rural development officials have devised ways to reforest mountains denuded by Agent Orange, with help from Vietnam National University-Hanoi.

Fourth, three Vietnamese who completed master's in social work in the United States are back in Vietnam strengthening the services local NGOs provide to groups of young adults with disabilities.

Fifth, on May 18th, the Government of Vietnam launched a 3-year, $6.75 million project to create Southeast Asia's first high-resolution dioxin testing laboratory. The Bill and Melinda Gates Foundation and the Atlantic Philanthropies are providing $5.4 million toward the project. The Ford Foundation brokered the initial discussions.

And six, we have funded or otherwise contributed to the set of key studies referenced in my written statement.

In 2007, the US-Vietnam Dialogue Group on Agent Orange/Dioxin was established with funds from the Ford Foundation. This group brings together policy analysts, scientists, business leaders, and others from both countries to rally support around five priorities listed in my statement.

The Ford Foundation is also working with both governments on dioxin remediation at Danang Airport. This began with measurement of dioxin levels and construction of interim containment measures. The U.S. EPA and agencies of Vietnam's Government last week began field-testing a promising bioremediation technology developed by the Vietnamese. Foundation support for these measures at the Danang Airport totals $1.4 million.

A problem that was too sensitive to broach is now the focus of multiple and diverse donors; nevertheless, much more needs to be done. Despite progress relative to the pre-2006 period, donor funding commitments remain short-term and fragile.

Mr. Chairman, environmental remediation has proved to be the most feasible starting point for the two governments to work together on the legacy of Agent Orange. I am pleased to report that by the end of this year we will have enough information in hand to be able to proceed to destroy the dioxin at Danang. The cost estimates to remediate Danang and the other two major hotspots at Bien Hoa and Phu Cat are expected to be approximately $50 million to $60 million.

On the health side, however, the issue is rather more complex. The solutions here will require a longer-term vision and an even stronger partnership between the United States and Vietnam. We will need to engage larger numbers of Americans to resolve this issue. And it will require involving younger generations of Americans and Vietnamese, who will build on recent successes, to devise and carry out solutions that will be required.

The funds which the U.S. Government has allocated so far are an important beginning. We have an opportunity now to create a path for a longer-term strategy with multiyear funding to support it. NGOs and a wide variety of donors were able to create momentum, but now the scale and the scope of the revealed needs are such that only governments can address them comprehensively. The main task—reaching every citizen in need and sustaining programs over time—will require the reach and the scale of government.

We have the chance now to shorten the long human shadows of war and address the needs of both American and Vietnamese fami-

lies and communities. Thank you for your interest in our work on this issue.

[The prepared statement of Mr. Bailey follows:]

THE FORD FOUNDATION

Written Testimony of Charles R. Bailey
Director, Special Initiative on Agent Orange/Dioxin, The Ford Foundation

Prepared for

The House Committee on Foreign Affairs
Subcommittee on Asia, the Pacific and the Global Environment

Hearing to Examine
"Agent Orange: What Efforts Are Being Made to Address the Continuing Impact of Dioxin in Vietnam?"

June 4, 2009

Chairman Faleomavaega and members of the Subcommittee on Asia, the Pacific and the Global Environment, thank you very much for the opportunity to appear before you today. I am Charles Bailey, Director of the Special Initiative on Agent Orange/Dioxin, a program of the Ford Foundation, an independent, nonprofit, nongovernmental organization. Prior to that I led the foundation's office in Hanoi, serving as representative in Vietnam for 10 years, from 1997 to 2007. Ford's mission is to strengthen democratic values, reduce poverty and injustice, promote international cooperation and advance human achievement.

Over the years the Ford Foundation in Vietnam has supported institutions and individuals with grants totaling $100 million over the past 12 years. Ford also provided funding for over 550 Vietnamese to complete graduate degree studies overseas in a range of disciplines. We have:

Provided long term support for Vietnam's process of international integration through diplomacy;

Supported sustainable development in areas of the country where the benefits of such growth have been felt more slowly;

Encouraged Vietnamese scholars and artists in their quest to interpret and understand the impact of global integration on their society and culture;

Promoted innovation by health practioners and social activists in the field of sexuality and reproductive health; and

Contributed to addressing the sensitive international and humanitarian issues of the Agent Orange/dioxin legacy, the subject of today's hearing.

How environmental concerns impact people's lives and health are an important part of our work around the world. Since 2000, the Ford Foundation has been committed to addressing the impact of dioxin on post-war Vietnam. As a result, the foundation has made grants totaling $9.3 million to dioxin-related projects. This work has supported efforts to develop treatment and support centers, to assess and contain environmental dioxin, restore the landscape, and educate the public about these matters.

The promising news is that these problems can be addressed and considerable progress has been made over the last three years.

Background

From 1961 to 1971, U.S. military forces sprayed more than 20 million gallons of Agent Orange and other herbicides on forests and crops in southern and central Vietnam. The campaign had both human and environmental consequences. The immediate effect was to defoliate and destroy vegetation over wide areas. The delayed impact came from dioxin, a highly toxic chemical in Agent Orange that is critically harmful to humans.

More than 35 years later, dioxin continues to pose significant health and safety concerns. It remains at dangerously high levels in and around former U.S. air bases where planes carrying the toxic spray were based, in some instances contaminating local food chains. A disturbingly high number of birth defects, cancers, and other diseases have struck Vietnamese veterans, civilians, their offspring and those now living in affected regions of Vietnam. Many American veterans of the campaign and their families have experienced health crises too. For decades, the after-effects of dioxin remained an unresolved matter between the United States and Vietnam. The United States sought to avoid what appeared to be an open-ended liability; the Vietnamese were concerned that pushing too hard to address the matter might jeopardize their export-led growth strategy and entry into the World Trade Organization.

Promising Developments and the Role of the Ford Foundation

Today, promising initiatives and efforts from diverse constituencies have fostered a new environment of cooperation between the United States and Vietnam. Government agencies, nongovernmental organizations and nonprofit donors are responding to the challenging legacy of Agent Orange.

The Ford Foundation has taken a leadership role in the philanthropic community, working to address the impact of dioxin on post-war Vietnam by seeking to increase awareness and resources around a humanitarian agenda.

Our role has been that of a neutral party working with both sides—the government of Vietnam and the government of the United States. We have brought people together who might not otherwise engage with each other, we have funded confidence building projects for which there was no other donor, and we seek to raise the level of awareness and understanding on this issue in the United States and more broadly.

Our first Agent Orange-related grant was in 2000—a donation of $150,000 to the Vietnam Red Cross Agent Orange Victims Fund which they used for operations and prosthetic devices for about 1,700 people in three southern provinces. Shortly thereafter the American Red Cross followed up with a donation of $1.5 million to its counterpart, the Vietnam Red Cross, to extend this program.

From this initial grant we learned two things: First, that the needs in this area were far greater than the foundation's own resources and sizeable funds would need to be mobilized from other sources. However, other donors were reluctant to become involved in a subject they regarded both as deeply controversial and as an issue strictly between the governments of the United States and Vietnam. And second, when the American Red Cross grant was not renewed, we realized again that this was, indeed, not an easy issue and that a deeper public understanding of the Agent Orange issue was required in the United States.

Before we could move ahead on either front however, the actual nature and extent of at least the environmental nature of the problem needed to be brought into greater focus. In 2002 we made a second grant, this one to the 10-80 Division of Vietnam's Ministry of Health. They used the funds to work with a Canadian environmental firm, Hatfield Consultants of West Vancouver, British Colombia, to identify which of the estimated 2,735 U.S. military bases in the former South Vietnam might still be contaminated with dioxin from the use of Agent Orange. This study took three years to complete and narrowed down the problem to a handful of dioxin "hotspots." In short, the years from 2000 to 2005 were a period of searching for a constructive way forward.

The year 2006 proved to be a turning point. Overall relations between the United States and Vietnam were improving as the U.S. facilitated Vietnam's entry into the World Trade Organization. As for Agent Orange, in January 2006, the 10-80 Division and Hatfield announced the results of their study: Three former U.S. airbases contained areas still highly contaminated with dioxin which was endangering nearby communities—Bien Hoa, Phu Cat and Da Nang. This added international confirmation to studies the Vietnamese had recently completed. Later that month, in a major breakthrough, President Bush and President Triet of Vietnam announced the intent to clean up dioxin contaminated areas remaining from the war. Finally, in December 2006, with Ford Foundation support, a group of prominent Vietnamese citizens agreed with American counterparts to found a

bi-national committee for a two-way channel for frank discussions and to chart a way forward. This became the US-Vietnam Dialogue Group on Agent Orange/Dioxin.

The third period, from 2007 to the present, has been one of growing opportunities for increasingly diverse groups to engage with the Agent Orange issue. They have transformed it from a "hot topic" too sensitive to talk about, into a subject for humanitarian discourse and common search for solutions.

Grant Making

Mr. Chairman, the Ford Foundation has applied two kinds of resources to the Agent Orange issue: that of neutral convener and broker and that of grant maker. The neutral brokering, convening and open sharing of information—necessarily preceded substantial grant making. Indeed, it took seven years of such work—1998 to 2005—to create sufficiently favorable conditions for forward movement. The foundation's resources brought the problem of dioxin into sharper focus. It became defined by facts which gave it a more definite size and scope so that solutions became possible to envision. Major grant making began in 2006 and has accelerated in the years since. As of May 2009 the Ford Foundation has approved grants totaling more than $9.3 million to organizations in Vietnam and to US organizations working with the Vietnamese on solutions. These grants and convenings have produced several immediate results.

First, Vietnamese agencies and their partners are **delivering enhanced services** in health, education and employment to children and young adults with disabilities, particularly disabilities linked to exposure to dioxin. More than two-thirds of the $9.3 million have gone to this purpose, as shown in the chart below. The projects stretch from Thai Binh province in the Red River Delta to Can Tho in the Mekong Delta, with particular emphasis in central Vietnam—including the provinces of Binh Dinh, Quang Ngai, Quang Nam, Kon Tum, Thua Thien Hue, Quang Tri, and Da Nang.

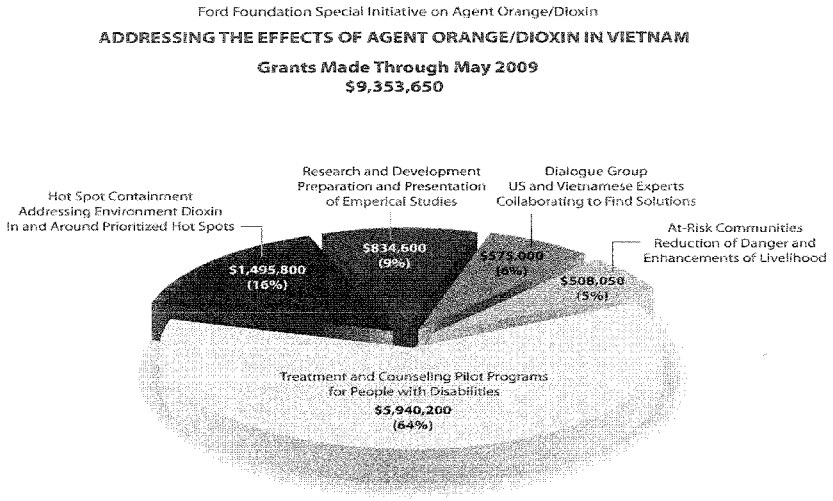
Second, the threat to **public health has been sharply reduced** in neighborhoods near the airport in Da Nang from a dioxin hotspot at the north end of the runway. Health authorities in Bien Hoa have educated citizens on simple measures they can take to ensure food safety.

Third, rural development officials in Quang Tri province have devised ways to **reforest Agent Orange-denuded mountainsides** with help from Vietnam National University-Hanoi.

Fourth, three Vietnamese have completed graduate degrees in social work at United States universities and are back in Vietnam **strengthening the**

organizational competencies and improving the services local NGOs provide to self-help and advocacy groups of young adults with disabilities.

Fifth, on May 18, 2009, the Government of Vietnam launched a three year, $6.75 million project to create Southeast Asia's **first analytical laboratory** capable of detecting dioxin and other persistent organic pollutants at the extremely low concentrations in which it still is poisonous to human beings. The Bill and Melinda Gates Foundation and The Atlantic Philanthropies are providing $5.4 million towards the project. The Ford Foundation brokered the initial discussions.



And sixth, we have funded, or otherwise contributed to, a set of **key studies**; a list of these is appended.[1]

The US-Vietnam Dialogue Group on Agent Orange/Dioxin

The US-Vietnam Dialogue Group on Agent Orange/Dioxin, which I mentioned a moment ago, met for the first time in January 2007. The members spent a week together in Vietnam traveling to the most affected areas, meeting with officials, viewing existing social service programs and most importantly, visiting families whose children were suffering from disabilities and ill health attributed to dioxin

[1] The Ford Foundation Web site contains a short video about Agent Orange/dioxin and a complete list of all grants we have made to date can also be found there: www.fordfound.org/programs/signature/agentorange/issue

exposure. At the end of the week they drew several conclusions. Yes, there was space and a role for civil society to help resolve this very serious problem, a problem where more formal government structures had not succeeded in finding common ground, much less agreement. The members agreed to meet further, alternating between Vietnam and the United States for a two-year period. The Dialogue Group set as its goals the two essential elements which were missing in the period from 2000 to 2005: to mobilize greater resources and to raise awareness and understanding of the Agent Orange/dioxin issue in the United States. They also identified five priorities around which to rally support:

- *Expanded services to people with disabilities in Vietnam*
- *Dioxin remediation at Da Nang*
- *Landscape restoration*
- *High resolution Dioxin Laboratory*
- *Public education in the United States*

The Dialogue Group held its second meeting at the Ford Foundation in New York in June 2007. At this gathering, members discussed the need for additional resources with representatives of UNDP, UNICEF, the US Fund for UNICEF, the Bill and Melinda Gates Foundation and The Atlantic Philanthropies. This was also an opportunity to bring environmental officials from the Vietnamese Ministry of Defense together with counterparts from the US Environmental Protection Agency to discuss some technical disagreements over interim containment of dioxin at the Da Nang airport. In January 2008, the Dialogue Group met again in Vietnam where they assessed progress on the five priorities and recommended a focusing of resources on Da Nang to show what a comprehensive solution—environmental clean-up, healthcare and other social services—might look like in one location. They also met with American Ambassador Michael Michalak and Vietnamese Vice Foreign Minister Pham Binh Minh and held a press conference. The Dialogue Group just convened for the fourth time on June 1 and 2 here in Washington, D.C. I have appended a list of its current membership.

Bilateral Collaboration

U.S. government collaboration with Vietnam on dioxin remediation has unfolded over several years led by the State Department and the U.S. Environmental Protection Agency (EPA). The EPA arranged for the transfer of laboratory equipment to the Vietnam Academy of Science and Technology, along with technical assistance. When the Vietnamese directed U.S. attention to the Da Nang airport, in early 2007, the EPA and the State Department provided $400,000 for EPA and other U.S. contractors to provide technical advice on the interim containment of dioxin at the north end of the runway.

The Ford Foundation worked with both parties and through grants to the Government of Vietnam's Office of Committee 33,[2] the Foundation funded measurement of dioxin levels in soil, sediments, foodstuffs and biosamples in and around the airport. These data led to the design and construction of a large cement cap, sediment channeling and filtering structures, and a secure fence to close the dioxin exposure pathways into the community. These interim containment measures were completed in January 2008. Plans are now being evaluated on ways to remediate, or essentially destroy, the dioxin. The U.S. EPA, Committee 33, the Ministry of Defense and the Vietnam Academy of Science and Technology last week began field testing, with Ford Foundation assistance, a promising bioremediation technology developed by the Vietnamese. Foundation support for the above measures totals $1.4 million.

Bilateral cooperation to remediate the Da Nang dioxin hotspot has produced results—most importantly, greater mutual understanding and a common focus on practical and feasible solutions. This mutual confidence is underwriting further collaboration on the dioxin-associated human needs of people in Da Nang.

Expanding the Donor Circle

Adding to budget allocations from the Government of Vietnam, other donors have joined us as shown in the graph appended to my statement. The Czech Republic contributions are for dioxin assessment and interventions in Thua Tien Hue and Binh Dinh provinces, while UNDP has conducted dioxin assessments at the Bien Hoa and Phu Cat hotspots. The Atlantic Philanthropies and the Gates Foundation are funding the Government of Vietnam's high resolution dioxin laboratory as noted earlier. The US Fund for UNICEF has matched a Ford Foundation grant to fund a new program for children with disabilities centered on Da Nang and Bien Hoa. IrishAid supports orthopedic surgery and physical rehabilitation for people living with disabilities in Da Nang. Four other US foundations have also provided grant support: The Wallace A. Gerbode and the Chino Cienega foundations support information outreach to the American public and the Spencer Shaw Fund and Leavey Foundation are backing Catholic Relief Services for an inclusive education project in Binh Dinh province, site of the Phu Cat dioxin hotspot. The Korean Disabled Veterans Organization is providing resources for a center in Quang Ngai province which will provide medical and rehabilitation services and job training for Agent Orange victims.

Individuals and organizations in Vietnam and elsewhere are also increasing their charitable giving for direct assistance to Agent Orange victims. These donations flow through channels set up by the Vietnam Association for Victims of Agent Orange, the Vietnam Red Cross and the Vietnam News Agency. In the United

2 Office of the National Steering Committee on Overcoming Toxic Chemicals Used by the US During the War in Vietnam, Ministry of Natural Resources and Environment

States, funds have flowed to the Agent Orange Relief and Responsibility Campaign, and the War Legacies Project and through Vietnam bilateral friendship societies in Britain, Denmark, France and Italy.

A problem that a short time ago was too sensitive to broach is now the focus of multiple and diverse donors. Nevertheless, much more needs to be done. Despite progress relative to the pre-2006 period, donor funding commitments remain short term and fragile.

The Government of Vietnam has allocated funds to both environmental cleanup and direct assistance to those with disabilities associated with exposure to dioxin. On the environmental side, for many years the government did not realize the danger to the public from dioxin hotspots at former US air bases. Ministry of Defense measurements of dioxin at these air bases only began in the early 2000s and did not extend beyond the base perimeters. Indeed it was not until late 2005 that research emerged revealing that dioxin was moving into surrounding communities and up the food chain. Since then, the Government of Vietnam has spent $6.25 million for research and initial remediation at Bien Hoa and has pledged $1.25 million as its share of the dioxin lab project, which is also supported by the Gates Foundation and The Atlantic Philanthropies. As for disability, the government is currently paying an estimated $115 million a year in income supplements to people with disabilities from all causes.[3]

The major components of any solution will require the continued and deepening engagement of the US Government with funds and technical assistance. The two governments have formed a bilateral scientific and technical body, the Joint Advisory Committee (JAC). The JAC co-chairs are a senior official from the U.S. Environmental Protection Agency and his counterpart from the Office of Committee 33 of the Ministry of Natural Resources and the Environment. The JAC held its first extended, substantive meeting in September 2008 in Hanoi. They resolved to form two task forces—one for environmental remediation and the other for health—to quicken the pace of action. In May 2007 the U.S. Congress appropriated $3 million towards dioxin clean-up and health programs in surrounding communities. On October 29, 2008 the U.S. Embassy in Vietnam announced the award of $1 million of the total to three American NGOs for the first year of an integrated set of social service projects in Da Nang. In March 2009 the U.S. Congress allocated a second $3 million for dioxin clean-up and health programs in surrounding communities.

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3 This amount is in addition to the amounts shown in the appended graph.

The Way Forward

Mr. Chairman, environmental remediation has proved to be the most feasible starting point for the two governments to work together on the legacy of Agent Orange. I was recently in Da Nang and I am pleased to report that by the end of this year we will have enough information on soil volumes, required clean up standards, preferred technologies, unit costs and required time to project accurately what it will take to destroy the dioxin at Da Nang, and by extension, the dioxin at the other two highly toxic hotspots in Bien Hoa and Phu Cat. The cost estimates to remediate these three hotspots are expected to be approximately $50 to $60 million. We can thus see the beginning of the end of this part of the overall problem.

On the health side, however, the issue is more complex. The solutions here will require a larger imagination, a longer-term vision and an even stronger partnership between the United States and Vietnam. I would like to suggest that there are three essential characteristics of any solution to the human impact of the Agent Orange legacy. Any solution should be:

- Broad-based and involve larger numbers of Americans than are currently engaged to capture their interest and views and encourage them to voice their concern about why resolving the Agent Orange issue is important for both Vietnam and the United States.

- Long-term, involving younger generations of Americans and Vietnamese who will devise and carry out the solutions that will be required and who will make careers in new professions, for example, social work and in new kinds of organizations, especially civic organizations in Vietnam.

- Finally, we need to start now to build on recent successes. This is because the need to relieve suffering is immediate and urgent.

One should never underestimate the destructive power of physical and mental disability, not only on the individual, but on her or his family. It places a heavy and often life-long burden on families who struggle to cope. When a family member becomes chronically ill or disabled or is born with disabilities, family expenses go up, family income drops and the family finds itself on a fast descent to the bottom of the society where they join families still stuck below the poverty line. Disability leaves people more vulnerable, especially women and children.

In addition, the needs of the person with a disability change as they grow and develop into young adults; and these needs vary from person to person and family to family. As a consequence, programs of assistance need to be flexible,

responding to each family's situation; comprehensive, offering a range of high quality services; and inclusive, reaching everyone in need.

So, the challenge of the Agent Orange legacy of the Vietnam War is to focus resources—funds and expertise—to ensure healthy families, and more particularly, to ensure opportunities for people with disabilities in Vietnam to maximize their capabilities and live with self-confidence and self-respect.

This challenge is also an opportunity to transform systems, not only through new facilities, new equipment and new training curricula, but also through concepts such as early detection and intervention, the case management system and inclusive education.

Recommendations

The funds which the U.S. government has allocated so far have been essential to addressing the real needs of the Agent Orange legacy. We have an opportunity now to create a path for a longer-term strategy with multi-year funding to support it. That strategy would need to keep three objectives in mind:

Healthy Families

- ✓ Counseling, diagnosis and where feasible, surgery and rehabilitation for people with disabilities, beginning in Agent Orange high-impact areas.
- ✓ Case management-based assistance to families with members living with disabilities and support for participating fully in the life of their community.
- ✓ For intending couples, genetic and reproductive counseling.
- ✓ For children and young adults with disabilities, inclusive education, preparation for the workforce and job placement.

A Clean and Safe Environment

- ✓ Identify and assess all hotspots that exceed a government-set standard for dioxin contamination.
- ✓ Break exposure pathways and implement public health measures to guarantee the safety of people living near the identified hotspots.
- ✓ Remediate the dioxin-contaminated areas.
- ✓ Reforest Agent Orange-denuded landscapes with species of economic value to local people, possibly through a tie-in to carbon trading schemes designed to retard climate change.

Institutional Development

- ✓ Renovate and expand community-based rehabilitation centers as well as Peace and Friendship villages
- ✓ Create a national birth defects registry

- ✓ Expand capacities for research and technology assessment in the areas of healthcare, environmental remediation and restoration of productive ecosystems.

Mr. Chairman, we have seen much progress in the last several years.

NGOs and a wide diversity of donors were able to create momentum from 2007 to 2009, but now the scale and scope of the revealed needs are such that only governments can address them comprehensively. Foundations and NGOs can continue to pilot new approaches, support new voices, measure and call attention to results, but the main tasks—reaching every citizen in need and sustaining programs over time—will require the reach and scale of government.

For the first time in decades, there is an opportunity for a productive partnership between the United States and Vietnam that provides health and social services to affected populations. This partnership could plan and build better and more inclusive systems to provide for the long term healthcare needs and other social services these populations, including of people of all ages with disabilities, require. We have the chance now to shorten the long human shadow of war and address the needs of both American and Vietnamese families and communities.

Thank you.

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US–Vietnam Dialogue Group on Agent Orange/Dioxin

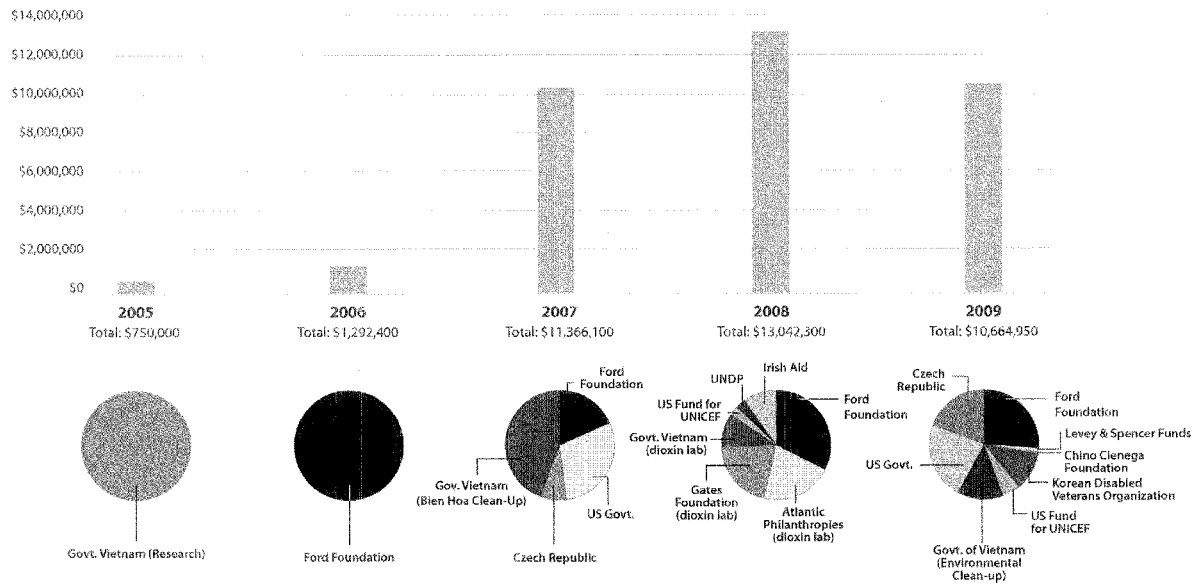
Susan Berresford, Convener, Former President, Ford Foundation

Dialogue Group- Vietnam Members
Ambassador Ngo Quang Xuan, Vice Chair, Foreign Affairs Committee, National Assembly of Vietnam
Prof. Vo Quy, Vietnam National University, Hanoi
Dr. Nguyen Thi Ngoc Phuong, Chief of Obstetrics & Gynecology of the Medical University of Ho Chi Minh City
Do Hoang Long, Deputy Director, Party External Relations Commission
Lt. General Phung Khac Dang, Vice President, Vietnam Veterans Association

Dialogue Group- US Members
Walter Isaacson, President and CEO, The Aspen Institute
Christine Todd Whitman, President, Whitman Strategy Group
William Mayer, President and CEO, Park Avenue Equity
Mary Dolan-Hogrefe, Vice President, National Organization on Disability
Dr. Vaughan Turekian, Chief International Officer, American Academy for the Advancement of Science

Ford Foundation Special Initiative on Agent Orange/Dioxin

Government of Vietnam and Donor Support for Agent Orange/Dioxin/Programs 2005 - 2009



Mr. FALEOMAVAEGA. Thank you, Mr. Bailey.

Professor Quy?

STATEMENT OF MR. VO QUY, PROFESSOR, CENTRE FOR NATURAL RESOURCES AND ENVIRONMENTAL STUDIES (CRES), VIETNAM NATIONAL UNIVERSITY, HANOI, VIETNAM (MEMBER, US-VIETNAM GROUP ON AGENT ORANGE/DIOXIN)

Mr. QUY. Mr. Chairman, Congress Members, ladies and gentlemen, first of all, I would like to express my sincere thanks to Chairman Faleomavega and the subcommittee for the opportunity to testify before you on the impact of Agent Orange/dioxin on the environment in Vietnam.

The military attacks on the environment by using the toxic chemicals resulted not only in serious health effects, but had an immediate and long-term impact on the soil, nutrient balance, hydrological regimes, plants, animals, and perhaps even the climate of Vietnam and the region.

Nearly four decades later, many of the affected ecosystems have not recovered. The long-term consequences include loss of ecosystems and biological diversity, economic stagnation, severe constraints on human development, poverty, malnutrition, disease, and other socioeconomic problems.

More than 2 million hectares of forest were destroyed by herbicides during the war, including 150,000 hectares of mangroves, 130,000 hectares of Melaleuca Forest in the Mekong Delta, and many hundreds of thousands of hectares of inland dense jungle.

The U.S. toxic chemicals have changed the ecological system on a large area, leading to serious degradation, turning an abundant ecological system into a degraded and ragged one, and, finally, seriously affecting human beings.

The destruction of forests by toxic chemicals badly affected 28 river basins in the center of Vietnam. Over the past years, floods have destroyed these river basins, leading to great human and material losses.

Some 366 kilograms of dioxin were sprayed over the landscape. Even today, the concentration of dioxin is still at a very high level in the soil of most extensively affected areas. Studies in some hotspots, such as A So area and the Danang and Bien Hoa Airbase, show that dioxin contamination continue to contaminate people living in these areas.

We can say that war does not end when the bombs have stopped falling and the fighting has finished. Its devastating aftermath continues long after on the land and in the minds and bodies of people.

The rehabilitation of forests destroyed by toxic chemicals is an urgent and difficult task and a costly and resource-consuming process. By doing so, we hope to re-establish the ecological balance in Vietnam to preserve its biodiversity, to do our part in delaying global warming, and, most importantly, to reduce the hard and miserable life that inhabitants of the area have been suffering.

To grow one or two trees is very easy, but to plant thousands of hectares of forests is not simple, especially given the fact that the soil has become far less fertile. Nowadays, we have made some effort to re-green Agent Orange/dioxin-ravaged areas, but much more remains to be done, and our resources are very limited.

In conclusion, we can say that alteration of the Earth's ecosphere is part of an ongoing process that is increasingly influenced by human activities, of which warfare is among the most destructive. However, the chemical war conducted by the United States in the south of Vietnam has been the worst yet of all of its kind. And its impact on the environment and human beings is unprecedented in the history of humankind. Its tragic consequences persist even today and will continue for generations to come. And the poor, who depend most directly on natural resources, suffer the most from it.

Restoration of the war-ravaged environment is a matter of particular urgency, and dioxin-contaminated hotspots need to be cleaned up urgently. The Government and the people of Vietnam have undertaken a number of activities to overcome the consequences of Agent Orange. However, the efforts made can only meet a part of the huge and complicated demands raised by the toxic chemical dioxin-related consequences in Vietnam.

In recent years, U.S. Government and some NGOs from the United States have supported Vietnam in research and in overcoming the consequences of Agent Orange/dioxin. We highly appreciate this willingness and activities.

I hope that this hearing on the Agent Orange issue convened by the Subcommittee on Asia, the Pacific, and Global Environment will provide the U.S. Congress and the United States public with a better understanding of the severity of damage of the toxic chemical used by the U.S. Army during the war in Vietnam on the environment and the entire Vietnamese people, and call upon their responsibility and humanity to help the Vietnamese people to recover the scar of this tragedy in order to drive away the "last ghost of war" within our two countries, the United States and Vietnam. Some good seeds have been sown and are growing well, but a huge garden is waiting for our further work.

Thank you for giving me the opportunity to appear before all of you today.

[The prepared statement of Mr. Quy follows:]

Statement of Vo Quy

Former Director, Centre for Natural Resources and Environmental Studies
National University of Ha Noi, Vietnam

Before the
United States House of Representatives
House Committee on Foreign Affairs,
Subcommittee on Asia, the Pacific and the Global Environment

For the hearing on "Agent Orange: What Efforts Are Being Made To Address The Continuing Impact Of Dioxin In Vietnam?"

June 4, 2009

Mr. Chairman, and Members of the Subcommittee,

Ladies and Gentlemen.

First of all, I would like to express my sincere thanks to Chairman Faleomavaega and the Subcommittee for organizing this hearing on: "Agent Orange: What Efforts Are Being Made To Address The Continuing Impact Of Dioxin In Vietnam?" I am pleased to have this opportunity to discuss the the Impact of Agent Orange/Dioxin on the Environment in Vietnam. This issue has been with us – the Vietnamese – for a long time without a comprehensive solution.

I submit this statement in my capacity as a zoologist, ecologist and environmentalist working at the university of Hanoi. For 40 years I have the opportunity to work on the issue of the effects of US toxic chemicals sprayed in the South of Vietnam during the period 1971-2008. Several years before 1970, I have got information from outside that in the south of Vietnam, some kind of herbicides, which are the same kind that are used by farmers against weeds, had been used by the US Army to make the forest defoliated but are not harmful to the ecosystem, to animals or the soil and to humans. But the information from the south of Vietnam at that time is very different: large forest areas had been destroyed, animals had been killed, and the herbicides sprayed were severely harmful to human. During the war, in 1971 and then in 1974 I was sent to the South of Vietnam as a leader of a group of Vietnamese scientists to testify the events.

Our first field surveys were undertaken in 1971 in Vinh Linh of Quang Tri province, north of 17th parallel, and then in 1974, along the Ho Chi Minh Trail, from Quang Tri to Dac Lak for three months. After the war, from 1976 to 2007, our surveys were also conducted in many places in southern Viet Nam, which were severely affected by toxic chemicals. A comparative study was also applied to sprayed and non-sprayed areas by time and space in order to determine the extent of impact of toxic chemicals used on the forest, fauna, flora, soil, water and humans. The war ended over 30 years ago, but in Vietnam there remain many large areas affected by toxic chemicals, which have seen no

economic activity by human so far. This give us the opportunity to observe, do research and correctly evaluate the long-term effect of toxic chemicals/dioxin and other military activities on the environment, forest ecosystems and the life of people in these areas.

I would like to take this opportunity, to express my sincere thanks to many reputed American scientists, such as Arthur W. Galston, E. W. Pfeiffer, Arthur Westing, Arnold Schecter, J. D. Constable and others for their kind and long support, encouragement and help.

The impacts of toxic chemicals during the last war in Vietnam on the environment

Wartime destruction of the natural landscape is nothing new, but the scope of destruction of nature in the Vietnam War is unprecedented in the human history. The damage to the environment was so intense and widespread that it has given rise to the term "ecocide". The attacks on the environment by the US military on a massive scale for many years, were highly systematic and led to the destruction of many ecosystems in large areas of Vietnam. Among the means employed were high-explosive (munitions, napalms, landmines), large-sized bulldozers, and especially toxic chemical herbicides. They all resulted not only in serious health effects, but had an immediate and long-term impacts on the soil, nutrient balance, hydrological regimes, plants, animals, and perhaps even the climate of Vietnam and the region. Nearly four decades later, many of the affected ecosystems have not yet recovered. The long-term consequences include loss of ecosystems and biological diversity, economic stagnation, severe constraints on human development, poverty, malnutrition, disease and other socioeconomic problems. World Bank 1995 mentioned: "*Environmental damage was an important tactic as well as a repercussion of the Second Indochina War of 1961 to 1975. The strategy involved in destruction of natural resource base essential to agrarian society. The theatre of these operations was mainly southern Viet Nam. The result was not only heavy direct casualties and continuing medical complications, but also the widespread disruption and degradation of productive ecosystems*".

The most destructive ecological impact was found on the forest. Before the Vietnam war, forests in southern Vietnam covered an area of about 10.30 million hectares. During the last war, from 1961 to 1971, over 77 million liters of toxic chemicals were used (Stellman *et al.* 2003), mostly Agent Orange, that contains dioxin compounds (TCDD), a highly toxic substance. Agent Orange-contaminated area make up over 24 percent of the land area of southern Vietnam (FIPI 2007); 86 percent of the amount of toxic chemicals was directed against forested areas; the remaining 14 percent was directed against agricultural lands, primarily rice production. The US attacks affected more than 2 million hectares of forests. The extent of the toxic chemicals' impact varied, but ultimately resulted in the destruction of more than 150,000 hectares of mangroves, about 130,000 hectares of *Melaleuca* forest in the Mekong Delta, and many hundreds of thousands of hectares of inland dense jungle. K. Graham, a US journalist and writer,

mentioned: *"No war wreaked environmental damage quite like the Vietnam War that was fought in the rain forests of Southeast Asia. Bombs incinerated trees and fouled waterways. Herbicides killed forests. Other forms of war machinery inflicted still more harm to ecosystems while searching out their human prey"* .

The toxic chemicals were sprayed from the 17th parallel, south to Cape Ca Mau. Many types of forest and natural resources in southern Vietnam were affected. This chemical war, the most extensive in history, substantially depleted the forests that are so important to the sustainable development of Vietnam.

The seriousness of forest deterioration

A huge volume of highly-concentrated toxic chemicals was repeatedly sprayed over a vast area during a long period in southern Vietnam. Approximately 34% of the target areas sprayed more than one time and some areas, especially upland forests, were sprayed up to four times. It killed trees and animals, caused pollution to the environment and disturbance of natural ecosystems. It has left behind highly-depleted forest resources. The herbicides sprayed with high concentration have not only destroyed the nutritious composition, making the soil poor and degraded, and it can be said that the areas sprayed with toxic herbicides, under the monsoon tropical conditions like in the Centre and South of Viet Nam, then, the forests are difficult to be rehabilitated naturally. The US toxic chemicals have changed the ecological system on a large areas leading to serious degradation, turning abundance ecological system into a degraded and ragged one, and finally seriously affecting on human being. During exposure to the toxic substances, leaves of hundreds of species of trees fell, particularly large forest woody trees died, leading to a scarcity of the genetic pool of some precious species. As the consequence, forest canopies were destroyed, the forest environment rapidly deteriorated.

Sprayed continually with toxic chemicals, very large forest areas have been completely destroyed (more than hundreds of square kilometers per site), and ecological conditions have changed. Since the forest cover is no more, surface soil is subject to erosion by heavy rain. Favorable conditions for the growth of forest trees, in terms of soil humidity, light, and temperature, are no longer available. Forest tree saplings cannot grow

normally, and it is too difficult for seedlings and seeds to be transferred here from neighboring forests. Besides, once weeds invade the areas, forest fires may occur during the dry season, making it very difficult for forest trees to generate naturally.

Many forest areas were heavily destroyed due to large, lengthy and repeated spraying of toxic chemicals in addition to other effects caused by bulldozers and napalm bombs that burnt out and killed naturally generative species under forest canopies. When forest trees died, species of wild weed such as *Pennisetum polystachyum* (known now to local people as "American grass", *Imperata cylindrica*, and reds reappeared (Vo Quy 1983). Satellite and aerial images taken from different periods reveal that forests that have not yet rehabilitated, that many of the sprayed tracks have become savanna, and that many steep areas remain bare due to erosion.

Research outcomes have identified more than 3.3 million hectares of natural lands affected by toxic chemicals; of which about 2 million hectares of inland forests have been badly affected to different extents, causing a loss of more than 100 million cubic meters of timber. Many large areas affected by herbicides had remained unsuitable for cultivation or livestock breeding 30 years later.

We can say that Agent Orange, as the main component of the toxic chemicals used by US army during the war in Vietnam, has reversed the natural conditions and turned rich forest ecosystems with high biodiversity into exhausted ones. Favorable habitats for many specific animals of rain forests, especially for large endemic species of Vietnam, have been lost.

Other implications caused by the US chemical warfare include damages to the environment and biodiversity. The massive fall of leaves causes congestion of nutrients. Ten to fifteen millions bomb craters making up 1% of the forest area in South Vietnam have disturbed the land surface, causing soil to be washed off. This consequence has directly hindered forests from the successful rehabilitation. The destruction of forests by toxic chemicals badly affected 28 river basins in the Centre of Vietnam: destroyed forest make up 30% of the total area in 16 basins; 30 - 50% in 10 basins, and more than 50% in two basins. Most of these rivers are short and run through complicated terrains, which directly influence lower sections. Over the past years, floods have destroyed the

Huong, Thach Han, Han, Thu Bon, Tra Khuc, Con, Ve, Cau, and Ba River basins, leading to great human and material losses.

During the Vietnam War, the inland rain forests and mangrove forests were seriously hid. Many animals, including mammals ands birds, were killed directly by the toxic chemicals. However, the most serious impact has been the destruction of the ecosystems, which provided habitats for many endemic animal species in Southeast Asia. Most of them have become rare and some are now in danger of extinction (Vo Quy 1983).

Some 366 kilograms of dioxin (Stellman 2003) were sprayed over the landscape, mainly in rural South Vietnam. Even today, the concentration of dioxin is still at a very high level in the soil of most extensively affected areas - about 25 "hotspots" - , such as in some of the former US military bases, and in some places where unintended emergency dumping of Agent Orange occurred. Dioxin contamination is heavily affecting the local environment and inhabitants. Studies in some "hot spots" such as A So area (Thua Thien-Hue), and the Da Nang, and Bien Hoa airbases show that dioxin contamination continue to contaminate people living in the area. The dioxin has passes from the soil to humans via the food chain. Other possible modes of ingestion of dioxin include dust inhalation, absorption through skin, and unintentional direct ingestion of dioxin-contaminated objects by small children (Dwerchuk *et al.* 2002).

We can say that **War does not end** when the bombs have stopped falling and the fighting has finished. Its devastating aftermath continues long after, on the land and in the minds and bodies of people. Over three decades have passed since the ending of the Vietnam War, but many dioxin-sprayed areas continue to deteriorate, and the people in these areas are still suffering. In some areas, without forests, the traditional culture of minority group falls into oblivion.

Forests need to be replanted

In order to regenerate the forest cover in the large areas destroyed by toxic chemicals, it is necessary to reforest because we cannot expect a natural evolution of the affected forests, and we do not know how long it will take. The rehabilitation of forests destroyed by toxic chemicals is an urgent and difficult task and a costly and resource-consuming process. Realizing that forest loss is the most serious factor threatening the long-term productivity of the country's natural resources, we have begun a large-scale planting program in order to regreen our war-scarred land and also correct the mistakes of

rapid development, and to prevent the impact of climate change. The aim is to reforest 40-50% of the country's area in the 21st century. By doing so, we hope to reestablish the ecological balance in Vietnam, to preserve its biodiversity, to do our part in delaying global warming, and most importantly, to reduce the hard and miserable life that the inhabitants of the area has been suffering.

To grow one or two trees is very easy, but to plant thousands of hectares of forests is not simple, especially given the fact that the soil has become far less fertile. After the war, Vietnamese scientists attempted to replant several species of indigenous trees in the areas that had been destroyed by the US's massive toxic chemicals raids. However, their trials failed, largely because the young saplings were killed in forest fires ignited by the intense tropical sunlight during the dry season. Nowadays, we have successfully planted thousands of hectares of rain forests. To protect seedlings from the burning tropical sunlight, Vietnamese scientists have established a forest cover of fast-growing trees. When these trees gain a sufficient height - which takes about three years - we plant several indigenous species of forest trees beneath them.

Nowadays, we have made some effort to re-green the Agent Orange/dioxin ravaged areas, but much more remains to be done, and our available resources are very limited. Follow one of five priority areas identified by the US-Vietnam Dialogue Group on Agent Orange/Dioxin: *Restoring landscape and other aspects of the environment affect by the wartime use of Agent Orange*, in order to improve the quality of the restoration of damaged areas, to overcome the gap in knowledge of local inhabitants, and other possible sources of failure, capacity building initiatives are needed. Priorities include organizing training courses to equip the managers, technical staffs and key farmers in areas affected with the understanding of the effects of toxic chemicals on their environment and their lives; and to provide them the knowledge, skills, and techniques needed for the rehabilitation of degraded lands and therefore to improve their livelihood, to develop a mechanism and network of managers and practitioners of sustainable utilization of natural resources in order to rehabilitate the degraded lands.

In 2008, with the financial support of the Ford Foundation, a project *"Training of trainers in habitat restoration and reutilization of forest areas and other lands damaged by herbicides during the war"* had been developed in one target province, Quang Tri Province, in the centre of Vietnam with the participation of totally 183 persons, among them there are 92 managers and technical staffs and 91 farmers from 7 districts of the province. Awareness of participants for three target groups have been raised significantly. Many participating farmers begin to apply the knowledge obtained from the course into their production and have commitment to share their experience with other farmers. Many other provinces heavily affected by toxic chemicals ask us to organize the same training courses for them and help them to recover the ravaged areas by war.

Conclusion

Alteration of the earth's ecosphere is part of an ongoing process that is increasingly influenced by human activities, of which warfare is among the most destructive. Its negative impact is reflected at virtually all levels of evolution – from simple one-celled organisms to plants and human beings. However, the chemical war conducted by the US

in the South of Vietnam has been the worst yet of all of its kind, and its impact on the environment and human beings is unprecedented in history of humankind. Its tragic consequences persist even today and will continue for generations to come, and the poor, who depend most directly on natural resources, suffer the most from it.

Restoration of the war-ravaged environment is a matter of particular urgency, since well-functioning ecosystems are essential to human health and the reduction of poverty, and Dioxin contaminated "hot spots" need to be cleaned up. The government and people of Vietnam have undertaken a number of activities to overcome the consequences of Agent Orange. However, the efforts made can only meet part of the huge and complicated demands raised by the toxic chemical/dioxin related consequences in Vietnam. In recent years, US government and some NGOs from US, such as For Foundation, Vietnam Veteran American Fund (VVAF) and some American friends have supported Vietnam in research and in overcoming the consequences of Agent Orange/dioxin. The Vietnamese side has highly appreciated these willingness and activities.

There is also a need for research in a number of areas to provide a solid basis for sustainable development. We are trying our best to recover the scar of the war, but, due to our limited resources, we can not fully meet their needs, much as we hope to.

I hope that this hearing on Agent Orange issue convened by the Subcommittee on Asia, the Pacific and Global Environment will provide the US Congress and the US public with a better understanding of the severity of damage of the toxic chemical used by US Army during the war in Vietnam on the environment and the entire Vietnamese people, and call upon their responsibility and humanity to help Vietnamese people to recover the scar of this tragedy of a ravaged war, in order to drive away the "Last Ghost of War" within our two countries: United States and Vietnam. Some good seeds had been sowed and are growing well, but a huge garden is waiting for our further work.

Thank you for giving me the opportunity to appear before all of you today.

VO QUY, Former Director of Centre for Natural Resources and Environmental Studies, Vietnam National University, Hanoi, VIETNAM

Mr. FALEOMAVAEGA. Thank you, Dr. Quy.

Our next witness, Ms. Mary Dolan-Hogrefe.

STATEMENT OF MS. MARY DOLAN-HOGREFE, VICE PRESIDENT AND SENIOR ADVISER, NATIONAL ORGANIZATION ON DISABILITY (MEMBER, US-VIETNAM DIALOGUE GROUP ON AGENT ORANGE/DIOXIN AND ALSO DIRECTOR OF THE WORLD COMMITTEE ON DISABILITY)

Ms. DOLAN-HOGREFE. Thank you, Mr. Chairman and Congresswoman Watson. I am Mary Eileen Dolan-Hogrefe, and I serve as vice president and senior advisor of the National Organization on Disability, a nongovernmental disability organization founded in 1982. I would like to thank you for the invitation to testify at this important and timely hearing.

And, Mr. Chairman, I ask for my full statement to be entered in the record.

Mr. FALEOMAVAEGA. Without objection, all of your statements will be made part of the record.

Ms. DOLAN-HOGREFE. Thank you kindly.

In December 2007, I was named a member of the US-Vietnam Dialogue Group on Agent Orange/Dioxin. The level of commitment on environmental and landscape issues has been notable: The dioxin at Danang Airbase is being contained and other hotspots identified. Funding is committed for a $15 million science lab to test soil for toxins. This all bodes well for cleaning up the environment.

I applaud this focus of resources, yet as the disability person of the U.S. side of the Dialogue Group, I would like to see an increase in attention and commitment to disability issues from funders and the U.S. Government.

There are several worthwhile projects on the ground in Vietnam that are helping to improve the human condition. I would like to highlight some areas where improvements are urgently needed, and to further ensure the sustainability of these programs that are under development.

Number one, on-the-ground assessment and limits of community-based rehabilitation. There is no nationwide application of universal disability assessment standards, and there is a desperate lack of expertise in early detection and intervention for infants and toddlers with disabilities. The efforts now are largely implemented by people with limited to no specialized training. As for medically assessing disability, this is usually done by someone without sufficient training. This risks failure to identify nonapparent disabilities, as well as increases the chances of miscategorization of disabilities.

The other concern is the implementation of therapy plans using the community-based rehabilitation model, CBR. CBR can be appropriate and, when applied accurately, has many positive effects. However, for CBR to be effective, sufficient training must be conducted with sufficient supervision.

Number two, need for capacity building for people with disabilities and their organizations. The mantra in the disability community around the world is "nothing about us without us." This needs to be the case in Vietnam, and I encourage the direction of re-

sources toward empowering people with disabilities in growing their own organizations. The U.S. can contribute much here from our own disability community. We should also empower the Vietnamese community by providing technical assistance in disability data collection and survey research.

Opportunities for economic self-sufficiency need be to improved and updated, such as vocational training. American businesses that invest in Vietnam and employ Vietnamese should follow the Americans with Disabilities Act when it comes to employment and accommodations.

And finally, number three, there is a great need for professional knowledge exchange and capacity building for the medical and rehabilitation communities. Vietnam needs a comprehensive and coordinated approach for growing expertise in these fields, and the United States can provide much assistance.

While it is true that the United States has been and continues to be a large humanitarian contributor to Vietnam, contributions from the U.S. need to be framed within the context of a greater moral responsibility and not just technical assistance and foreign aid.

The U.S. and Vietnam are forever intertwined as a result of the war. The fates of American and Vietnamese veterans are also intertwined as a result of Agent Orange. We cannot and should not ignore this important historic nexus in which this disability crisis is playing out in Vietnam, nor should we ignore the continuing effects from Agent Orange on our U.S. veterans and their families.

I was a primary contributor to a paper just published by the National Organization on Disability titled, "U.S. Vietnam Veterans and Agent Orange: Understanding the Impact 40 Years Later." And I ask for the NOD paper to be part of the record, as well.

This paper calls for the following action steps in the United States: Provide outreach to all affected veterans and their families, health practitioners and disability-related service agencies; make available medical care for affected children and grandchildren; have a fresh approach to research, including a scientific consensus on unanswered questions related to Agent Orange; use of existing data for further research, particularly from the Ranch Hand study and the industrial worker data collected by the National Institute for Occupational Safety and Health; expansion of the Agent Orange Registry into a complete database of affected veterans and their offspring; coordination of data across the whole spectrum of veteran services; and, finally, provide direct services to veterans and their families in their communities.

In closing, I wish to thank you again, Mr. Chairman and the committee, for its attention to this issue. I thank my fellow members of the Dialogue Group for their partnership and leadership, and for the Ford Foundation for convening the Dialogue Group and for its commitment to this issue.

Thank you.

[The prepared statement of Ms. Dolan-Hogrefe follows:]

Testimony by:

Mary Eileen Dolan-Hogrefe
Vice President and Senior Advisor
National Organization on Disability

June 4, 2009
House Committee on Foreign Affairs
Subcommittee on Asia, the Pacific and the Global Environment

Mr. Chairman, members of the Committee, my name is Mary Eileen Dolan-Hogrefe, and I serve as Vice President and Senior Advisor of the National Organization on Disability – a non-governmental disability organization founded in 1982. I would like to thank you for the invitation to testify at this important and timely hearing. Mr. Chairman, I ask for my full statement to be entered in the record.

The National Organization on Disability (NOD) is one of the longest running cross disability organizations in the country. We focus on the number one issue facing our constituency which is employment and economic self-sufficiency for people with disabilities. We work in partnership with the United States Army to conduct the Army Wounded Warrior Careers Project which serves the most severely wounded Army soldiers in three demonstrations sites in the US. Funding for NOD comes from individuals, foundations and corporations, and from time to time from government.

In December 2007 I was named a member of the US –Vietnam Dialogue Group on Agent Orange/Dioxin, a citizen bilateral group addressing two dioxin related humanitarian issues from the Vietnam War – environment and disability. Since that time I have traveled twice to Vietnam. My purpose is to provide insight and information on disability issues.

My statement is based on my two trips to Vietnam – in February 2008 and April 2009 as well as on the myriad of conversations I have had over the past year and a half with experts and others who have worked on this issue far longer than I. In my travels to Vietnam, I have done site visits and met with a number of ngo's and other experts.

The level of commitment within and outside of Vietnam on environmental and landscape issues has been great. The dioxin at DaNang airbase is being contained, and other hotspots identified. The Bill and Melinda Gates Foundation and the Atlantic Philanthropies, along with the Government of Vietnam are funding the development of a $15 million lab that will be a state of the art scientific facility to test soil for toxins. This all bodes well for cleaning up the environment.

I applaud this focus of resources on environmental concerns, yet as *the* disability person on the US side of the Dialogue Group, I would like to see an increase in attention and commitment to disability issues.

Given the limited resources available at present, there are many worthwhile projects on the ground in Vietnam that are helping to improve the human condition such as those being carried out by Vietnam Veterans of America Foundation, East Meets West Foundation, and Children of Vietnam. These projects follow the principles of Community Based Rehabilitation, which was established in the 1980's by the World Health Organization as the guiding principle that individuals benefit most when care and rehabilitation are conducted within their own communities. These organizations are establishing protocols and procedures for the care of people with disabilities in their own communities and I applaud their efforts, that of their dedicated staff and the funders who are devoting resources.

The human health and disability issues in Vietnam are quite severe. Poverty compounds the problems. Access to health care, transportation, school, employment, isolation are all challenges that people with disabilities face. These are not particular to Vietnam, for they are universal gaps for the disability community all over the world.

Despite the fact that some much needed attention is being directed to the disabilities in Vietnam, I would like to highlight some areas where improvements are urgently needed. I do not do this for purposes of embarrassment but rather to shine a light on the great need for additional resources to improve what is being put in place, and to deepen and strengthen the impact. Furthermore, I am concerned that sustainability for these programs currently under development will be threatened without the following being adequately addressed:

1. On the Ground Assessment and Limits of Community Based Rehabilitation

Well intentioned efforts are being taken by both American and Vietnamese organizations to identify people with disabilities, assess their disability, determine needed therapies and/or interventions, and then carry out those therapies or interventions in home or within the commune environs. However, there is no nationwide application of universal disability assessment standards, and there is a desperate lack of expertise in early detection and intervention for infants and toddlers with disabilities. The efforts now occurring are largely implemented by people with limited to no specialized training be they the commune health workers, or family members.

As for medically assessing disability when assessments are done, it is usually by someone without truly sufficient training. This risks failure to identify non-apparent disabilities, as well as increases the chances of mis-categorization of disabilities.

The other concern is the implementation of therapy plans using the Community Based Rehabilitation (CBR) model. CBR can be appropriate and when applied accurately has many positive effects. However, for CBR to be effective, adequate training must be conducted with adequate supervision. Effective and safe treatment must be the goal. This can occur within CBR and the programs on the ground now can benefit from a strengthening of the cadre of individuals working for these programs.

2. Need for Capacity Building for People with Disabilities and Organizations of and For People with Disabilities

The mantra in the disability community around the world is nothing about us, without us. This needs to be the case in Vietnam, and I encourage the direction of resources toward empowering people with disabilities, and growing their own organizations.

A critical part element to empowering the community is to ensure accurate data collection. Disability survey research is just one of many areas where the US can provide technical assistance.

Opportunities for economic self-sufficiency need to be improved and updated. Vocational training should be expanded to include training for the new industries coming to Vietnam – high tech for instance. People with disabilities should not be relegated to subsistence level trades of years gone by. The business community – investors in Vietnam – both foreign and Vietnamese - should invest in this community. American businesses that invest in Vietnam and employ Vietnamese need to follow the Americans with Disabilities Act especially when it comes to employment and accommodations and put to use the abilities of people with disabilities.

3. Need for Professional Knowledge Exchange and Capacity Building for Medical and Rehabilitation Community

Vietnam needs expertise in disability treatment and rehabilitation. While there have been several visits by US medical professionals to share knowledge and expertise in Vietnam, a comprehensive and coordinated approach is needed.

The disability need far exceeds the supply of medical personnel and other disability related resources. There is a great need for people trained in therapies that help improve the lives of people with disabilities, such as physical, occupational, and speech therapists for instance. Dr. Phuong, the distinguished member of the Dialogue Group on the Vietnamese side, and noted ob-gyn, shared with me her concern for the lack of early detection and intervention specialists in Vietnam. A comprehensive plan is needed for technical support and knowledge exchange. The US can be a great resource and should be.

In the February 2008 Dialogue Group meeting in Hanoi, when I was asked to comment on disability issues in Vietnam, I called for a focus on the following:

1. advocacy and awareness for and by people with disabilities themselves, their families and ngo's
2. improving and/or creating systems of service delivery and case management
3. training medical professionals and paraprofessionals
4. education for people with disabilities
5. improve job training and provide opportunities for a life of economic self-sufficiency
6. need for respite care and long term care facilities
7. alleviate immediate suffering through medical attention

I still believe these points to be critical for Vietnam and encourage attention by all those working on these issues to find ways to devote resources to help people with disabilities and enhance their potential through a multidisciplinary approach to disability.

The disability community is extremely thankful to Senator Leahy who single handedly ensured the two separate appropriations of $3 million each for Vietnam. Due to the scale of the problem and what should be a non-partisan humanitarian issue, I am surprised there are not more champions.

The US needs to commit resources and expertise to Vietnam to continue resolving the environmental problems caused by Agent Orange, and to help create a disability movement which would improve medical attention, and offer capacity building. And, as we in partnership with the people of Vietnam help resolve war legacy issues, let us show our leadership here at home by resolving Agent Orange legacy issues for our US Vietnam Veterans and their affected family members.

I was involved in the research and writing of the paper by the National Organization on Disability titled: "US Vietnam Veterans and Agent Orange – Understanding the Impact 40 Years Later". It is clear that the US has fallen short in what we should and should have provided to our US Vietnam veterans. And, there is compelling information that many families have also been affected and continue to be affected.

I ask for the NOD paper to be submitted as part of the record.

The paper calls for the following action steps to help US Vietnam veterans and their families affected by Agent Orange and dioxin:

1. Provide outreach to all affected veterans and their families
2. Provide outreach to health practitioners and disability-related service agencies
3. Make available medical care for affected children and grandchildren
4. Have a fresh approach to research including:
    a. A scientific consensus on unanswered questions related to Agent Orange and dioxin and means of addressing them.
    b. Broad, well-supported use of existing data for further research — particularly information from the Ranch Hand study and the industrial worker data collected by the National Institute for Occupational Safety and Health.
    c. Expansion of the Agent Orange Registry into a complete database of affected veterans and their offspring.
    d. Coordination of Data Across the Whole Spectrum of Veterans Services:

And finally,

5. Provide direct service to veterans and their families, in their communities: which proved its merit and need through the Agent Orange Class Assistance Program in the 1980's and early 1990's

In closing, I wish to thank you again Mr. Chairman and the Committee for its attention to this issue. I thank my fellow members of the Dialogue Group for their partnership and leadership, and the Ford Foundation for convening the Dialogue Group and its commitment to this issue.

Mr. FALEOMAVAEGA. Thank you.

Ms. WATSON. Mr. Chairman, apparently we have a vote on the floor. What are your intentions in terms of the committee?

Mr. FALEOMAVAEGA. I do intend to continue, but we both have to go vote on the floor.

And I just would apologize for the inconvenience of the realities. But I believe—Mr. Weidman, can you just reserve your testimony? Because we are just going to go vote and be right back. We will just have a little recess for 15 minutes, and we will be right back.

[Recess.]

Mr. FALEOMAVAEGA. I truly apologize to the panel. I wish there could have been a better way of conducting votes in the House, but this is how it has been ever since before I showed up. So thank you very much for your patience.

I think we have saved the last one for the best.

Mr. Weidman, please proceed.

STATEMENT OF MR. RICK WEIDMAN, EXECUTIVE DIRECTOR FOR POLICY & GOVERNMENT AFFAIRS, VIETNAM VETERANS OF AMERICA (VVA)

Mr. WEIDMAN. Thank you very much, Mr. Chairman. I am not sure that I am the best on this panel. This is a very distinguished panel, and the three predecessors to me on this panel are extraordinary.

First, I want to, if I may, sir, pay due respect to the National Organization for Disability for all their great work, and particularly to Mary Dolan for her extraordinary work on the report that was released on June 1st, earlier this week, as being an extraordinary——

Mr. FALEOMAVAEGA. And, without objection, I am sure, that report will be made part of the record.

Mr. WEIDMAN. That is great. It is really a fine piece of work, sir, and will stand American veterans in good stead.

I want to touch on a couple of things. One is, in terms of this hearing, you asked, was enough being done on the American side? And the answer to that is still no, the same as it was 13 months ago.

At that time, there were no studies funded by NIH, by VA, by Department of Defense, by EPA, or by ARC, or anyone looking into the long-term health care deleterious effects of Agent Orange and other toxic substances utilized in Vietnam during the American war there, and today there are still none.

We have great hope with the new administration. We have talked with Secretary Shinseki already, as well as to the White House, about the need for restarting things. And as soon as Secretary Shinseki is able to put in place new leadership within the Veterans Health Administration, and particularly within the research and development section of the Veterans Health Administration, we believe we will start to get some movement and start to get some additional research.

Similarly, there has been a great deal of progress within the past 13 months in talking with the leadership of the House, particularly with Chairman Bob Filner of the House Veterans' Affairs Committee, in regard to Agent Orange legislation. We have some legis-

lation now introduced. And it is just the first in a series of things that we believe will be able to move forward.

Most hopefully, Speaker Pelosi publicly committed to the veterans organizations and military service organizations at a meeting we had this spring to have substantive, significant action on Agent Orange during the course of the 111th, not necessarily this session but before the 111th ends next year. And she has always kept her promises to America's veterans, and we trust she will keep this one as well.

At that time, we also talked about the crying need for additional research and education of veterans. And since that time, we have issued a new self-help guide on Agent Orange that is available on the Web. And there are copies provided so that you can share one with the offices of each of your distinguished colleagues. But it is also available by going to the VVA Web site, vva.org.

In addition to that, we have teamed with the private sector, with medical societies and disease organizations such as the American Diabetes Association, the National Men's Health Network, Easter Seals, and others, to form the Veterans Health Council. This is the little brochure.

And we created a new Web site called www.veteranshealth.org. And when you go on that, you click on your service ribbon from your generation. So you and I from Vietnam would click on the Vietnam Service Medal. The Gulf War I vets would click on the Gulf War I Service Medal, and similarly for the global war on terror folks. And it is part of the effort to educate American clinicians, but it is still very small and not terribly well-funded.

Last, but by no means least, is you asked the question, is enough being done in Vietnam? This gets to be complicated for a veteran service organization because our job is predominantly to advocate for American veterans, for our members and those eligible to be our members, and their families.

In regard to birth defects, there is no registry. And that is one of the reasons why Ms. Dolan's report is going to be so useful, is it is not just us saying it, it is an internationally respected institution coming out and saying, we need this birth defects registry and we need a real registry to track the health of Vietnam veterans themselves, in addition to their progeny.

But in regard to Vietnam, I can answer personally. I was raised to believe in my family that stewardship was a big deal, that you leave things better than you found it. I was a Boy Scout all the way up and took a lot of ribbing because even when I was a senior in high school in New York City I still was a Boy Scout, mostly because I could get out of the city cheaply, and that was the only way I could afford it. But I was. And I was always taught, and took it as something I have always tried to live to all my life, you always leave the area better than you found it, at least as good or better than you found it.

And we did not do that when we went into Vietnam and fought our war there. It is unfinished business. We need to go back and police up our campsite. And whatever it takes in order to restore that, it is—and, once again, I am speaking personally because my organization does not have a stake in this—we need to do something about it. It is a moral imperative, as you put it so eloquently.

We also believe and have evidence—and today is not the time to bring that forth, but we would be happy to work with you, as well as with the House Veterans' Affairs Committee staff, Mr. Faleomavaega, is we believe that the U.S. Government knew going in about many of the harmful effects of the herbicides. And whether that will make any difference or not, what we do know is that that is the case. And it will have implications both for our counterparts in Vietnam as well as for American veterans and their children, grandchildren, and great-grandchildren.

I will be happy to answer any questions, sir. Thank you.

[The prepared statement of Mr. Weidman follows:]

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Testimony of

Vietnam Veterans of America

Presented by

Richard Weidman
Executive Director for Policy & Government Affairs

BEFORE THE

House Foreign Affairs' Subcommittee on Asia, the Pacific, and the Global Environment

REGARDING

"Agent Orange: What Efforts Are Being Made To Address The Continuing Impact of Dioxin in Vietnam?"

June 4, 2009

Good Afternoon, Mr. Chairman, and Members of this distinguished Subcommittee, on behalf of VVA National President John Rowan and all of our officers and members we thank you for the opportunity for Vietnam Veterans of America (VVA) to appear here today to share our views on the issue: "Agent Orange: What Efforts Are Being Made To Address The Continuing Impact of Dioxin in Vietnam?" I ask that you enter our full statement in the record, and I will briefly summarize the most important points of our statement.

As I told this distinguished Subcommittee last year, Vietnam Veterans of America (VVA) took our first mission back to Vietnam after the war in December of 1981. That mission was led by our then President, and founder, Robert O. "Bobby" Muller. The substance was two fold: first, to start the process of securing cooperation of the Vietnamese government in achieving the fullest possible accounting of our POW/MIA from the Vietnam ware (or "the American war" as the Vietnamese called it); and, second, to move toward research in Vietnam as the natural laboratory for research into the epidemiological impact of Agent Orange and the other toxins used or inadvertently deposited in Vietnam during our presence there.

VVA has returned to Vietnam many times since, always focusing on these two core missions. Since the early 1990s, VVA has had the "Veterans' Initiative" (VI) of collecting information about graves of North Vietnamese Army casualties after battles with our forces that are contributed by American veterans who fought in Vietnam, including information, artifacts, etc. that VVA has transmitted to the Veterans Association of Vietnam. This veteran to veteran project has, according to the Vietnamese, contributed to the continued high level of cooperation that the Vietnamese have accorded the J-PAC forces searching for American remains in an effort to locate remains of missing American service members, repatriate them, and help bring closure to the families that have waited so long for final word on the fate of their loved one. Additionally, the Vietnamese have used the information imparted to continue their process of locating the remains of their MIA, and bringing closure to the Vietnamese families in a similar fashion. Our most recent VI mission to Vietnam was just last October.

As to Agent Orange, VVA continues to be the leader among American veterans groups in pressing for more research and action regarding the deleterious and adverse health effects of Agent Orange and other herbicides and toxic substances such as DDT and Malathion to which we, and Vietnamese forces and population were exposed to during the war Much of the residue of these toxic substances remains in Vietnam, and continues to expose the population to these dangerous chemicals. The common perception is that it is an "Agent Orange" problem, but that is only one of the herbicides used in Vietnam, and only accounts for about 48% or 49% of the aerial spraying.

As was the case last year, there is still debate from a few individuals about whether Agent Orange was and is harmful human beings. Dr. Alvin Young continues to say, as he put it in testimony to the panel of scientists convened by the Institute of Medicine (IOM) of the National Academies of Sciences (NAS) last year: "The bad news is that Agent Orange was so widely dispersed by aerial spraying, ground vehicles, and by hand that virtually all who served there would have come in contact with it, but the good new is that most of it is not harmful." Dr. Young continues to contend is that only the Agent Orange that contains 2, 4, 5T was harmful, and that only very limited amounts were used during the early years of the spraying. VVA has reason to doubt that dioxin is good for you, and has told that to Dr. Young repeatedly. It appears that actually the highest concentration of 2, 4 D and 2, 4, 5 T was actually contained in Agent Pink, which was used extensively and primarily along roads and perimeters.

These were a total of at least 15 different agents used at one time or another during our military presence in Vietnam for defoliation and (apparently) for crop destruction to deny food to enemy forces during the war. A number of these agents were used only in very limited tests for possible effectiveness, and therefore only minute amounts of these toxins were left behind. However, Agent Blue, Agent White, and Agent Purple were used extensively, particularly for destruction of rice crops, and for defoliation along roads. The basic ingredient of Agent Blue is commonly known as salt of arsenic. You do not have to be a chemist to understand that arsenic is not healthy for humans and other living things.

Much progress has been made over the last thirty years, but it has been sporadic. I have attached to this statement a copy of "The VVA Self-Help Guide to Service Connected Disability Compensation For Exposure To Agent Orange For Veterans And Their Families" that encapsulates the situation for American veterans and their families, and may also prove to be useful to our counterparts in Vietnam, who also suffer from the same or similar conditions. (see Appendix I)

Because the VA does not do outreach very effectively (or in many cases at all) to tell veterans of any generation about the special long term health care risks they carry as a result of their military service to country, VVA has teamed with the private sector medical societies, disease advocacy organizations, some other veterans' organizations, private pharmaceutical companies, and health care organizations to educate private clinicians, veterans who never go near the VA, the families of veterans, and the general public as to the wounds, maladies, and injuries of war. We call this effort the "Veterans Health Council."(See Attachment II or go to www.veteranshealth.org)

One key aspect of research was seeking to get research going in Vietnam, as it is still the "natural laboratory" where all of this actually took place, and when we left the toxins were left behind. Really from the 1980s forward, and intensively from about 1995 until 2001 VVA pushed hard to secure an agreement, and the funds, to bring about scientific research in Vietnam about these toxic substances. Thanks in particular to the Senators Daschle, Harkin, Kerry and Hagel, and Congressman Lane Evans, the funds were appropriated for three years in a row to the National Institute for Environmental Health Sciences (NIEHS) specifically for this purpose, but remained unused. Some of the delay was due to recalcitrance on the part of NIEHS and some due to the reluctance of the Vietnamese to go down this road. Frankly, the Vietnamese position makes sense to a layman in that they believed that the adverse effects of the toxins on the environment and on human health was pretty much self evident, and that the U.S. Government should accept responsibility for this and move to transfer funds and technical assistance to the Vietnamese to provide medical care and compensation to their citizens, and resources to clean up the toxins still in their environment.

As we explained to the Subcommittee last year, the Memorandum of Agreement between the United States government and the government of Vietnam has come to naught for a variety of reason, not the least of which was the determination of the previous Administration to ensure that nothing substantive came out of it that would assist American veterans and their families in their struggle to get the Federal government to recognize the legitimacy of their claims for illnesses and suffering they and their families have endured. Because that agreement is essentially now dead in the water, we have shifted our focus to seeking research closer to home.

The situation with regard to research funded by the Federal government into the effects of Agent Orange and other toxic substances is still basically the same as it was thirteen months ago. There is currently not a

single study regarding the adverse effects of Agent Orange being funded by any of the National Institutes of Health, nor by the Defense Department, nor by VA nor by the EPA. The previous Secretary of the VA finally commented on the latest findings from the IOM pursuant to the Agent Orange Act of 1991, even though that response was many months late. He rejected out of hand the recommendation of the IOM that should have made hypertension a service connected presumptive disease due to service in Vietnam. When further pressed by VVA for an explanation, there was no additional information or insight into his "reasoning" other than that he had said "No!" Even the $1.5 million for the Medical Follow-up Agency of the IOM to care for the data from the now defunct Air Force "Ranch Hand Study" and to make it available to the scientific community mysteriously disappeared from the two latest VA budgets.

In the past year there has been a good deal of activity in regard to Agent Orange on the part of the leadership of the Congress, particularly due to the strong leadership of Congressman Bob Filner, Chairman of the House Veterans Affairs Committee. We will work closely with the Committee on Veterans Affairs to further sharpen prospective legislation and legislative inquiry into this area. We have a rough draft of what we are asking the Congress to do in Attachment III to this statement. Further, Speaker Pelosi publicly committed to meaningful action on Agent Orange during the 111th Congress in a meeting with veterans service organizations and military service organizations this past Spring.

There is also hope that once Secretary Shinseki has a new team in place to lead the Veterans Health Administration, as well as a new leadership team at the head of Research & Development at VA, that we will be able to petition the Secretary to declare a number of additional conditions service connected presumptive for Vietnam veterans. Those include all of the same birth defects for children of men that are now recognized for the children of women veterans. Other conditions that we have strong reason to believe have enough evidence to be declared presumptive service connected conditions for Vietnam veterans are Parkinson's disease, hypertension, heart conditions, all cancers, most neurological conditions such as ALS and MS as well as other such conditions, endocrinal abnormalities and conditions, and all peripheral neurology problems irrespective of the ate of onset (there is no scientific evidence for the current VA requirement that it must have been diagnosed within one year of service in Vietnam). These are the minimum conditions which we will pursue in the coming year seeking administrative redress that the Secretary of Veterans Affairs has the statutory power to grant.

As a means to bolster to these actions, and commensurate actions that may be taken in Vietnam today we point out that the International Agency for Research on Cancer (IARC) and the United States National Toxicology Program have both declared dioxin to be a known carcinogenic for a full range of cancers.

In addition VVA will seek to have President Obama lift the virtual moratorium on useful scientific research into the long term effects of service in Southeast Asia during the American war in Vietnam. I have attached a rough draft of legislation that we will seek to have introduced this summer in the Congress, with hearings before the end of the first session of the 111th Congress. There needs to be specific research into the wounds, maladies, injuries and conditions that result from military service for every generation of American veterans. Those maladies are different for those of us who served in Vietnam versus those who served in Gulf War I. The point is that each and every generation should be studied, at minimum with ongoing epidemiological studies of each generation of servicemembers. At VVA we take our founding principle very seriously. When we say ***"Never again shall one generation of American veterans abandon another generation!"*** we really mean it.

Mr. Chairman, you asked what should be done for our counterparts in Vietnam. Our answer is that those who are suffering as a result of the actions of the American government need to have their suffering alleviated, no matter where they live and no matter what their nationality. As a former Boy Scout, I learned the concept of stewardship at an early age, both from Scout Leaders and from my family. That means simply leaving anyplace you go in the same condition or better than you found it. America has not done that with Vietnam. It is a wrong and a failure in stewardship that needs to be corrected.

We would be remiss if we did not acknowledge the extraordinary work of Ms. Mary Dolan of the National Organization on Disability (NOD), who released the extraordinarily well done paper "U.S. Vietnam Veterans and Agent Orange: Understanding the Impact 40 Years Later" earlier this week (June 1, 2009). We are grateful for her efforts and those of NOD, as well as the work of the Aspen Institute and the U.S. – Vietnam Dialogue group that led to his report being done. Lastly, VVA acknowledges the financial support of the Ford Foundation in making all of the above noted efforts of the Aspen Institute and the National Organization on Disability possible. I am sure that someone else is submitting this work to ensure that it is on the record for this hearing. If not, I urge the Chairman to ensure that it is included.

All Vietnam veterans ask is parity with how our former adversaries are treated, so that veterans of the United States Armed Services and their families be accorded justice in the health care and benefits for harm done by these exposures. Subsequently or at the same time we do not oppose extensive remediation of the environment and significant transfer of medical and scientific resources to increase the organizational capacity of Vietnam to deal with the problems of their people that are every bit as real as those suffered by our people. American veterans still do not have the answers we need. While we wish the Vietnamese people all the best with their problems due to Agent Orange, it is a fact that American veterans of Vietnam, and our families, are being cast aside by the way things have developed in the past eight years, and particularly so since early 2004. As noted above, we have a great deal of hope that President Obama's administration will reverse this direction

Thank you for the opportunity to provide our brief remarks. I will be happy to answer any questions.

Mr. FALEOMAVAEGA. Thank you, Mr. Weidman, for your eloquent statement, and thank you for your observations. You are absolutely correct. Even though the focus is on what we can do to help Vietnam, just as serious are the implications in terms of what our country is doing about our own veterans and their needs and for those who fought during the war.

Mr. Bailey, thank you very much for a most incisive statement. And I cannot thank enough not only the Ford Foundation but the Bill and Melinda Gates Foundation for all of the assistance they have given.

I noted with interest in your statement that, for the first time, the Government of Vietnam has set up an analytical laboratory to detect dioxin. This is what I was trying to figure out, whether we had the technology or did the Vietnamese Government have the technology? Which is the better of the two, anyway? And it so happens that this was developed by the Vietnamese Government, did you say?

Mr. BAILEY. Thank you, Mr. Chairman.

There are two things here. The analytical laboratory is required to be able to test down to one part per quadrillion, because dioxin can mess up human systems at one part per trillion, so you need to be able to measure below that.

Mr. FALEOMAVAEGA. Well, let me ask you—I don't mean to interrupt you, but it is just basically, as you said, one part per quadrillion. I am just curious, was it really necessary to have the dioxin as part of a compound in Agent Orange to conduct the operations that we did in Vietnam?

I like to think if it was a pesticide or herbicide, to destroy the environment, then it would not have a serious impact on humans. I just wanted to pursue that a little further with you.

Is it your understanding that this was done purposefully or was it by accident? Because there is a certain mixture of this thing that comes out, in and of itself. I was just curious.

Mr. BAILEY. Sir, I am not a scientist, and my reading of the history of this is that these herbicides were commonly used in American agriculture during the 1950s, but in small amounts, on individual farms. And I regard it as a kind of scaling-up problem. When you go from small amounts carefully used by people whose land it is to a large military force using it at the landscape level, bad things can happen.

And everything I have read suggests that it was a manufacturing defect and consequence of running production processes too fast in order to generate the large volumes that were being required.

Mr. FALEOMAVAEGA. The question I raised about this is the fact that it was for a 10-year period, that somewhere or somehow—it seemed to take a while for the Department of Defense and those chemical companies involved to discover that there is dioxin in this mix.

Did we really need it to accomplish the mission, which was basically just to conduct deforestation operations and not any more than what it—as a result of what we now see, that maybe the amount was a lot more than what, as you said, was needed to use as a pesticide or herbicide?

And I was just curious, from your readings and understanding, why was it that we had to put that much dioxin in the mix? That is my question.

And to be fair with you, I know you are not a scientist. Maybe Professor Quy might help us along those lines.

But you say that in the current usage of herbicides and pesticides throughout our own country, there is a very small amount of dioxin contained.

Mr. BAILEY. No. What I was trying to say, Mr. Chairman, was that under normal farm conditions in the 1950s, these were strictly herbicides, for cleaning weeds out of irrigation ditches, for example. But when they started to be produced in much larger volumes, the manufacturers got sloppy and produced this other compound, dioxin, along with the herbicides.

The dioxin, to my knowledge, has no effect as a herbicide itself. It is not required as part of the herbicide action.

Mr. FALEOMAVAEGA. Maybe Professor Quy could help us out on that.

Mr. QUY. The U.S. Army used the herbicide the same like using it in the agriculture, but the more potent—the concentration of this is different from the agriculture. In Vietnam, they used the concentration of the herbicide Agent Orange 10 to 25, something more than the level of the concentration. And that is why they are very toxic.

I can tell you that one kind of compound using normal in the family like sugar. If you eat every day one part of sugar, it is normal. But a human cannot eat in 1 day 10 times or 20 times of sugar. If you eat the same sugar with a high level like this, the sugar will kill the human.

Mr. FALEOMAVAEGA. Professor Quy, is there a lifetime for the dioxin once it is exposed to the air or to the soil or to the trees? Does it disappear over time? You know, like, plutonium is 10,000 years. So is dioxin——

Mr. QUY. Yeah. About 366 kilogram of the dioxin in the Agent Orange that was sprayed in the south of Vietnam. But the dioxin is very toxic, a very small part, 1 million parts a gram can affect the health of the human.

Mr. FALEOMAVAEGA. And one of the reasons for the dangers of dioxin is that it becomes part of your genetic makeup; is this the problem? In other words, if I had consumed, or whatever it is, into my body, that means my children are genetically affected by it just simply because of the poison, or the toxin, if you will.

What I am curious about, in your scientific understanding of this poison, how long does it last? It sounds like it is generational. It could go on for three or four generations. What is your understanding of this?

Mr. QUY. We don't know exactly this will exist in the human being how long. Now, in Vietnam, this is the third generation affected by the herbicide, maybe in the gene of the human. But not all of the human contaminated by dioxin can affect the gene. If the dioxin affected the gene of all people contaminated by Agent Orange in Vietnam, there may be millions, billions of children affected by the herbicide, by the dioxin.

Mr. FALEOMAVAEGA. Mr. Weidman, to your knowledge—and I know you have been following this very well for all these years—have there been incidents or, actually, the same situation, that our soldiers who were exposed to dioxin, that it has generated this genetic defects among the soldiers' children, grandchildren, and great-grandchildren? Have there been cases where it has been verified——

Mr. WEIDMAN. There are cases——

Mr. FALEOMAVAEGA [continuing]. That dioxin was the cause of this defective malady in children, especially for men and women in the military?

Mr. WEIDMAN. I understand what you are——

Mr. FALEOMAVAEGA. See, I keep getting the response from our friends in the administration that there has been no scientific evidence sufficient to prove that there is a connection between dioxin and the health conditions of our soldiers, so, therefore, it could be anything.

And that just kind of bugs me a little bit when they keep evading. The question is very simple: Did it or did it not affect genetically, physically, in every way, those of our soldiers who were exposed to it?

Mr. WEIDMAN. If I may take a stab at that—I am not a scientist either, and so I beg off scientific expertise. But we have learned more than the average bear, as they say, about this over the years.

First of all, it does diminish over time, but many places in Vietnam—as an example, the Tibet Special Forces camp, almost 40 years later, 35 years later, tested at 1,000 parts per billion. And we know that there is no known lower threshold of—nobody knows what threshold you need, but people speculate that it is somewhere around 10 or 12 parts per billion that causes abnormalities.

We know that dioxin, when it passes through the body, does its damage by changing the DNA in the cells, but it damages it in different ways. So it may be different in my DNA than it would be in your DNA, but there are certain birth defects that are recognized as being associated with exposure to something in Vietnam. And that is why we have a list of I think it is 17 things that are associated for women in Vietnam with birth defects, even though only spina bifida is service-connected for the children of male Vietnam vets.

Incidentally, the evidence was no stronger for the women than the men. And that is what causes a lot of people to be suspect about when the government says there is no proof or no scientific evidence. Scientific proof and scientific evidence are two different things. They don't know what causes lung cancer; otherwise, we would have a cure for lung cancer. But every single study shows the association of smoking with lung cancer to the point where nobody doubts it anymore.

But zillions of studies have been done. But if you don't look for these associations, you ain't going to find them. Dow Chemical is not going to fund these studies of my grandchildren or my great-grandchildren. It has to be the U.S. Government, because ain't nobody else going to do it. And the government has not been funding these studies. If you don't look, you are not going to find. It is another variation of "don't ask, don't tell" policy.

Mr. FALEOMAVAEGA. And it is also like, if you ask the wrong questions, you get the wrong answers.

Mr. WEIDMAN. Well, that is absolutely correct. And that is why we are so upset with the lack of research into the long-term effects of Agent Orange.

And, you know, it may be the dioxin, it may be something else in Agent Orange itself, it may be something in the arsenic, it may be something in the organic phosphates and the pesticides that we used in Vietnam, and it may be a synergistic impact of all of those. But what we know is that there are certain conditions that those of us who served in Vietnam versus those who served in military elsewhere, we have certain conditions in a much higher proportion. We believe the same is true of the individuals who live in Vietnam, the Vietnamese, who were in the south during the war and have now gone back north, that it is higher also. But that is why we need the epidemiological evidence.

But, at some point, the government is being disingenuous when it tries to say that you have to find causality, Mr. Chairman. That is baloney. All you have to do is find association and move forward.

Mr. FALEOMAVAEGA. Thank you, Mr. Weidman.

Ms. Dolan, did you wish to comment? You look anxious.

Ms. DOLAN-HOGREFE. I am a bad poker player; I look anxious. Yes, I would, actually, Mr. Chairman. Thank you for the opportunity.

I wanted to draw to your attention that samples from the Ranch Hand studies are now with the Institute of Medicine. They do not have a mandate to do anything with those samples other than to just keep them safe. And that mandate is for a 2-year period of time, which I think terminates in just a little bit over a year.

I have been advised that those samples include information on 8,100 live births to those who were the Ranch Hand individuals, to Ranch Hand parents. And they are tremendously valuable, and they constitute the only body of epidemiological information gathered consistently over time on a group known to be of high risk. I would love to have a research entity have access to those live births data. And it has been advised that one might find something interesting there.

I would also encourage a few other things to be looked at. One is a report done out of the Yale School of Nursing which reviewed some of the analysis on Ranch Hand, looked at it in a different way than some other researchers had, and found the group of individuals from Ranch Hand to be a "vulnerable group" in terms of having children with birth defects.

Mr. FALEOMAVAEGA. Can you describe, Ms. Dolan, when you said "Ranch Hand," for the record?

Ms. DOLAN-HOGREFE. Sure.

Mr. FALEOMAVAEGA. Because I thought maybe you were working on a ranch with cowboys and Indians or something. I am not clear on that.

Ms. DOLAN-HOGREFE. Absolutely, sure. The Ranch Hand was the—and, actually, I should have Rick answer; he could do it even better than I can—but is a term that was used to—the shorthand term used for the gentlemen who were spraying in Vietnam.

Mr. WEIDMAN. It was the code name for the mission of spraying herbicides in the Air Force unit that had that task.

Ms. DOLAN-HOGREFE. Thank you.

And, if I may, just one more quick reference is that a study is coming out this year out of I believe it is New Zealand that is an epidemiological study of their veterans who served in Vietnam who also were exposed. And the Institute of Medicine is awaiting those results and is hoping to find great use from that, as well.

Mr. FALEOMAVAEGA. What about the soldiers, some 50,000 soldiers from South Korea who also served in Vietnam? Mr. Weidman, have you heard of anything from any studies or any concerns coming out of that?

Mr. WEIDMAN. There have been some studies in Korea but not nearly as many as have been done in New Zealand and in Australia.

Incidentally, virtually all the science on dioxin is done elsewhere other than the United States. There are 97 countries that are interested in the question of dioxin minimum and the after-effects of the health care, and virtually none of those studies are done in the U.S.

Mr. FALEOMAVAEGA. By the way, it is my intention for the subcommittee to work very closely with the Veterans Committee, the Armed Services Committee, and hopefully we are going to find something to get into this.

I just want to share with the members of the panel the official position of the United States pertaining to the subject matter, and I want to share this with you:

> "The consistent position of the United States has been that the U.S. military use of herbicides in Vietnam was consistent with international law. In the view of the United States, any categorical ban on the use of poisons under international law is limited to weapons used for the primary and intended effect of causing injury or defoliating military bases, transportation corridors, and other crucial territory, and destroying enemy crops. Therefore, it did not contravene the ban on poisons."

There have been a number of U.S. court decisions, including the recent Second Circuit decision in the case of Vietnam Association for Victims of Agent Orange v. Dow Chemical Company, 517 F.3d. 104. Apparently, the result of this Federal case that was taken by our veterans association came out in favor of Dow Chemical.

But I wanted to ask you, when they say here "international law," and you mentioned that 97 countries know more about dioxin than our own country, which produced it and used it for some 10 years in Vietnam, I am a little puzzled by this.

Mr. WEIDMAN. We can't judge the whole United States by Judge Weinstein's decisions. And because this is on the record, but privately I will air my thoughts on that. And let's just say that we think that Judge Weinstein's decisions are neither lucid in regard to the facts that are existing today in 2009, that he is operating at least on facts that are 15 years old about what is known, and in matters of law, it strips the government of any accountability for exposing anyone, including our own service members, to things that they knew were harmful by his decision.

The question of funding of science, though, that would look into the long-term effects of the herbicides, and particularly the dioxin, is something that is important not just to veterans, but there are dioxins all over this country that are used in industrial byproducts, whether it is from waste management—all kinds of things.

The fact that there isn't any major studies looking not only not at Vietnam vets but at the impact of dioxin says something about the petrochemical industry and what a grip it has on national policy that we need to move beyond in order to have—everybody is talking about green industry. Well, let's concentrate on something that is anti-green, and that is dioxin, and where it is within our own environment in the United States, as well as how it impacts U.S. military folks as well as the people of Vietnam and other countries in Southeast Asia who were exposed to this in lugubrious amounts.

Mr. FALEOMAVAEGA. I am getting the impression, as I shared with you the position of our Government concerning this, that our use of Agent Orange was in compliance with international law.

My question is, given the amount of dioxin that we purposefully used as part of the Agent Orange compound to conduct deforestation operations and what we have done, my question to you is, does that sound like we violated international law to that extent? This is not just a mere herbicide or pesticide like we use for agriculture purposes. I think we have done a lot more.

I wanted to ask Professor Quy, you had shared with us the amount of acreage, or hectares, for that matter, especially in South Vietnam and the impact of what has happened due to the usage of Agent Orange.

And I wanted to ask you, what is the lifecycle? Are there still areas in the country that are completely barren, without any growth again of forests or trees? What is the situation now in the soil itself if dioxin or the Agent Orange came in contact with that? Where are we with that?

And I know that this is one of the specific areas that you have studied quite well. Can you respond to that?

Mr. QUY. In our country, there are about 3.3 million hectares of land affected by herbicides.

Mr. FALEOMAVAEGA. One hectare is, what, 540 square acres?

Mr. QUY. 3.3 million hectares of land, natural land, in our country affected by herbicide. But the effect there is very different.

First, I would like to tell you about the hotspots. We found three hotspots: First in Danang Airport, a second in Bien Hoa, and a third in Phu Cat. The concentration of dioxin in these sites is very high, not only higher than 100 PPT but sometimes a hundred times higher. And this area we have to clean up as soon as possible.

Mr. FALEOMAVAEGA. How deep did you have to dig into the soil to conduct your cleanup operations? Was it just on the surface of the soil? Did you go down three feet deep? How did you conduct your cleanup operation?

Mr. QUY. It differed from this place to the other place. The most deep, about 30-something mega in the surface. But in many place, the dioxin in the deep sometimes 1.5 mega.

Mr. FALEOMAVAEGA. So you are saying that, especially in the wetlands, where you do agricultural cultivation, the dioxin is underneath the soil?

Mr. QUY. Yeah. And the other place, the place they sprayed in Vietnam, until now, the residue of dioxin reduces every year, year to year. But now we found that the contamination of dioxin in this area lower than 11 can use agriculture and forestry, but it exists in the land. Lower 1,000 PPT, that means you can use this land for agriculture and forestry.

And we try to replant this area, but not easy. It takes time, takes money and labor to do this. And the price to replant one hectare in this area, 10 times higher as normal. And that is why many places affected by herbicide and the forest destroyed completely, but the people of this area, the most very poor, the most people of this area are very poor. And that is why in our country, our people, our Government is trying to help them to replant this area.

But in the south of Vietnam, there are about 1 million hectares denuded by herbicide. If we try to plant in the near future half of this area, that means about 500,000 hectares. Because in this area, the place that there are many people living, and they are very poor. And we think that in this area, we can use this area, but very, very—it takes a lot of time and money to do this. I mean, it is costly.

Mr. FALEOMAVAEGA. I would like to ask Mr. Bailey and Ms. Dolan if, to their knowledge, has there ever been any cooperative effort made between the Ford Foundation and our US-Vietnam Dialogue Group with the National Institutes of Health? There is a big reservoir of resources. Has there ever been any analysis, study, projects or anything done under the auspices of the National Institutes of Health to address this question of dioxin?

Mr. BAILEY. Mary has volunteered me to answer.

Mr. FALEOMAVAEGA. Both of you can answer it.

Mr. BAILEY. Right.

That is a very good idea, Mr. Chairman.

There is, in addition to the Dialogue Group, a Joint Advisory Committee, which is the technical binational committee between the two governments. And in their meeting last September, we understand that they decided to set up two task forces, one for health, one for environment.

The health one has still to formulate its terms of reference. And I am hopeful that this visit of the Dialogue Group to the United States may further that goal, so at the next meeting of the JAC in Hanoi in September there will be a blueprint or at least a terms of reference, which wouldn't necessarily reach out to American technical expertise, although the relevant JAC members are actually in the CDC in Atlanta, in the National Center for Environmental Health.

Mary?

Ms. DOLAN-HOGREFE. I would just comment that what the Institute of Medicine has been doing for a number of years now is, it is a very valued process of reviewing the literature and the science regarding Agent Orange. They are not doing science, they are reviewing science. And that, again, is useful, but what they are not able to do, of course, is to make any policy changes that will benefit

U.S. Vietnam veterans or Vietnam veterans themselves in Vietnam.

And whenever there have been some movements regarding adding additional conditions, I know on the U.S. side it has been out of policies from Congress, not necessarily out of the reviews of IOM.

So, thank you.

Mr. FALEOMAVAEGA. In times past, in your involvement concerning Agent Orange/dioxin, have there ever been any congressional mandates or directives toward the Department of Defense or any of our agencies to follow up or to conduct any comprehensive study dealing with Agent Orange and dioxin?

I get the strong impression that every time we try to get answers, then our friends downtown—and this is not meant to be negative or anything, but they just seem to evade the issue. It is something like, "Well, we don't want to deal with it." Or, as you said, Ms. Dolan, are they doing the science or are they just kind of casually talking about it but not really going into the depths of how we really have been using this poison?

Mr. Weidman?

Mr. WEIDMAN. Mr. Chairman, I think Ms. Dolan—correct me if I am wrong, Mary—was talking about the processes set up under the 1991 Agent Orange Act. The Institute of Medicine of the National Academy of Sciences, their charge under that statute is to review all science that has been published, is peer-reviewed, studies within the preceding 2 years. And they have done that generally very well.

But they can't review what doesn't exist. And because NIH and the VA and DOD and ARC and Environmental Protection Agency, on and on and on, don't fund these studies to study the long-term health care effects of Agent Orange, of dioxin, of other toxic materials, IOM can't review it. So they can't do their job properly.

What IOM has said to us is that obviously they could use more science. And I am talking about the independent scientists who have served as chairs of those committees when they make their biannual report. And it changes every 2 years. These are people who give up their time to come and work on, frankly, a thankless task. And we always make it a point to thank them, because it doesn't help their career, necessarily, to deal with this issue.

But the point is that we have asked them, what are you lacking? And every one of them has said, we do need more science in Vietnam, but what we are really missing is robust epidemiological studies of Vietnam veterans and their families and, by extension, robust epidemiological studies of others exposed, such as the current Vietnamese population, including babies born.

And the fact that that science is not being done once again gets back to the "don't ask, don't tell." If you don't look, you don't find.

Mr. FALEOMAVAEGA. I appreciate that comment.

At the same time, I don't want to continue to have hearings until the Second Coming. This is all part of establishing a record. And I think you hit it right on the nail, Mr. Weidman. If the Congress has the political will to provide substance, to establish a comprehensive study, as you said, the science, by going to Vietnam with a team established or funded by the Congress with the help

of our NGOs and foundations, a 2-year period or whatever it takes to come up with—but are we replicating things that have already been done, Ms. Dolan?

Do you think that right now, in and of itself, we have the right data and information to say, "Okay, we have it; now what are you going to do about it?"

Ms. DOLAN-HOGREFE. Yes, Mr. Chairman, I think that data does exist. I do think it would be extremely fruitful to have funding for studying those Ranch Hand biosamples that are sitting there, not doing anything. That would be very useful.

But if we look back at the history of those who have been able to tackle this issue in other ways or in other countries, there is a great desire to continue that science. But let's maybe also get past the science and recognize that there are people suffering and there are people with disabilities, both here in the United States and in Vietnam, who are suffering now; and the more time we spend talking about the science and the debating of science, the more time passes and the more human potential is lost.

I would draw your attention to some of the challenging surveys that have been put together in the past here in the United States.

There was this report that was supposed to come out of the Centers for Disease Control back in the '80s. There was a large article about this in Time Magazine and the many obstacles that were put before that survey and how it was to be a definitive account for our Vietnam veterans and their families about their exposure to Agent Orange and the effects. But numerous reports have discussed manipulations of that survey data and why it never revealed what it should have revealed.

Similarly, the Ranch Hand study, there has been controversy about that since the beginning and whether the methodologies that have been used to study the data were appropriate. Should they have been changed along the way and why did it not reveal the data that it should have? Former Senator Daschle was very influential in getting some of that data released, and that is what we are still dealing with now.

The final thing, I would just hope that we wouldn't only worry about funding the science, despite my sincere interest to find out what the 8,100 live births say in the biosamples, but also to call on immediate attention to the human suffering and disabilities. Thank you.

Mr. FALEOMAVAEGA. I am very happy we are joined by our good friend and my colleague from Louisiana, Mr. Cao, if he has any questions.

Mr. CAO. Thank you, Mr. Chairman. I was busy in a deposition for the last couple of hours, but I would like to address questions concerning the health care process.

If you know, presently in Vietnam, Professor Quy, what specifically—what activities have been done in order to address the many effects of Agent Orange for the people inside of Vietnam by the Vietnamese Government? Do you know?

Mr. QUY. The human being?

Mr. CAO. I am sorry?

Mr. QUY. You like to talk about the effect of herbicide——

Mr. CAO. No, what has specifically been done by the Vietnamese Government to help the Vietnamese people, those that have been affected by Agent Orange inside Vietnam?

Mr. QUY. In our country, the government tried to help the victim of the Agent Orange in our country. To now, the government gave first the same, about 200,000 victims of Agent Orange. And every year about $50 million for this for the victim of Agent Orange in our country.

I tell you there are about 200,000 people that receive the government support. There are some—I know exactly—about $50 million or $70 million per year—$50 million per year for 200,000 victims of Agent Orange.

Mr. CAO. Now, this is 15 million Vietnamese dong; is that correct?

Mr. QUY. In dong. In dong.

Mr. CAO. Is this 50 million per or $50 million that have been——

Mr. QUY. $50 million.

Mr. CAO. Okay.

Mr. QUY. Per year.

Mr. WEIDMAN. Five zero.

Mr. QUY. Five zero million dollars per year.

Mr. CAO. To assist around 200,000 victims.

Mr. QUY. Yes, but the victims are higher.

Mr. CAO. Yes, because according to the CRS, there are about 3 million. So are there are any programs out there to assist the other remaining 2.8 million victims of Agent Orange?

Mr. QUY. We tried to do this, but the fund is very limited in our country now. And that is why we try and would like to have support from outside.

Mr. CAO. Okay.

Mr. QUY. Including the U.S. Government and NGO organizations, the United States and other countries as well.

Mr. CAO. Do you have any methods to remediate the soil that has been contaminated by Agent Orange?

Mr. QUY. Now, in hotspot, we try to cover the hotspot. But we organized a meeting, discussion with expert from outside, including the U.S. expert, to discuss the technical help to eliminate the dioxin in the hotspot.

Mr. CAO. Now, my question goes to the three members—the other three members of the panel: Mr. Bailey, Ms.—is it Hogrefe?

Ms. DOLAN-HOGREFE. Ms. Dolan is just fine. Thank you.

Mr. CAO [continuing]. And Mr. Weidman.

What do you think—what can the U.S. Government do to further assist the Vietnamese Government in its problem in addressing Agent Orange besides an increase in funding?

Mr. BAILEY. I will go first, sir.

I think that we are seeing an increasing level of technical collaboration, particularly in the environmental remediation at Danang airport. By the end of this year, I think we will know a great deal more about how much contaminated soil is there, to what degree it is contaminated, what it will cost, and how it might best be done. So I regard the environmental part as coming more clearly into focus.

And in my earlier remarks I suggested that for all three hotspots it might be on the order of $50–60 million to remediate them to the standard set by the Government of Vietnam. This is in cooperation with the Environmental Protection Agency at a technical level that has been going on for several years.

I think there are also further opportunities for technical exchanges and other matters that would—in addition to simply a transfer funds.

On the much larger issue of health, I would say that matters are—in addition to what Professor Vo Quy said, the continuing monthly income supports, that there are a number of special programs still at the pilot level which are providing lessons and which could be spread and scaled up toward building a more modern, comprehensive social services system. And I think there are many opportunities here for joint collaboration, to which I think Mary can speak.

Ms. DOLAN-HOGREFE. Yes, to echo what Charles just said, I would agree that in, addition to funding as a complement to it, as part of it, which should be technical assistance in a variety of different areas related to people with disabilities, including advocacy and awareness for people with disabilities, improving their systems of service delivery and case management, training medical professionals and rehabilitation professionals, education for people with disabilities, job training, respite care, long-term care facilities. Any number of issues that the United States has tremendous expertise in that they can share as part of improving the human condition in Vietnam.

You asked, Mr. Congressman, what can the U.S. Government do to further assist Vietnam. I have heard, as a member of this US-Vietnam Dialogue Group, a number of times from my counterparts on the Vietnamese side the issue that Agent Orange is an ongoing concern for them as part of the normalization of relations between the United States and Vietnam. The chairman read out the continued view of the United States, and I would mention that this would be an issue of recasting some of our sentences about what happened during the war, the use of Agent Orange, in order to further move forward with our relationship with the good people of Vietnam.

Thank you.

Mr. WEIDMAN. You asked besides money. A lot of it has to do with organizational capacity, Congressman; and some of that has to do with money. There has been significant criticism by our scientists of Vietnamese science, but a lot of that all revolves around, as an example, whether you have access to a mass gas spectrometer in order to measure things to the specificity that you need when you are dealing with something like dioxin.

So transfer of scientific, organizational, basic infrastructure like mass gas spectrometers and other kinds of basic things that we take for granted within the United States to Vietnam would be of enormous assistance. That is not direct cash, but that is both expertise and equipment.

And the Vietnamese certainly are, as you well know, sir, smart industrious folks. If they have the resources and technical assist-

ance, their science will be every bit as good as anybody else's in the world and come up to WHO standards.

The original plan that was in the Memorandum of Agreement signed in March 2002 called for that. It called for that exchange essentially of and furnishing the Vietnamese in collaboration with them, not us telling them what they needed but them telling us what they needed so we would know what to give them to be able to have that organizational infrastructure to do an environmental assay across the country and to do an epidemiological study across the country.

In order to do an Agent Orange/dioxide study, you have to develop a system of medical health records; and in the consequence of that you deliver care, almost the same way I did as a medic when I served in Vietnam doing MEDCAP patrols.

And last but not least, if you did that research, that is certainly something that my organization can support. Because once have your organizational capacity, you can do the research in Vietnam. Because you know precisely who was exposed and who wasn't, particularly if you look in the north. You know who went south and who didn't. Those who went south were exposed. You know exactly who their progeny are. And that science would be much more precise than anything that we could do in the U.S. today. Because we have so much sources of dioxin exposure in the United States, depending on where you live in the country. If you live near a petrochemical place in southwest Louisiana, you might be exposed to dioxins there.

Mr. CAO. I just have one more short question. This is directly to the whole panel——

Mr. FALEOMAVAEGA. Mr. Bailey had a further comment to your question.

Mr. BAILEY. I just wanted to add, sir, an example to Mary Dolan's comment.

One of the things I have observed is the importance of individualized treatment and care plans at each stage of the life of a person born with physical or mental disabilities. To do that, to pull down the various resources of health, education, vocational training, and so forth requires trained social workers. And the creation of the modern profession of social work in Vietnam would be an enormous opportunity to which our country could contribute.

Mr. CAO. This is my last question. Concerning the 200,000 people that have benefited by some of the programs initiated by the Vietnamese Government, is there a study out there that follows, for example, the people's religious affiliations, whether or not they are politically connected? Are those benefits provided by the government, are they accessible by everyone, or at this present moment is it only a few specific groups of people that are allowed to have access to care?

Mr. QUY. About the 2—more than 200,000 victims that I've seen they receive support from the government. But in Vietnam at least more than 1 million people are affected by herbicide there, but the fund from the government and the—not so much, and we cannot extend this support. I hope in the future, with the support of the whole people of Vietnam and the fund higher, we can support more people affected by herbicide in our country. And outside of the gov-

ernment there are—many NGO organizations raises the funds and organizes many activities to support the victim of Agent Orange in Vietnam.

Mr. CAO. I guess my question was—more specifically, my question is, the 200,000 who got treated, are they friendly to the party, to the Communist party, or do they represent a wide range of people or are they representative of everyone in the country?

Mr. WEIDMAN. Congressman, the only one that I have seen is in Danang, and it is run in affiliation with the State University of New York at Binghamton. I visited there in 2006 for 3½ days. It is actually the School of Social Work, and students do internships in Vietnam working with children with birth defects in order to deliver respite care so that the families can work. And so the families stay together.

We asked that question, whether there was difference or interference based on religious preferences. And they said, no, they chose strictly on the criteria of determining who had the most severe birth defects, that needed constant 24-hour care and, therefore, respite care was necessary for the family, for the mother and father to go earn a living so they could keep the family together. And they said they had encountered none of that, at least in the province in the area around Danang.

Mr. CAO. Mr. Chairman, that is all the questions I have. Thank you very much.

Mr. FALEOMAVAEGA. I thank the gentleman from Louisiana for his questions and interest in the issue.

I just wanted to note for the record that I had the personal privilege recently to discuss this matter with Senator James Webb, who is the chairman of the Senate Foreign Relations Subcommittee on Asia Pacific. So I am looking forward to working together with Senator Webb, and we are going to continue making the exploration.

But like I said earlier, there comes a time that—I think someone once said fish or cut bait. I don't think we can continue doing the research and all of this. Forty years has gone past.

I am not a very good mathematician, but since 1961, that is well beyond the time. I am sure my friend from Louisiana knows something about evidence. And within the 96 hours you have to make sure that you are there to get the evidence and make sure that we have it. Forty years later, it is a little too late. And I am very fearful that we conduct the studies but we may have lost a lot of the substance that we needed to make sure that we can make a better judgment based on the data and information.

And, Ms. Dolan, I appreciate your sense of confidence that we do have all the data. We don't need another oversight hearing. I think what remains to be done now is further collaboration with my good friend from Louisiana about introducing legislation to address some of these fundamental issues that all of you so graciously and so eloquently have brought to the forum. And I hope that in the coming months—maybe even earlier—that we are going to come up with something a lot more substantive.

I really think that if it is possible for the Government of Vietnam to establish an analytical laboratory to detect and conduct testing on dioxin, I cannot believe that we are not able to do the same, Ms.

Dolan. Do we have the technology, Ms. Dolan, to do it, if we wanted to?

Ms. DOLAN-HOGREFE. To test soil?

Mr. FALEOMAVAEGA. Yes, soil, human beings, whatever is out there.

Ms. DOLAN-HOGREFE. I believe so. And from the Ranch Hand studies, that is human blood samples and other samples have been taken. So absolutely in that case, sure.

Mr. FALEOMAVAEGA. Do you think that court decision which ruled in favor of Dow Chemical Company was because of the smartness of the lawyers and not necessarily because of the substance, that perhaps the judges were misled? In any way or form, something was missing here as far as this decision here. Because I cannot believe that for a 10-year period, with all the uses of this terrible poison or whatever you want to call it, the dioxin, that it just seemed to have just continued for 10 years.

The biggest question in my mind and certainly with all of you members of the panel is that we caught or discovered this imbalance, if you will, that we put just a little bit too much dioxin into the Agent Orange compound. My question is why wasn't anything done about it? Was it done in conformance or compliance with international law? This is the claim that our Government makes. I get the impression that the use of dioxin was perfectly legal under international law. Is that correct?

Mr. WEIDMAN. No, sir, it is not. In fact, we have always contended—"we" meaning the United States Government—have always contended that it was used for deforestation. When we were doing FOIAs for another purpose, looking into Project 112 and Shad, the memos that we were able to dig up from a number of resources—not from the government, by the way, because they sandbagged us on FOIAs, claiming classification. We found it elsewhere, documents that had been declassified. They listed crop destruction and then deforestation subsequently.

Well, crop destruction under the Geneva Accords is specifically illegal, one. Two is that we have the documentation—and I know you don't want to do another hearing, but at some point——

Mr. FALEOMAVAEGA. If necessary, we will do another hearing. But I like what you are saying so far, Mr. Weidman. Continue, please.

Mr. WEIDMAN. We have some documentation to show that Project 112, which is what we were looking at in the course of researching that, we discovered something we never knew, and we have been at this a long time. When I say "we," I am talking collectively, not just VVA. The veterans' advocates did not know it was part of Project 112. And Project 112 was Robert McNamara, being the way he is, had gathered all the chemical and biological stuff under one umbrella, and that was Project 112. And that Agent Orange and herbicides was all part of that; and Fort Detrick had the operational control over the whole deal, including the weight of the powder mixed with each 100 gallons of water once it went to Vietnam, which turns out that it was four times as strong as we ever thought it would.

In preparation for the next round of talks on the Geneva Accords on banned warfare, on chemical warfare, when Henry Kissinger be-

came Secretary of State, Nixon came in. It was Kissinger that got him moved out of Project 112 because he did not want to deal with herbicides when he got to Geneva. And they began the fiction that we weren't testing biological or chemical weapons but rather we were only testing defenses against biological and chemical attack, when in fact we were testing weapons.

But the point is this. They knew that what we were doing with the herbicides was against international law, one, and, two, even went so far as to commission a study by the Rand Commission to look at the mountaintop rice paddies. If you are looking at me funny, that is because there are no mountaintop rice paddies. There is only one set of rice paddies, and that is for the civilian population, and the Viet Cong and the NVA would tax the farmers in order to have rice for their troops. But it is categorically illegal under international law to destroy civilian food supplies, so, in fact, it was not in compliance with international law.

Mr. FALEOMAVAEGA. Which raises another question to follow up to what you just said, Mr. Weidman: Did the chemical companies know what they were mixing at the time? Were they aware that the dioxin mixed with whatever other chemical compounds—were they aware of the contents or the percentage of the dioxin being mixed into the Agent Orange before the substance was sprayed?

Mr. WEIDMAN. I am not an attorney, nor am I a magistrate. I don't know legally whether they are responsible.

Do I believe the chemical companies knew? Yes, I——

Mr. FALEOMAVAEGA. They are the ones who mixed the Agent Orange.

Mr. WEIDMAN. Well, the dioxin—the higher rate of dioxin came when there was pressure on the industrial capacity of the chemical companies to produce enough Agent Orange fast enough. Therefore, they created it at much higher temperatures. It is the high temperatures that generated the dioxin. The same way incinerators, industrial incinerators in America will generate dioxin if you don't watch what they are doing. And you have to guard against that.

Well, there wasn't any guarding against that. Whether or not the government knew or not is debatable; and, in fact, it has been debated time and again in a courtroom. The government said that they didn't know, and the chemical companies say they were only making it to government specification and therefore resort to the Federal contractor defense against any liability.

Mr. FALEOMAVAEGA. All right. Again, I want to sincerely offer my apologies. We have gone way beyond the time that I had for you to come before the committee.

I cannot thank you enough, Mr. Bailey, being the third party, innocent party, coming in on behalf of the Ford Foundation to do all it can voluntarily to help us with this issue.

But I have a little, I guess, in my own ideological bent in doing something of this nature to the effect that sometimes, as a matter of policy, it is not the legalities; it is not the niceties. I think Mr. Weidman just said it is a moral imperative that we do this right, not just for our own men and women in uniform who served in that war, but as an institution and for what this government stands for and, hopefully——

My good friend from Louisiana and I look forward to going together to Vietnam in the future. This will be his first visit since leaving.

I would highly recommend members of the panel and our good friends here in the audience read what this gentleman went through, such a tremendous sense of pride. And I am just so happy to have as a fellow American who happens to be of Vietnamese ancestry to be serving as a member of this great institution, as a Member of Congress.

With that, Congressman Cao, again, thank you so much for taking the time from your busy schedule.

He's not even a member of our Foreign Affairs Committee, but I have asked him to join us because I think it touches some good nerves in there. I know he has tremendous interest in wanting to see what can be done and what our Government can do to give assistance to the good people of Vietnam.

And again, to all of the members of the panel, thank you so much for being here. Hopefully, we will have another oversight hearing and maybe by then a bill to discuss and give it a little more teeth. What do you think, Mr. Weidman? That will probably even give it a little better sense of purpose.

Thank you so much. The hearing is adjourned.

[Whereupon, at 5:38 p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT
Eni F. H. Faleomavaega (D-AS), Chairman

May 28, 2009

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Asia, the Pacific and the Global Environment to be held in Room 2172 of the Rayburn House Office Building:

DATE: Thursday, June 4, 2009

TIME: 2:00 p.m.

SUBJECT: Agent Orange: What Efforts Are Being Made To Address The Continuing Impact Of Dioxin In Vietnam?

WITNESSES:

Panel I
The Honorable Scot Marciel
Deputy Assistant Secretary and Ambassador for ASEAN Affairs
Bureau of East Asian and Pacific Affairs
U.S. Department of State

Panel II
Mr. Charles Bailey
Director
Special Initiative on Agent Orange/Dioxin
Ford Foundation

Mr. Vo Quy
Professor
Centre for Natural Resources and Environmental Studies (CRES)
Vietnam National University, Hanoi, Vietnam
(*Member, US-Vietnam Group on Agent Orange/Dioxin*)

Ms. Mary Dolan-Hogrefe
Vice President and Senior Adviser
National Organization on Disability
(*Member, US-Vietnam Dialogue Group on Agent Orange/Dioxin and also Director of the World Committee on Disability*)

Mr. Rick Weidman
Executive Director for Policy & Government Affairs
Vietnam Veterans of America (VVA)

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee as noted above.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

Day: Thursday

Date: June 4, 2009

Room: 2172 Rayburn House Office Bldg.

Start Time: 2:10 p.m.

End Time: 5:34 p.m.

Recesses: 3:30 p.m. (reconvened at 4:23 p.m.)

Presiding Member(s): Chairman Eni F.H. Faleomavaega

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session	X
Executive (closed) Session	
Televised	X
Electronically Recorded (taped)	X
Stenographic Record	X

TITLE OF HEARING: "Agent Orange: What Efforts Are Being Made To Address The Continuing Impact Of Dioxin In Vietnam?"

COMMITTEE MEMBERS PRESENT: Donald Manzullo, Diane Watson

NONCOMMITTEE MEMBERS PRESENT: Ahn "Joseph" Cao

WITNESSES: Same as meeting notice attached? Yes X No ____ *(If "no", please list below and include title, agency, department, or organization.*

ACCOMPANYING WITNESSES: *(Include title, agency, department, or organization, and which witness the person accompanied.)*

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record)*
Chairman Faleomavaega
Ranking Member Manzullo
His Excellency Ngo Quang Xuan (Briefer)
The Honorable Scot Marciel (Witness)
Mr. Charles Bailey (Witness)
Professor Vo Quy (Witness)
Ms. Mary Dolan-Hogrefe (Witness)
Mr. Rick Weidman (Witness)

Lisa Williams
Staff Director

COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Donald A. Manzullo (IL-16), Ranking Member
Opening Statement

June 4, 2009

Mr. Chairman, thank you for calling this hearing on the use of Agent Orange, which remains one of the unresolved legacies of the Vietnam War. The hearing you chaired in the last Congress on this same topic proved very insightful. Agent Orange, which was used from 1961-1971, left a lasting scar on all those who came in contact with it. Finding closure for this tragedy is in the interest of both the United States and Vietnam.

I am hopeful that the U.S. and Vietnam will continue to work together on addressing the legacy of Agent Orange. I note that according to the Congressional Research Service, the first $3 million appropriated for environmental remediation and health care assistance has been programmed. Of this first $3 million, approximately $500,000 was used to hire a fulltime American advisor to be posted at the U.S. Embassy. This position was filled in December 2008. I am interested to know why this personnel funding is coming out of the appropriated funds and not out of the standard Department personnel accounts.

Mr. Chairman, I have long been in favor of improving America's relationship with Vietnam. I was part of the core group of Members that took a strong interest in re-opening diplomatic and economic relations with Vietnam to help begin to heal the legacies of the war. Since we restored relations with the country, Vietnam has received a significant amount of U.S. foreign assistance. Vietnam is one of the largest recipients of U.S. assistance in East Asia.

I have always been a staunch supporter of America's brave veterans. In 2001, I authored legislation that was eventually signed into law that that required the Department of Veterans Affairs to no longer ignore veterans suffering from Gulf War illness. My bill was built on the model legislation developed years earlier to provide needed assistance from the VA to Vietnam veterans suffering from Agent Orange.

Mr. Chairman, I look forward to hearing from our distinguished witnesses. Thank you for calling this hearing.

Statement by Hon. **Mr. Ngo Quang Xuan**
Vice Chair of the Foreign Affairs Committee
of the National Assembly of the S.R. of Viet Nam
Co-Chair of the U.S - Viet Nam Dialogue Group on Agent Orange/Dioxin

Before the
Subcommittee on Asia, Pacific and Global Environment
House Committee on Foreign Affairs
United States House of Representatives

For the hearing on "***Completing the Task: What Should We Do to Address the Impact of Agent Orange in Vietnam?***"

June 4, 2009

Mr. Chairman, and Members of the Subcommittee,

Ladies and Gentlemen:

First of all, I would like to extend my sincere thanks to Chairman Faleomavaega and the Subcommittee for the opportunity to speak before you on our efforts to address the impact of Agent Orange/dioxin to the people and the environment of Viet Nam as well as the road ahead to complete this heavy task. I believe that following the outcomes of the first hearing of the Subcommittee on Agent Orange in May 2008, this hearing will provide more in-depth exchanges on ways and means to complete the task and will eventually lead to a legislation and other official measures that will assist Viet Nam to cope with the continuing impact of Agent Orange/dioxin in the time to come.

Today, I speak before the Subcommittee in the capacity as Co-Chair of the U.S - Viet Nam Dialogue Group on Agent Orange/Dioxin. As you may know, the Dialogue Group was set up in 2007 in the framework of track two (non-governmental) with assistance from Ford Foundation's Special Initiative on Agent Orange/Dioxin. The Dialogue Group includes five individuals from each side. The Vietnamese side includes five representatives from the National Assembly, Commission on External Relations of the Central Party's Committee, Viet Nam Veterans Association, National University in Ha Noi and University of Medicine and Pharmacy in Ho Chi Minh City. Five members on the U.S side come from Aspen Institute, the Ford Foundation, the American Association for the Advancement of Science, and the World Committee on Disability. I am honored to co-chair the Dialogue Group with Mr. Walter Isaacson, Former General Director of CNN communication, President and CEO of the Aspen Institute.

Viet Nam - U.S relations and the issue of Agent Orange/Dioxin

Viet Nam - U.S relations have witnessed dramatically development since the mid-1990s following political normalization. A series of bilateral summits have helped drive the improvement of ties, including President George W. Bush's visit to Hanoi in November 2006, President Nguyen Minh Triet's visit to Washington in June 2007, and Prime Minister Nguyen Tan Dzung's visit to Washington in June 2008. Bilateral diplomatic engagement has

expanded at ASEAN, APEC, WTO and with Vietnam's January 2008 start of a two-year term at the UN Security Council.

Since the end of the war, major strides have been made in bilateral relations to enable the two countries to move forward on a range of issues and areas of difference. The United States has granted Vietnam permanent normal trade relations (PNTR) status and Viet Nam has become a member of the World Trade Organization (WTO). Following the lifting of trade embargo and the granting of PNTR status, U.S. trade with Vietnam grew rapidly. Between 2001 and 2007, total bilateral trade between the two countries rose from $1.5 billion to $12.5 billion. Viet Nam has also increased its efforts to assist the United States to recover the remains of U.S. soldiers and civilians who died during the wartime. The two nations have also expanded their cooperation on strategic and military issues.

However, one major legacy of the war that still remains unresolved is the impact of Agent Orange/dioxin on the people and the environment of Viet Nam. For the last three decades, this issue has generally been pushed aside of bilateral discussions by other issues considered more important such as the negotiations for PNTR, WTO, trade relations ... by the two sides. Having those issues resolved, the issue of Agent Orange/dioxin has emerged as a regular topic in bilateral discussions in recent years. It is said that the relations between Viet Nam and the U.S will not become totally comprehensive once Agent Orange is still the mainstay of the relationship.

The increasing concern from the Vietnamese people about the impact of Agent Orange in recent years have created more pressure on the Vietnamese government to remove dioxin from the environment and provide better care to people exposed to Agent Orange. The use of 80 million liters of herbicides, containing at least 366 kg of dioxin by U.S forces over the southern Viet Nam was the largest use of chemicals in warfare yet known to mankind.

Efforts made in the field of Agent Orange in Viet Nam

Remediation of Agent Orange/Dioxin Contaminated Areas and Environmental Restoration

Since the 1990s, several constructions have been built by Ministry of National Defense of Viet Nam to control the spread of dioxin in and around the military bases that served as hubs for Ranch Hand Operation, including three hotspots in Da Nang, Bien Hoa and Phu Cat airbases. The Ministry is currently conducting a project for isolating and land-filling an area which was heavily contaminated by dioxin in Bien Hoa airbase with the total amount of 75 billion Vietnamese Dong (or $5 million). However, this project can only deal with a part of the whole dioxin contaminated area in Bien Hoa airport. In 2006, the Vietnamese government estimated the cost for the detoxification of the Da Nang and the Bien Hoa airbases could reach $10 million. In 2008, the estimated cost for decontaminating Da Nang airbase raised to $14 million.

In 2007, several projects were carried out by Ministry of National Defense of Viet Nam to prevent the spread of dioxin from heavily contaminated area in Da Nang airbase with fund from the Ford Foundation. Similar projects are now being carried out at Phu Cat airbase with $1.5 millions funded by the Czech Republic. Mangrove-planting projects have also been carried out to

rehabilitate forests which were totally or partially destroyed by herbicides/dioxin.

Supporting victims of Agent Orange

Despite post-war difficulties, the victims of Agent Orange/Dioxin in Viet Nam have been attached with great attention from the Government of Viet Nam and its people. At present, people who have certain medical conditions are eligible to receive a disability stipend from the Agent Orange Central Payments Programme of up to 300,000 Vietnamese Dong (or $17) per month. There are now over 200,000 victims of Agent Orange receive a monthly allowance from this program with the budget of about $50 million per year. The annual cost of providing a $17 per month stipend to all of Vietnam's estimated 2.1-4.8 million victim of Agent Orange would be $360 million to $820 million.

The Government of Viet Nam also works closely with private and local agencies to provide assistance to people with medical conditions related to Agent Orange exposure. The Government also encourages and assists partial funding for NGOs operating in these areas such as Agent Orange Victims Protection Fund of the Viet Nam Red Cross or Victims of Agent Orange Association (VAVA) ect... Between 1998 and 2004, the Viet Nam Red Cross has raised 23 billion VND ($1.4 million) and 50 billion VND ($3.1 million) at local level for programs to provide aid to people who were exposed to dioxin.

Thousands of victims, especially children with birth defects, have been nurtured and treated in Hoa Binh (Peace) villages, Friendship villages and Centers for children with disabilities all over the countries. Yet, these supports only meet a small part of a very large and long-term demand of Agent Orange/Dioxin victims.

International Cooperation in research and overcoming the consequences

Scientific researches on the adverse impacts of Agent Orange to the environment of Viet Nam and its people have been conducted with collaboration and support of scientists from Japan, Germany, Canada, Russia ect... Humanitarian activities and contribution by organizations and individuals from Japan, Germany, Norway, England and the United States ... for victims of Agent Orange and people with disabilities have also been carried out in recent years. Several Peace and Friendship villages providing care and treatment for victims of Agent Orange and children with disabilities have been built and funded by international organizations such as Dsselforf Peace village and Veteran Associations of Germany, South Korea.

Cooperation between Viet Nam and the U.S in the issue of Agent Orange began in 2000 following the visit to Viet Nam by President Bill Clinton. The results, over the past few years, have shown through some modest scaled activities, including cooperation in organizing scientific seminars; helping with a dioxin analysis equipment already used; training of young staff; sampling Da Nang for dioxin analysis; providing $ 400,000 for EPA and BEM to do research for dioxin treatment in Da Nang. The total $6 million appropriation by the Congress to Viet Nam for environmental remediation of dioxin-contaminated storage sites and to support health programs in communities near those sites was made twice in 2007 and 2009. However, so far, there have been no further announcements or details about the utilization of even the first appropriation of $3 million in 2007.

Viet Nam has also received support from several U.S NGOs to address the impact of Agent Orange, including the Ford Foundation, Viet Nam Veterans of American Foundation and some American friends. At the moment, the Ford Foundation is the largest international contributor of assistance to Vietnam's efforts to clean up Agent Orange/dioxin. Through August 2008, the Ford Foundation had made grants of about $8 million to Agent Orange/Dioxin related projects in Vietnam, and had committed to grant more in the future.

The U.S - Viet Nam Dialogue Group on Agent Orange/Dioxin

In February 2007, the Dialogue Group was established with funds from the Ford Foundation. The Dialogue Group seeks to draw attention to the range of human and environment needs related to Agent Orange/Dioxin in Viet Nam and to identify practical and effective fields in which donors can help to address those needs.

In the last two years, the Dialogues Group has held four meetings. Its most recent meeting - the fourth meeting - was held just 2 days ago in June 2, 2009 in Washington D.C with the participation of around 70 people representing political community, think-tanks, NGOs and scientists. The meeting concluded with suggestions that the issue of Agent Orange/Dioxin should be put into the comprehensive U.S - Viet Nam bilateral relations and the overall environment issue in general and that advocacy to raise awareness of the U.S and fully providing information on this issue should be done in a more practical way.

Prior to the fourth meeting, the Dialogue also met in Da Nang from April 20-21, 2009 with the participation of 40 people, including representatives from all related Agent Orange organizations in Viet Nam and also representatives from Da Nang and Dong Nai - two provinces among the most heavily Agent Orange affected - to review activities of the Dialogue and work out a plan of activities for the next period.

The Dialogue Group is not a funding agency, but seeks to identify funds and donors in five priority areas:

- Containing dioxin at former airbases to prevent ongoing and future contamination: $1.2 million had been spent on the first two stages of the Da Nang clean-up joint project with Ministry of Defense of Viet Nam and the U.S Environmental Protection Agency (EPA), primarily on containment measures, including a concrete cap over the former Agent Orange loading area and fencing around a dioxin-contaminated lake downstream from the airbase.
- Expanding services to people with disabilities, with particular attention to people in and around the affected areas: Health-care, education and vocational training activities for children with disabilities have been carried out through pilot projects in Thai Binh, Da Nang and Quang Ngai
- Establishing an international standard dioxin laboratory in Viet Nam to help measure the extent of contamination and contribute to international research on Agent Orange: On May 18, 2009, The Bill & Melinda Gates and Atlantic Philanthropies Foundations donated almost $5.4 million for setting up a dioxin laboratory. The laboratory will be operated under the Ministry of Natural Resources and Environment.
- Restoring landscape and other aspects of the environment affected by Agent Orange during the war in Viet Nam: A training-of-trainers pilot program is being conducted by Prof. Vo Quy and the Centre for Natural Resources and Environment Studies

(CRES) in Quang Tri. So far, the programs have received positive feedback from beneficiaries and will be applied to other affected localities in the future.

- "Mainstreaming" the issue of Agent Orange within the U.S public and the U.S policy community: Several papers on Agent Orange/dioxin in Viet Nam have been published in both Viet Nam and the U.S. Cooperation with U.S dialogue partners to approach policymakers, international organizations and individuals interested in the issues and play key roles in this kind of humanitarian activity has been made.

The work of Dialogue Group has helped broadened the acknowledgement of the Agent Orange issue in both Vietnam and the United States. It has supplemented other channels in this issue such as government to government channel (Track 1) and the Viet Nam Association for Victims of Agent Orange (track 3) and served as an effective way to bridge the victims and humanitarian assistance sources.

To complete the Task ...

Since the end of the war, despite difficulties, the government and the people of Viet Nam have been active in carrying out a number of researches on the impact of Agent Orange/dioxin to its environment and people as well as provided health care and financial support for a large number of victims of Agent Orange/Dioxin. In the fight with this war legacy, Viet Nam has received valuable support and cooperation from international community.

In the last few years, cooperation between Viet Nam and the U.S on the issue of Agent Orange has achieved encouraging progress. Yet, this progress and cooperation is only on a very small scale compared with the very large, long-term and costly demands needed to complete the task. Completing the task is a long-term process which certainly requires joint efforts of both countries as well as increasingly partnership between public and private sectors. To do this, I would propose some suggestions as follow:

In the long-run:

1. The issue of Agent Orange should be put into the comprehensive U.S - Viet Nam relations: The bilateral relations between Viet Nam and the U.S can not become totally comprehensive without a comprehensive and reasonable solution for the impact of Agent Orange/Dioxin in Viet Nam. Moreover, increased U.S assistance for Vietnamese people exposed to Agent Orange/dioxin could promote the image of U.S in Viet Nam and further strengthen U.S.-Viet Nam relations.

2. A multi-year policy for cooperation should be developed

There should be a master plan or multi-year policy on Agent Orange/Dioxin in Viet Nam, including scientific research, environmental remediation, public awareness and health care. This policy could be in the form of legislation that addresses all aspects of Agent Orange in Viet Nam: research on the level of dioxin exposure, dioxin containment and remediation, and medical assistance for people exposed to dioxin. This will help identify and prioritize possible areas of cooperation in the issue of Agent Orange in the long-term as well as provide a road-map of dioxin decontamination.

In the immediate:

3. Public and private sector partnership should be further promoted: In the last few years, the private sector has been very active in the joint effects with the public sector to address the impact of Agent Orange in Viet Nam. In recent years, non-governmental organizations (NGOs) have contributed most of the fund to that effort. Inside Vietnam, several Agent Orange-related organizations have been set up to raise funds via charity events. A variety of international NGOs have offered technical assistance and financial support for the provision of medical care for victims of Agent Orange. However, the demands are still at very large scale and require further cooperation.

4. Speed-up the imbursement pace: It's appreciated that the U.S Congress has twice agreed to allocate $6 million for the work of Agent Orange/dioxin in Viet Nam. However, in realities, this budget does not yet reach those who need it. The decision to add $3 millions to the Budget of 2007, 2009 is a significant move made by the US Congress. Therefore, to make this move not just a 'symbolic' one, the speed of imbursement should be soon pushed up.

5. Promote various forms of regular dialogue and information exchanges between the two side in every channel such as conference, meeting, site visits, seminars; work with mass media-newspapers, online newspapers, film-making or any activities that help raise the awareness of the people about the issue of Agent Orange/dioxin-its impact on Vietnam's environment and human health etc. What we did in Da Nang was a successful and fruitful example.

Allow me to conclude my statement by welcoming the second hearing of the Subcommittee as an important component on the long way to complete our task. Thank you again for inviting me and for convening this fruitful discussion.

END OF THE STATEMENT

MATERIAL SUBMITTED FOR THE RECORD BY MS. MARY DOLAN-HOGREFE, VICE PRESIDENT AND SENIOR ADVISER, NATIONAL ORGANIZATION ON DISABILITY (MEMBER, US-VIETNAM DIALOGUE GROUP ON AGENT ORANGE/DIOXIN AND ALSO DIRECTOR OF THE WORLD COMMITTEE ON DISABILITY)

U.S. Vietnam Veterans and Agent Orange: Understanding the Impact 40 Years Later

National Organization on Disability

With funding from the Ford Foundation Special Initiative on Agent Orange/Dioxin

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Foreword

The following paper was commissioned by the Ford Foundation Special Initiative on Agent Orange/Dioxin and written by the National Organization on Disability (NOD). The paper benefits extensively from independent research conducted for NOD in 2008 by Mary Carstensen, U.S. Army, Colonel (retired) and from additional research and analysis in 2008 and 2009 by Mary E. Dolan-Hogrefe, Vice President and Senior Advisor, NOD.

The production of this paper was inspired in part by NOD's participation in the U.S.-Vietnam Dialogue Group on Agent Orange/Dioxin, a bilateral citizens' group of five Vietnamese and five Americans convened by the Ford Foundation (further information is available at www.fordfound.org/programs/signature/agentorange/issue). One goal of the Dialogue Group is to make the U.S. public aware of the continuing environmental and health consequences of dioxin contamination in Vietnam resulting from use of Agent Orange by U.S. forces during the Vietnam War. A second goal is to mobilize resources and build effective public-private partnerships to respond to those consequences without further delay. This paper adds to those efforts by examining where we are in our own country relative to the affects of Agent Orange on our soldiers and their families.

Although these issues date back more than 40 years, they remain critically important for at least two reasons. First, it is still not too late to correct lapses in the nation's treatment of veterans who were exposed to dioxin during the Vietnam War. Many of them began reporting high rates of illness and disability soon after their wartime service, and yet waited many years (and in some cases are still waiting) for a fair resolution to their concerns. Those concerns now extend to health effects among their children and grandchildren. Many of the effects are still poorly understood and officially unrecognized.

The second reason these issues continue to resonate is that the use of chemicals on the world's battlefields has only increased in the years since the Vietnam War ended. One lesson of the Agent Orange experience has been that the consequences of using such chemicals are rarely easy to predict, and that the burdens they impose may well be borne for generations, long after the original causes of conflict have been resolved.

It is timely for our nation to address war legacies, past and present, and make good on our promise to care for our own.

U.S. VIETNAM VETERANS AND AGENT ORANGE:

Understanding the Impact 40 Years Later

Between 1962 and 1971, the United States sprayed approximately 20 million gallons of dioxin-contaminated herbicides over some 6 million acres of Vietnamese terrain. Among these was a compound known as Agent Orange, named for the orange stripe on its label (other varieties were marked with different colors but were less widely used). These chemicals wiped out forests and crops that were used by opposition forces for cover and food. In the course of this, hundreds of thousands of U.S. service personnel and millions of Vietnamese were exposed to the chemicals in the air, water, and soil and through food raised on contaminated farms.[1]

Agent Orange consisted mainly of two weed killers in common commercial use at the time. One of these contained small amounts of a contaminant technically named 2,3,7,8-tetrachlorodibenzo-*p*-dioxin, or TCDD, known to be toxic in humans. TCDD accumulates in human fatty tissue, where it is neither readily metabolized nor excreted, so its effects can linger and build over time. In April 1970, the federal government found evidence that TCDD had caused birth defects in laboratory mice (it was later linked to other conditions as well). Yet Agent Orange continued to be used in Vietnam for another eight months.

By the time the war ended in May 1975, more than 2.5 million American military personnel had served in Vietnam's combat zones. The precise number of Americans, Vietnamese, and people of other nationalities who were directly exposed to Agent Orange — like much else about the herbicide and its effects — is not documented anywhere. Yet the wholesale use of the chemical across the entire theater, together with its long-term persistence at several former US military bases in Vietnam, makes it highly likely that a significant percentage of the 2-3 million combat veterans came into some contact with Agent Orange during their service.

The many uncertainties surrounding wartime use of Agent Orange — over the exact number of people exposed, the level of exposure likely to be harmful, and the specific conditions that could result — hampered both medical care and policymaking for years. Nearly two decades after the war's end, the Agent Orange Act of 1991 sought to cut through the medical and scientific quandaries by establishing two official presumptions: that veterans who served in Vietnam from 1962 to the end of the war were exposed to Agent Orange, and that those diagnosed with certain illnesses associated with TCDD would have developed those illnesses at least partly as a result of their service in Vietnam. Yet 15 years after the law was passed, fewer than half a million Vietnam veterans had undergone the standard Agent Orange

[1] The harmful effects of dioxin contamination continue to cause widespread concern and suffering in Vietnam and have drawn considerable attention from scientists and policymakers there. For more information on U.S.-Vietnamese cooperation in understanding and responding to dioxin-related problems, see the web site for the Ford Foundation's Special Initiative on Agent Orange/Dioxin, at www.fordfound.org/programs/signature/agentorange/issue.

examination offered by the Department of Veterans Affairs to identify possible effects of their exposure.

Veterans who ask for and receive the official exam are entered into an Agent Orange Registry that started in 1978. It contained 490,000 names as of 2007, along with useful demographic and medical information. But there is no database listing the other, unexamined veterans who, by law, were presumptively exposed to poison. The Department of Veterans Affairs maintains a nominal outreach effort to alert such veterans and to help them navigate the process of examination, diagnosis, applications, and care that could help them. But veterans and their advocacy organizations report that the service is not widely used or effective, so the universe of unserved veterans remains something of a mystery. There is not even a source of data on the number of Vietnam veterans who are *already* receiving compensation or medical care for conditions related to Agent Orange, unless they happen to have undergone the official exam.

There is, in short, a presumed entitlement to care, services, and monetary assistance for America's Agent Orange victims, but no overarching system for fulfilling that entitlement except the private knowledge, initiative, and perseverance of each individual veteran. More than 50 voluntary organizations — nearly all of them formed by veterans themselves — manage to reach and help many former service members. But these Veterans Service Organizations have many competing priorities and limited resources, and are responding to the consequences of more recent wars.

Meanwhile, the official list of diseases that are recognized as herbicide-related has grown only sporadically, in response to an underfunded and uneven process of epidemiological research and bureaucratic deliberation. More than a decade after the war's end, only one illness — the disfiguring skin disease chloracne — was officially recognized as connected to wartime Agent Orange exposure. Others have since been added, little by little, often after prolonged scientific and governmental debate. Many illnesses that Vietnam veterans suspect are associated with contaminated herbicides, such as brain or testicular cancer, still are not considered service-related and thus are not eligible for benefits.

To be sure, epidemiological research is slow by nature, and some delay in identifying the effects of Agent Orange exposure would have been unavoidable. Certain symptoms may take years to develop, and patterns and connections sometimes become apparent only over long periods. Any process of recognizing conditions and assessing their degree of connection to dioxin (rather than, say, to individual circumstances like heredity or tobacco use) would have taken time. But research on Agent Orange was riddled with challenges from the start – scientific, political and financial. The result was to transform a necessarily painstaking process into one with even greater — and partly avoidable — delays. For veterans and their families, struggling with unexplained illnesses, disabilities, and death, every needless delay poses a severe cost that cannot be repaid later.

The harm resulting from dioxin use now extends well beyond the generation that fought in Vietnam. In 2007, the VA[2] reported that 1,200 children of exposed veterans had some degree of disability resulting from Spina Bifida, a birth defect closely associated with TCDD. Some 200 of these disabilities were severe. Many of these children became eligible for compensation thanks to a 1996 act of Congress. But other birth defects, learning disabilities, and childhood illnesses are not recognized, even though recent evidence shows several of them to be more common among the offspring of exposed Vietnam veterans. Little research has been done to establish which of these conditions may be related to Agent Orange, which means that no basis yet exists for determining how and whether the affected families may ever become eligible for support. Despite evidence of cross-generational effects of Agent Orange dating back nearly four decades, there remains no routine means of examining the children or grandchildren of Vietnam veterans, nor any system of compensation or support for the vast majority of children and their families.

At a minimum, men and women who risked their lives for the U.S. war effort in Vietnam — and who in the process were exposed not only to enemy hostility but to poison from their own side — are entitled to a simple, consistent way of learning about and receiving the compensation and support to which the law already entitles them. But more broadly, the process by which eligible illnesses are recognized and addressed under this law should not be mired in technical disputes and plodding deliberation nearly 35 years after the war's end. Research and data-gathering need to accelerate to a pace that begins to make up for decades of procedural delay and that fills in the gaps in basic information on exposure, medical consequences, and benefits delivered.

Most far-reaching of all, veterans' children and (it now seems) grandchildren who are born with the effects of inherited contamination should have a clear, reliable source of medical and social services. The sluggish pace of research on Agent Orange contamination has meant that, for decades, parents have been unaware of the risks that they and their children would face, and thus have raised families without essential information, much less services, that might have reduced suffering and improved opportunity for unknown thousands of children.

This paper concludes with a more specific list of recommendations and gaps to be filled. But first it is useful to survey, briefly, how matters got to their present state, and how veterans currently fare in the complex process of learning about, diagnosing, treating, and living with the lingering effects of Agent Orange.

The Early Years: A Trickle of Information and Tentative Responses

By the mid-1970s, returning Vietnam veterans were experiencing higher-than-average rates of certain disabling and life-threatening illnesses, including diabetes and various cancers, that were later shown to be associated with TCDD and Agent Orange. Increasingly unwell, and often unable to work, many sought information from established veterans' organizations or the Veterans Administration, usually to little avail. One early source of information, an

[2] In March 1989, the Veterans Administration was elevated to Cabinet rank and became the Department of Veterans Affairs. However, following both common and official use, this paper refers to the agency and its programs by the initials VA, regardless of whether the reference is to events before or after 1989.

Agent Orange Hotline organized with Ford Foundation support in the late 1970s, brought forth a flood of inquiries. It received 50,000 calls in its first year, most from veterans with unexplained illnesses or concerns about their health who had no source of information on what was happening to them or what to do about it.

Even once they were armed with preliminary information, concerned veterans still had few opportunities for comparing notes, organizing, and collectively making their concerns known. The formation of Vietnam Veterans of America (VVA) in 1978 provided an important network of support and advocacy, and it remains one of the Veterans' Service Organizations chartered by Congress to prepare, present, and prosecute claims for services and benefits. At the time, herbicide-related illnesses were beginning to appear in large numbers, however, these organizations were new and still gathering resources to take up the cause.

Four other developments, beginning around the same time that VVA was founded, helped form a critical basis of fact and law to buttress veterans' fears that exposure to Agent Orange was damaging their health and that of their children. One was a class-action product liability lawsuit that was filed in 1978 against five manufacturers (two others were added later) involved in the production of tainted herbicides or their components. The suit was settled six years later for $180 million, though the companies expressly denied liability or wrongdoing and maintained that "this action is without merit."[3]

A portion of that sum was paid out as cash benefits to veterans who could demonstrate "total disability" at any time between 1971 and 1994 — a group that ended up comprising about 50,000 people, a small minority of the plaintiff class. Nor were the payments to this group large: Initial checks, mailed in 1989, ranged between $340 and $3,400[4], the equivalent of $560 to $5,600 in 2007 dollars. Over time, the average benefit was estimated to be $5,700 in 1989 dollars, roughly $9,500 today. Those who developed illnesses and became disabled after 1994 — a common outcome, given the durability of TCDD in the body and the slow onset of many related illnesses — were not covered and received nothing.

More than a quarter of the total settlement was paid not to veterans, but to health and human service organizations, including veterans' groups, that offered outreach, respite care and other support services, case management, and treatment for veterans and their families. The service grants, called the Agent Orange Class Assistance Program, helped to demonstrate the effectiveness of local outreach, case management, and community-based service delivery to veterans' whole families as a way of reaching and serving those suffering from the lingering effects of exposure — a lesson the Veterans Administration later incorporated into other programs.

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[3] "Agent Orange" Product Liability Litigation, United States District Court for the Eastern District of New York, 597 F. Supp. 740; 1984 U.S. Dist. LEXIS 23337, MDL No. 381, September 25, 1984, Opinion by Chief Judge Weinstein.

[4] "Payments for Families of Defoliant's Victims," by the Associated Press, *The New York Times*, March 3, 1989, at http://query.nytimes.com/gst/fullpage.html?res=9501D16D1163D930A35750C0A961948260&scp=2&sq=agent+orange&st=nyt

Also in the late '70s, two studies began that would eventually provide a body of evidence on the effects of dioxin contamination. One, by the National Institute for Occupational Safety and Health, focused on workers in private industry, not on military personnel. But the number of people in the study, more than 5,000, made it by far the largest examination of dioxin exposure yet undertaken. A report from this study, released in the 1990s, found evidence of a link between dioxin and diabetes.

A second and better-known study, an epidemiological analysis commissioned by the U.S. Air Force, focused on some of the most intensively exposed veterans: 1,200 members of Operation Ranch Hand, the team that conducted much of the actual spraying of herbicides in Vietnam. Early results of the Ranch Hand study, published in 1984, contained findings that the Air Force described as "reassuring" to the exposed veterans, showing little difference between their health and that of other service members.

A decade later, however, an investigative report in the *San Diego Union-Tribune* revealed far more disturbing data from the Ranch Hand research that the Air Force had chosen not to publish. Among other things, the scientists conducting the analysis had actually found, in the newspaper's words, "that the Ranch Hand veterans were, by a ratio of 5 to 1, 'less well' than the comparison group." Study participants, according to the article, had also reported "significantly more birth defects among their children than did the other veterans

To clarify the facts, the Yale School of Nursing later examined birth defects among the children of Ranch Hand veterans. In 2003 the Yale researchers reported "evidence of a connection between Vietnam veterans' exposure to the defoliant Agent Orange in Southeast Asia and the occurrence of birth defects and developmental disabilities in their children." It concluded that "the children of Vietnam veterans constitute a likely vulnerable population as a consequence of their fathers' potential Vietnam service dioxin exposure."[5]

In later years, Air Force reports from the Ranch Hand study would eventually furnish further evidence of health consequences for veterans themselves. A Ranch Hand report in 2000, for example, produced what researchers characterized as "the strongest evidence to date that herbicide exposure [was] associated with diabetes and some of its known complications." The Air Force research that began in the 1970s continued for nearly three decades, ending in 2006. Its resulting trove of survey and medical data and biospecimens from study participants remains in the custody of the National Academy of Sciences. It may therefore be available for further research — a resource that will figure in the recommendations later in this paper.

A fourth significant development of the late 1970s was the Veterans Administration's creation of the Agent Orange Registry and the assignment of a "Registry Physician" at every VA medical center to administer a standard, extensive examination to veterans concerned about their exposure to Agent Orange. The registry is a computer database containing the results of these exams, along with other information on the veterans. But more fundamentally, the creation of the Registry system was the government's first major effort to

[5] Yale University Office of Public Affairs, "Yale Data Analysis Shows Birth Defects Resulting from Vietnam Veterans' Exposure to Agent Orange," Aug. 25, 2003, available at http://opa.yale.edu/news/article.aspx?id=3022.

offer dedicated medical attention to veterans specifically focused on their exposure to tainted herbicides. It set the precedent for offering treatment for herbicide-related illnesses to veterans — though not to their families and, most critically, not to children and grandchildren who may also be affected. Patients who undergo the Registry exams get regular updates on Agent Orange from the Department of Veterans Affairs. These provided a useful, if limited, network of communication in what was otherwise a near-total information void in much of the 1970s and '80s.

All the same, in these early years, the effects and extent of exposure to Agent Orange were still widely disputed. There was no presumptive eligibility for treatment. Veterans who came forward for Registry exams were generally those who had become convinced, mostly on their own, that they had reason for concern. And it was then their responsibility to convince the government. There was no routine outreach to other veterans, most of whom would have had no way of knowing, beyond voluntary organizations and the informal veterans' grapevine, that their illnesses, or those of their children, might be related to herbicides in Vietnam.

Although the Registry is meant as a clinical resource, not a research tool, it contains a wealth of data on nearly half a million Vietnam veterans presumably exposed to Agent Orange, and could provide a useful basis for future study. Properly expanded, with extensive outreach to more veterans and inclusion of spouses, children, and grandchildren, it could become the kind of central information source for policy and services that has been lacking for more than three decades. But even in its rudimentary form, like the liability litigation and the early epidemiological research, the Registry established a platform for inquiry, policy, and action. Unfortunately, little was built on that platform, and much remains to be built to this day.

A Decade of Lost Time, then the Start of an Organized Response

At the end of the 1970s, the White House and the Veterans Administration each established interdisciplinary groups to investigate and develop policy on exposure to herbicides in Vietnam. The Carter and Reagan Administrations had interagency teams charged with identifying areas that need study, reporting the results of research, and formulating recommendations. The Veterans Administration established an Advisory Committee on Health-Related Effects of Herbicides, which met three times a year throughout the 1980s. The VA also began publishing an annual survey of scientific and clinical literature on herbicides, which it updated regularly until 1994. Midway through the decade, Congress mandated the creation of yet another VA Advisory Committee, this one focused on disability compensation for Agent Orange exposure, among other environmental hazards.

Yet despite all this seemingly high-level attention, the '80s saw little practical progress in officially recognizing the effects of herbicide exposure, responding to the escalating reports of illnesses among veterans and their children, or formulating any deliberate plans or policies for doing so. One exception was in 1981, when Congress made it explicit that veterans exposed to Agent Orange would be presumed eligible for VA health care services, unless their condition was shown to be the result of something other than herbicides. This made it possible for veterans to seek treatment for conditions they regarded as related to wartime exposure, though the standard for whether any particular condition would qualify for treatment remained somewhat ambiguous. In any event, the law dealt only with eligibility for

medical care; it did not address the question of whether disabilities resulting from herbicide exposure should entitle exposed veterans, or their survivors, to disability compensation.

In 1984, another law, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, likewise seemed, at first, to be a step forward in dealing with the mounting reports of harm from Vietnam-era pesticides. The express purpose of the act was "to ensure that disability compensation is provided to veterans for all disabilities arising after [service in Vietnam] that are connected, based on sound scientific and medical evidence, to such service."[6] Among other things, the new law mandated that the Veterans Administration establish an advisory committee to review scientific literature and recommend new rules to govern claims for dioxin-related illnesses and disabilities. Unfortunately, after more than a year of study and consultation, the VA issued new regulations in 1986 reasserting that only one disease, chloracne, met the law's standard of "sound scientific and medical evidence."

Meanwhile official studies were purporting to conclude that all was well with herbicide exposure, and that veterans had nothing to fear from their service in Vietnam.[7] Yet according to the *San Diego Union-Tribune*'s review of this period, more alarming information was already beginning to emerge from the Ranch Hand study — for example, data showing above-average rates of birth defects among the children of Ranch Hand veterans. But this information did not become public for nearly another decade.

The main progress on Agent Orange in the 1980s took place largely outside of government. The most immediately significant was the settlement of the product liability lawsuit in 1984, with the consequent funding of compensation and services, five years later, for a limited number of veterans. Toward the end of the decade, two other sources of information lent further strength to the concerns about inherited effects of herbicide exposure among children of Vietnam veterans. The first was a literature survey by the Agent Orange Scientific Task Force, jointly sponsored by Vietnam Veterans of America, the American Legion, and the National Veterans' Legal Services Project. Its 1990 report found evidence of a link between Agent Orange exposure and several birth defects, including Spina Bifida, oral clefts, cardiovascular defects, hip dislocations, and malformations of the urinary tract. In the same year, the National Birth Defect Registry, maintained by the nonprofit Association for Birth Defect Children, began collecting data on the children of Vietnam veterans. Two years later, the Association reported to the House Committee on Veterans' Affairs that "a pattern of functional problems in Vietnam veterans' children is emerging" in the registry data, including high levels of learning, attention, and behavioral disorders. The data also suggested a high incidence of skin and allergic disorders, asthma, immune deficiencies, and tooth problems. Though information in the registry is self-reported, the results provide a useful basis for further research.

Perhaps the most consequential event of the 1980s occurred at the very end of the decade, when a federal district court in California ruled that the VA had for years been using "too restrictive a standard to determine whether a disease is sufficiently linked to Agent Orange to qualify as service-connected."[8] In the first of several rulings in the case of *Nehmer v. U.S.*

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[7] AP, New York Times, March 23, 1988 at http://query.nytimes.com/gst/fullpage.html?res=940DE6DC173DF930A15750C0A96E948260

[8] *Nehmer v. U.S. Veterans Administration,* 712 F. Supp. 1409 (N.D. Cal. 1989)

Veterans' Administration, the court ordered the VA to rescind its 1986 regulation limiting Agent Orange disability claims solely to cases of chloracne and voided all decisions on disability claims that had been made under that regulation. Together with a subsequent Stipulation and Order, the ruling required the VA to use a more flexible standard in determining which conditions were connected to herbicide exposure in military service, and then, when new conditions were recognized, to award retroactive benefits dating back to the time the veteran originally filed a claim.

Veterans' dissatisfaction with the government's slow, halting evaluation of herbicide-related conditions — a dissatisfaction that the court ratified in *Nehmer*, and that members of Congress increasingly shared — finally led to significant legislative action in 1991. In the Agent Orange Act, Congress began by declaring that veterans "who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era" would now be presumed to have been exposed to dioxin-contaminated herbicides. Any disease recognized by the Secretary of Veterans Affairs as associated with herbicide exposure would thus be presumed to be service-related, so that veterans with resulting disabilities would automatically be eligible for compensation. In the Act, Congress specified two forms of cancer — non-Hodgkin's lymphoma and some soft-tissue sarcomas — that would, along with chloracne, now be presumed to be the result of wartime exposure to dioxin.

Though the act expanded eligibility for compensation, the number of veterans and families who benefited from it was not large — approximately 2,300 veterans and 1,400 survivors. But the Agent Orange Act also took an important scientific step by directing that the National Academy of Sciences take over the responsibility for reviewing research on the health effects of herbicide and dioxin exposure and synthesizing it, every two years, into findings and recommendations. These biennial reports have since become the basis for most future decisions on whether a given disease would be formally recognized as herbicide-related. The Academy's independence, and its experience in conducting, managing, and reviewing high-quality research, brought a level of credibility, consistency, and authority to the research on Agent Orange that had been lacking for decades. But it also brought a degree of academic caution and a hesitancy in the face of methodological obstacles that have continued to frustrate veterans — many of whom had already been waiting a decade for a response to their conditions, and whose children and grandchildren would still be waiting many years longer.

Science and Eligibility: Piecemeal Expansion

Twice in the 1990s, the Clinton Administration enlarged the list of conditions recognized as herbicide-related, so that by 1996 the number had tripled. Just as significant, following a 1996 report of the Institute of Medicine (the arm of the National Academy of Sciences designated to carry out Agent Orange research), Congress authorized a monthly monetary allowance, along with health care and vocational training, for male Vietnam veterans' children who were born with Spina Bifida. It was the first time federal policy had recognized a cross-generational effect of herbicide contamination and made the affected children eligible for benefits.

Other childhood illnesses and disabilities, however, were not included, and it is likely that many affected children remain ineligible. In 2000, Congress extended benefits to children

with certain other birth defects and childhood disabilities, provided that they are the offspring of women who served in Vietnam. The effects of dioxin on the children of male veterans, other than Spina Bifida, remains a heavily debated question with no consensus in view.

Even as the list of compensable conditions was gradually expanding throughout the '90s, the probability that Vietnam veterans would actually receive benefits for the illnesses they and their children were experiencing remained low. *The San Diego Union-Tribune*, in its 1998 exposé on Agent Orange, attempted to quantify the odds: Of more than 92,000 herbicide-related claims from veterans and their survivors as of that year, the Department of Veterans Affairs had approved fewer than 6,000, or about 6 percent. Yet even those numbers understate the imbalance between the universe of veterans with health concerns and those receiving benefits. Given that, according to Vietnam Veterans of America, close to 80 percent of veterans receive their health care outside the VA system — from doctors who may have limited knowledge of Agent Orange, its possible effects, or the availability of benefits — it is likely that the number of applicants was considerably smaller than it would have been if all veterans were aware of the risks and the possibility of receiving help. Nor had scientists and federal officials yet reached conclusions on many other illnesses that Vietnam veterans and their families were experiencing and that were widely suspected of being connected to dioxin.

One prime suspect, as the 1990s were drawing to a close, was Type 2 diabetes. The National Institute for Occupational Safety and Health, in its study of civilian manufacturing employees, had found a connection between dioxin exposure and diabetes, but the Institute of Medicine had not found sufficient evidence of such a connection in the case of veterans. However, the Institute left open the possibility of reevaluating that conclusion, and in 1999, the Department of Veterans Affairs asked it to convene a special committee to study the question. A year later, a new Air Force report based on analysis of the Ranch Hand data presented what it called the "strongest evidence to date" of a link between herbicides and diabetes. That report was likewise sent to the Institute for review. Finally, in late 2000, the verdict was reached: The Institute of Medicine concluded that there was "limited/suggestive evidence" of a link between herbicide or dioxin exposure and diabetes — though it cautioned that other factors like heredity, physical inactivity, and obesity tended to outweigh the odds of increased risk from herbicide exposure. In the end, the Clinton Administration took its cue from the earlier studies and added Type 2 diabetes to the list of eligible conditions.

And so it has gone, year by year: an outpouring of concern from veterans and their families, followed by years of conflicting studies and methodological disputes, ending — sometimes — with a referee's decision by the VA. By this route, chronic lymphocytic leukemia was added to the presumptive-eligibility list in 2003; primary amyloidosis followed three years later. Meanwhile, Congress and successive administrations have periodically called for additional studies, and surveys of studies, often with results that fail to resolve the underlying controversies.

For veterans, their children, and their grandchildren, of course, the unresolved questions are neither abstract nor remote. A comment on a veterans' advocacy blog, from a Vietnam

veteran identified only as Freddy, tells a typical story of alarm and frustration over children who share their father's illnesses, but are barred from VA treatment or other benefits:

> I have two children whom I've told repeatedly to be screened for AO [Agent Orange] because they have rashes that break out in areas that change randomly, it seems. I have the same. The difference is that the VAMC [VA Medical Center] recognizes mine but will not screen them. I know of or have heard of many, many children of Vietnam vets who suffer from a whole host of health issues who are in need of recognition, admission, and treatment.

In another veterans' blog, Racheal Zimmerman, the daughter of a Marine who served in Vietnam in the 1960s, describes the confusion and fear that her generation has experienced, both in its own right and as parents of a third generation starting its life under the Agent Orange cloud:

> I am getting the same problems as the actual veterans [exposed to] Agent Orange have. From very early on in life, I would get these horrible sores under my arms that later spread to my face. I think it is chloracne. I have scars from it. I also have had gastrointestinal problems and numbness in my hands and feet. … I now have two children, they are 6 and 8, and now they are getting rashes on their skin. My father has renal clear cell carcinoma, which is not listed as one of the cancers on the Agent Orange list. … Today I made a call to the Department of Defense and the local VA, and both places told me they have never heard of any of the children of the veterans having any problems. … It's hard to get a diagnosis when doctors don't realize anything much about Agent Orange.

The current pattern of episodic research and reactive policy has left several unanswered questions — a series of gaps in knowledge and service into which Freddy and Racheal Zimmerman and many thousands of other veterans and their relatives continue to fall. For some issues, considerably more data will be required to reach a solid conclusion. For other matters, however, valuable data already exists and needs only to be put to systematic, deliberate use.

The Fate of the 'Ranch Hand' Data

For more than 25 years, the Air Force collected data and specimens from service members who had been among the most severely exposed to Agent Orange. The uses of that information, as we have seen, were not always consistent or persuasive. Yet the data and specimens themselves, which include information on 8,100 live births to Ranch Hand parents, are tremendously valuable: they constitute the only body of epidemiological information, gathered consistently over time, on a group known to be at high risk.

In the Veterans Benefits Act of 2003, Congress asked the Institute of Medicine whether the collected information — serial survey data, health examination records, and serial biospecimens — ought to be preserved. The IOM responded in 2006 that these assets should be maintained and made available for future research by a wider range of scientists. A year later, at Congress' instruction, the Air Force sent the Institute's Medical Follow-Up

Agency electronic copies of the survey and health-exam data and moved the specimens into a newly renovated biospecimen bank at the Wright-Patterson Air Force Base. The agency's current mandate is to facilitate research on the material through federal fiscal year 2012.

Unfortunately, it has yet to receive dedicated money with which to manage a research program. A section of the Veterans' Benefits Enhancement Act directed the Department of Veterans Affairs to provide the money for maintenance and new research. As this is written, the Institute is pursuing that funding.

The value of continued use of this information is illustrated by a study published in March 2008, based on earlier years of work on the Ranch Hand data.[9] By sorting the data according to how long each veteran had been exposed to spraying, and the total length of time each had served in Vietnam, among other things, the researchers discovered that findings in earlier studies had understated the risk veterans faced from prolonged exposure. Opening the data to further independent inquiry would almost certainly help in filling in information and addressing still-unexamined questions. But first, the funding for storing the data and managing researchers' access would have to be assured.

Even more valuable would be the collection of additional, more recent information from the study participants and their families. But that would add a considerable layer of complexity and cost. Now that the study has been discontinued, all the original participants would have to be re-contacted and agree to renewed participation. All the privacy and ethical issues surrounding human-subject research would have to be confronted anew, with no clear source of money to pay for the process. Yet even without addressing those challenges, for now it would be valuable simply to know that research will continue on the information already collected, and that researchers of many kinds will have access to it beyond 2012.

The Situation Today: Who is Eligible?

As of the end of 2008, disabilities connected with the following conditions were recognized as service-related for most[10] Vietnam veterans, based on their presumed wartime exposure to dioxin-contaminated herbicides:

- Chloracne (must occur within one year of exposure to herbicides)
- Non-Hodgkin's lymphoma
- Soft tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, omesothelioma)
- Hodgkin's disease
- Porphyria cutanea tarda (must occur within one year of exposure)
- Multiple myeloma

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[9] Joel Michalek and Marian Pavuk, "Diabetes and Cancer in Veterans of Operation Ranch Hand After Adjustment for Calendar Period, Days of Spraying, and Time Spent in Southeast Asia," *Journal of Occupational and Environmental Medicine*, vol. 50, issue 3, pp. 330-340.

[10] Presumptive eligibility for benefits currently extends only to those who served on land, not the "Blue Water" veterans whose service was in the waters outside Vietnam. Although some "Blue Water" veterans received benefits in the 1990s, the Department of Veterans Affairs restricted eligibility to land service as of 2002, except for those with non-Hodgkin's lymphoma.

- Respiratory cancers, including cancers of the lung, larynx, trachea, and bronchus
- Prostate cancer
- Acute and subacute transient peripheral neuropathy (must appear within one year of exposure and resolve within two years of onset)
- Type 2 diabetes
- Chronic lymphocytic leukemia
- Primary (AL) amyloidosis

For children of Vietnam veterans[11], Spina Bifida (but not Spina Bifida Occulta) is recognized as linked to their parents' exposure to herbicides. For the children of female veterans only, a wide variety of birth defects and childhood disabilities is recognized as service-related, including these:

- Achondroplasia
- Cleft lip and cleft palate
- Congenital heart disease
- Congenital talipes equinovarus (clubfoot)
- Esophageal and intestinal atresia
- Hallerman-Streiff syndrome
- Hip dysplasia
- Hirschprung's disease (congenital megacolon)
- Hydrocephalus due to aqueductal stenosis
- Hypospadias
- Imperforate anus
- Neural tube defects
- Poland syndrome
- Pyloric stenosis
- Sundactyly (fused digits)
- Tracheoesophageal fistula
- Undescended testicle
- Williams syndrome

Although Vietnam veterans are presumed eligible for benefits if they are disabled by these illnesses, that does not mean that enrolling for benefits is easy or automatic. Veterans must apply specifically for disability compensation; participation in a health registry, for example, does not substitute for filing a claim. The claim process can be complex and time consuming, particularly if the claim is initially denied and appeals become necessary.

It is difficult to know just how big a population is included in today's sphere of eligibility. No publicly accessible database tracks the number of Vietnam veterans receiving disability compensation or medical care for conditions presumed to be caused by Agent Orange. While information on medical conditions, disability compensation, average income, and education levels is available for Vietnam-era veterans generally, the data do not identify those whose claims are connected to Agent Orange.

[11] Eligible "children" may be adults. The term is defined in law as any natural offspring of a Vietnam veteran, regardless of age or marital status, who was conceived after the veteran first entered Vietnam.

Once a service member is discharged, he or she becomes a private citizen. From that point, military records are closed, unless veterans contact the VA on their own. Even when they do, the Veterans Benefit Administration and the Veterans Health Administration (both divisions of the Department of Veterans Affairs) maintain separate information systems, which are not linked. The resulting fragmentation is more than just an obstacle to research. In this system, veterans may be diagnosed with and receive care for a debilitating injury by one of the Department's branches, but due to the lack of a common database to monitor care and benefits, they may not receive the full array of benefits, or even have contact with the potential sources of those benefits.

Identifying the children of Vietnam veterans is an even greater challenge. The main systems and organizations that serve children — school systems, health care, state and local governments — do not typically ask if a child's parent is a veteran. Some might well consider the question intrusive. Meanwhile, the VA system would also not collect this information, given that it is responsible for veterans' health and benefits, not those of their families. Any attempt to find and assess the grandchildren of veterans clearly becomes even more difficult in the absence of any regular source of information.

The Available Benefits and Services

The level of disability benefits for veterans with Agent Orange–related conditions depends on the severity of the disability. These are the amounts for which veterans were eligible in 2008:

Monthly VA Disability Compensation Rates 2008 [12]		
Percent Disabled	No Family	Veteran & Spouse
10%	$ 123	—
20%	243	—
30%	376	$ 421
40%	541	601
50%	770	845
60%	974	1,064
70%	1,228	1,333
80%	1,427	1,547
90%	1,604	1,739
100%	2,673	2,823

The number of Vietnam veterans receiving disability compensation specifically because of Agent Orange is not published, nor is the level of their disabilities and the benefits they

[12] VA Compensation and Pension Payment, effective 12/1/08, Rates posted at http://www.vba.va.gov/BLN/21/rates/comp01.htm

receive. The Institute for Defense Analyses estimated in 2006 that Vietnam veterans generally received an average annual compensation of $11,670, tax free. Compensation for children is offered in three levels, based on the severity of the condition rather than on a percentage of disability. Benefits range from $270 a month at the lowest level to a maximum of $1,586 monthly.

Veterans who are not rated as 100 percent disabled, yet are unable to maintain substantially gainful employment as a result of service-connected disabilities, can qualify for compensation at the 100 percent rate under a program called Individual Unemployability. To qualify, the veteran must have either

- one service-connected disability rated at 60 percent or higher, or
- two or more such disabilities, at least one of which is rated at 40 percent or higher, and all of which add up to a combined rating of 70 percent or higher.

Of all the veteran cohorts receiving compensation, those who served during the Vietnam era are the most frequent recipients of Individual Unemployability benefits — more than 12 percent of Vietnam-era veterans receive these payments, compared with an average of 8.4 percent. The average level of benefits in this program is $29,035 a year in 2008.

Veterans who served on the ground in Vietnam are also eligible for cost-free hospital care, medical services, and nursing home care for any disease on the approved list, depending on the veteran's income and the amount of money available in the VA budget. In the Veterans' Health Care Eligibility Reform Act of 1996, Congress mandated that priority hospital and medical care be offered to certain categories of veterans, specifically including those who had been exposed to herbicides in Vietnam. It established seven levels of priority for various groups of veterans, and assigned those exposed to Agent Orange to the second-lowest priority level, unless their particular condition happened to qualify them for a higher tier. Even so, having a place in the priority hierarchy assures Vietnam veterans of a secure route to health care, provided they enroll with the Veterans Health Administration. Even enrolled veterans whose illness have not been recognized as herbicide-related nonetheless have priority access to medical care and hospital services, though nursing home care is available to them only if they qualify as low-income and VA resources are available. Children with Spina Bifida, and children with certain other disabilities whose mothers are veterans, likewise have explicit access to care. Other children, however — including many children of male veterans who have disabilities that are suspected of being related to their fathers' wartime service — are not eligible for VA medical care at all.

Veterans with service-connected disabilities such as the diseases on the Agent Orange list may also be eligible for the Department of Veterans Affairs' Vocational Rehabilitation and Employment program. The available services include job-search assistance, vocational evaluation and training, and supportive rehabilitation services. The program provides up to 48 months of free tuition plus textbooks and a monthly stipend of $541 for a single veteran and $791 for those with two family members. The stipend is in addition to disability compensation. For those whose disabilities are severe, the Department also offers help in living as independently as possible. Eligibility for these services is generally available for 12 years from the time the Department determines that they have at least a ten percent rating for a service-connected disability.

Some children may be eligible for education benefits — a fixed monthly payment for up to 45 months — if their veteran parent meets certain criteria. For example, a child could receive these benefits if his or her parent is determined to be 100 percent disabled due to a service-incurred disability that is rated permanent, or if the child's parent dies while such a rating was in effect. If the parent's cause of death was a service-related disability, or if the parent was a service member who died in the line of duty, those circumstances would also make the child eligible for education benefits.

Like all veterans, those with disabilities related to herbicide exposure in Vietnam can apply for benefits. They have access to VA-guaranteed mortgages that are generally available to veterans, as well as a special one-time grant to help severely disabled veterans pay for adaptations to their homes to accommodate their disability. A service-connected disability also may qualify a veteran for one-time financial assistance in buying a car equipped to accommodate the disability. Life insurance, up to a maximum benefit of $10,000, is also available to those with a service-connected disability, though the premium calculation is complicated relative to the size of the benefit. Some of these benefits are means-tested, meaning that they are available only to veterans whose income is low enough to qualify.

What's Needed: Five Recommendations for Greater Clarity and Justice

Although the list of possible benefits available to a veteran exposed to Agent Orange may seem long, many are of modest scale at best. Yet the problem is not solely, or even primarily, the adequacy of the benefits. The greater problem lies in the many obstacles that keep people from receiving support that they need and for which their service to the nation has qualified them — or ought to qualify them. This is not a problem limited solely to those exposed to herbicides in Vietnam. Veterans who served in other wars, including those returning from the Persian Gulf with Gulf War Syndrome and other illnesses, have encountered the same problems and share many of the needs raised in this paper.

A coherent, deliberate policy toward veterans exposed to Agent Orange and other battlefield toxins would be a matter not simply of good government, but of justice. It would recognize, in more than the current piecemeal way, a national responsibility to those who have risked their health and livelihoods, and the health of their children, and in some cases shortened their lives, by unknowingly being exposed to harmful chemicals from their own side. At a minimum, it would remove from these veterans' shoulders the sole responsibility for finding out what risks they face, what remedies they can pursue, and what help may be available to them and their families along the way.

The following five recommendations would constitute at least a significant step toward achieving that goal. Each would require significant cooperation, both strategic and financial, from government, academia, and civil society — a level of cooperation that, though not easy, fairly reflects the common stake that all Americans bear in bringing the long, frustrating history of Agent Orange to a more equitable conclusion.

1. **Outreach to All Affected Veterans and their Families:** There should be a well-organized, national campaign to bring information on Agent Orange to every veteran exposed to contaminated herbicides, as well as to their spouses, children, and

grandchildren. The information should cover the likelihood of exposure during service in Vietnam, the health conditions known — or suspected — to be related to that exposure, the risk of exposure for veterans' offspring, the range of benefits available from the Department of Veterans Affairs and other public agencies, and the process of applying and determining eligibility for these benefits. Particular effort will be needed for reaching those who are least well served today, including very low-income veterans and those with serious illnesses and disabilities. To that end, the outreach must be widespread and repetitive, and will need to be conducted partly by unconventional means, using channels of communication well outside the normal public health and military networks. The information provided to veterans and their families should also include a complete list of disability-related services, including medical, educational, employment, and income benefits, that may be available to the veterans' children.

2. **Outreach to Health Practitioners and Disability-Related Service Agencies:** Merely ensuring that veterans are better informed about herbicides and dioxin won't be helpful if the civilian agencies and doctors seeing the majority of Vietnam veterans and their families are uninformed, under-informed, or misinformed about the health consequences of exposure. According to Vietnam Veterans of America, roughly 80 percent of U.S. Veterans don't use VA medical centers. Their primary care providers are medical practitioners who may have little, if any, information about the health consequences or the trans-generational implications of exposure to Agent Orange. Support should be given to campaigns to get information on herbicide exposure, VA benefits, and eligibility to health care practitioners outside the Veterans Affairs system who serve the majority of Vietnam veterans and family members. The Vietnam Veterans of America has recently established a Veterans Health Council that is undertaking some of this kind of outreach. Similarly, agencies that provide services to people with disabilities should receive similar information, including information on the intergenerational consequences of Agent Orange exposure. Such agencies should include schools, vocational rehab programs, and organizations that serve people with mental illness and developmental disabilities, among others. To be effective, this outreach should be frequent, updated regularly, and incorporate new information as research and policy evolve. It also needs to be conducted by people and organizations who are the most knowledgeable about the health consequences of Agent Orange exposure and are familiar with the range of practitioners and agencies that need to be contacted.

3. **Medical Care for Affected Children and Grandchildren:** Evidence increasingly suggests that wartime exposure to Agent Orange is affecting a second and perhaps even a third generation. The vast majority of Vietnam veterans are now in their 60s or older; most therefore have grown children and are now reporting disabilities and health conditions among their grandchildren. Consequently, the Department of Veterans Affairs should extend its outreach and medical services to children and grandchildren of exposed veterans, when their illnesses or disabilities are shown to be related to parental exposure to herbicides.

4. **A Fresh Approach to Research:** Many of the gaps in service to veterans are the results of missing or inconclusive research — a scarcity of data, funding, or will to

pursue evidence that could settle many questions once and for all. A coordinated, adequately funded regimen of Agent Orange research might incorporate three key elements, among many other things:

a. **A scientific consensus on unanswered questions and means of addressing them.** The National Academy of Sciences, or some other trusted, independent body, should map the full range of pressing questions on Agent Orange that have not been answered, identify the obstacles to answering them, and propose solutions for overcoming the obstacles. These should include often-cited conditions that are not currently on the list of recognized illnesses, as well as the effects of parental — including paternal — dioxin exposure on children and grandchildren.

b. **Broad, well-supported use of existing data for further research** — particularly information from the Ranch Hand study and the industrial worker data collected by the National Institute for Occupational Safety and Health. Additional research should include exploration of ways to update these databases, particularly with respect to late-onset diseases and the health of children and grandchildren.

c. **Expansion of the Agent Orange Registry into a complete database of affected veterans and their offspring.** In order to gather complete information, as well as to find and serve those living with the consequences of Agent Orange exposure, it is essential to reach exposed veterans who have not yet come forward for examination and treatment. Children and grandchildren who may be suffering the consequences of veterans' exposure to herbicides should also be included in an expanded database and treatment program. A deliberate campaign to urge veterans to register themselves and their offspring might include the establishment of a nongovernmental e-Registry — an online point of contact where veterans and their families can enter basic data and receive information in return. One of the purposes of the e-Registry would be to help identify patterns among the problems that veterans and their families are facing, thus helping to clarify which issues still require more research, and which problems are not being adequately addressed by current policy.

d. **Coordination of Data Across the Whole Spectrum of Veterans Services:** The fragmentation of data among the main branches of the Department of Veterans Affairs makes it difficult to track who is receiving (and not receiving) which benefits. Within all these databases, there is also little or no information to identify which conditions and needs may have arisen specifically because of wartime exposure to toxins, rather than from other causes. These gaps in information not only impose severe limits on research, but also on clinical practice. A single, consistent, system-wide database for all veterans' services — with particular identification of benefits that are the result of service-related exposure to harmful chemicals — would enrich the information available both to policymakers and to those providing care and services to veterans and their families.

5. **Direct Service to Veterans and their Families, in Their Communities:** The experience of the Agent Orange Class Assistance Program, initially funded from the manufacturers' liability settlement in the 1980s,

> demonstrated that focused case management, carried out by voluntary and community-based organizations, can make a material difference in the likelihood that veterans and offspring with herbicide-related conditions can take advantage of care and services available to them, manage their health, learn skills, and lead productive lives. Although that program ended when the settlement money ran out, the needs that it uncovered have not disappeared, and in many cases have grown more severe. A renewed and enlarged commitment to maintaining a network of such services, nationwide, would go a long way toward closing the gap between the minority of veterans and their families who are knowledgeable and well organized and the much greater number who have little idea of where to turn or what help they might be able to seek.

For some 35 years and counting, Americans who served their country in combat have lived with illnesses and uncertainties resulting from an avoidable harm done to them by their own government. If the harm cannot be undone, the uncertainties should at least be dispelled. Scientific and clinical questions about the causes and prognoses of their illnesses, and the risks to later generations, can mostly be answered, and should be. Compensation for their illnesses and those of their children and grandchildren — along with health care, vocational services, and other standard benefits for people with service-related disabilities — ought to be readily available to them, without exceptional hurdles, confusion, or red tape.

These principles are not fundamentally in dispute. Yet remarkably, the ability to make them a reality has eluded the American government and civil society for decades. There should be no further delay. It is possible to fill the gap in information, outreach, and services in relatively short time. All that is required is a marshaling of resources, both financial and intellectual, an exertion of will, and a recognition that Americans' debt to Vietnam-era veterans is by now long past due.

MATERIAL SUBMITTED FOR THE RECORD BY MR. RICK WEIDMAN, EXECUTIVE DIRECTOR FOR POLICY & GOVERNMENT AFFAIRS, VIETNAM VETERANS OF AMERICA (VVA)

Draft # 3 Toxic Substances Bill
June 1, 2009

D R A F T # 3 of PROPOSED LEGISLATION

Military Toxic Exposures Comprehensive Research and Electronic Medical History Act of 2009

A Bill

To provide and direct funding for research into the effects of toxic exposures experienced by military personnel and hence, on veterans that may have long-term effects on their health and that of their offspring; and to incorporate a veteran's military health/medical history into a lifetime electronic health record.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Toxic Exposures Comprehensive Research and Electronic Medical History Act of 2009."

SEC. 2 FUNDING A COMPREHENSIVE PROGRAM OF RESEARCH INTO TOXIC EXPOSURES ENCOUNTERED BY TROOPS/VETERANS.

(a) Direct the Secretary of Veterans Affairs to establish a registry for veterans exposed to Agent Orange/dioxin that would replace the current such registry; and to establish other registries for Persian Gulf War, Operations Iraqi Freedom and Enduring Freedom, and the Global War on Terrorism.
(b) Additionally, establish registries specifically to track birth defects and learning disabilities diagnosed in the children, grandchildren, and great-grandchildren of the veterans of these wars.
(c) These registries shall be based on protocols to be determined by [??] and real-time tracking, and shall be modeled on the hepatitis C registry of the Department of Veterans Affairs which takes into account where and when a veteran served.
(d) These registries shall be the basis for research programs into the potential long-term effects on the health of veterans and that of their offspring.

(e) These registries shall be funded through the Research and Development accounts of the Department of Veterans Affairs up to $25 million per year for at least five years following the enactment of this Act, with future funding levels to be determined by the Department in consultation with veterans' stakeholders and the Congress.
(f) Additionally, Congress shall authorize the Research and Development program of the Department of Veterans Affairs to set aside up to $10 million to fund research and analyze data from the preserved biological samples from the Air Force "Ranch Hand" Study.

SEC. 3 REPLICATING THE NATIONAL VIETNAM VETERANS READJUSTMENT STUDY.

(a) Congress shall immediately authorize the expenditure from existing Research and Development accounts on the Department of Veterans Affairs of $25 million for the replication of the National Vietnam Veterans Readjustment Study to make this a true longitudinal study of the physical and mental health of veterans of the Vietnam War.
(b) This study shall be conceived as a robust mortality and morbidity study to be contracted with a reputable research institution no later than January 31, 2010.
(c) The Department of Veterans Affairs shall report to Congress progress on this study every four months until completion of this study.

SEC. 4 MANDATING THE INCLUSION OF A MILITARY HEALTH/MEDICAL HISTORY IN THE COMPUTERIZED ELECTRONIC PATIENT RECORD.

(a) Questions relating to a patient's military medical/health history shall be a mandatory element in the electronic patient medical treatment system to be developed in concert with the national rollup of this system. Questions shall include but not be limited to the following:
    (1) Where did the veteran serve?
    (2) When did the veteran serve?
    (3) What was the veteran's MOS [Military Occupational Specialty]
    (4) Did the veteran participate in combat activities?
    (5) Did the veteran come in contact with blood and other bodily fluids?
    (6) Was the veteran wounded and if so, what were the nature of these wound?

(b) Congress shall authorize the necessary funding to implement this in consultation with the Department of Health and Human Services, [the lead agency ?? in this effort].

RESOURCES

Veterans Health Council℠
improving veterans health through information and advocacy

The Veterans Health Council is a network of more than 30 professional organizations invested in the health of America's veterans. Please go to the VHC website at: www.veteranshealth.org for the list of VHC participants and how to reach them. The VHC is a program of Vietnam Veterans of America.

Caution: Military Service May Pose Increased Risks To Health

If you wish to file a VA claim, for compensation and/or health care benefits, contact an accredited veterans service officer for further information.

www.va.gov/ogc/apps/accreditation/

Vietnam Veterans of America
8605 Cameron Street, Suite 400
Silver Spring, Maryland 20910
301-585-4000

www.vva.org

Veterans & Their Families:

WHAT YOUR HEALTH CARE PROVIDER SHOULD KNOW

Veterans Health Council℠
improving veterans health through information and advocacy

Did You Serve in the U.S. Military?

The Department of Veterans Affairs has determined that certain illnesses have been associated with military service. Please check the lists of illnesses and health concerns that have been identified with service during the wars listed in this brochure. If you served during one or more of these periods of war and have any of the highlighted diseases, you may be eligible for compensation, benefits and health care.

VIETNAM WAR

FEBRUARY 28, 1961 - MAY 7, 1975

- ✔ **PTSD (Post-traumatic Stress Disorder)** and related mental health disorders caused by PTSD: symptoms include re-experiencing the traumatic event, emotional numbing, and hyper-vigilance.
- ✔ **Exposure to Agent Orange (dioxin) and other toxic chemical herbicides:** acute and sub-acute peripheral neuropathy; adult onset Type II Diabetes mellitus (and subsequent complications); Hodgkins disease; non-Hodgkins lymphoma; cancers of the bronchus, larynx, lung, prostate, and trachea; soft tissue sarcomas other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, and mesothelioma; chloracne or other acne-like similar diseases and poryphyria cutanea tarda if manifested within a year after the last date on which the veteran was exposed to the herbicidal agent during active military service.
- ✔ **Birth defects:** spina bifida in children born to either male or female Vietnam veterans.
- ✔ **Birth defects in children born to female Vietnam veterans:** achondroplasia; cleft lip and cleft palate; congenital heart disease; congenital clubfoot; esophageal and intestinal atresia; Hallerman-Streiff syndrome; hip dysplasia; Hirschprung's disease; hydrocephalus due to aqueductal stenosis; hypospadias; imperforate anus; neural tube defects; Poland syndrome; pyloric stenosis; syndactyly; tracheoesophageal fistula; undescended testicles; and Williams syndrome.
- ✔ **Hepatitis B, Hepatitis C, HIV/AIDS**
- ✔ **Substance abuse**
- ✔ **Military Sexual Trauma**

PERSIAN GULF WAR

AUGUST 2, 1990 – DATE TO BE DETERMINED, INCLUDES OPERATIONS DESERT SHIELD AND DESERT STORM

- ✔ **PTSD (Post-traumatic Stress Disorder)** and related mental health disorders caused by PTSD: symptoms include re-experiencing the traumatic event, emotional numbing, and hyper-vigilance.
- ✔ **Gulf War Illness:** medically unexplained chronic, multi-symptom illnesses defined by a cluster of symptoms that have existed for six months or more, including chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome; may also include headaches, muscle pain, skin disorders, neurological symptoms, weight loss, and menstrual disorders.
- ✔ **Leishmaniasis:** a parasitic disease spread by the bite of infected sand flies.
- ✔ **Amyotrophic lateral sclerosis (ALS):** commonly called Lou Gehrig's Disease; a rapidly progressive, invariably fatal neurological disease.
- ✔ **Exposure to chemical smoke, chemical and biological agents, and depleted uranium**
- ✔ **Immunizations**
- ✔ **Substance abuse**
- ✔ **Military sexual trauma**

GLOBAL WAR ON TERROR

SEPTEMBER 11, 2001 - DATE TO BE DETERMINED, INCLUDES OPERATIONS IRAQI FREEDOM AND ENDURING FREEDOM

- ✔ **PTSD (Post-traumatic Stress Disorder)** and related mental health disorders caused by PTSD: symptoms include re-experiencing the traumatic event, emotional numbing, and hyper-vigilance.
- ✔ **TBI** traumatic brain and spinal cord injuries; combined penetrating, blunt trauma, burn and blast injuries.
- ✔ **Multi-drug resistant *Acinobacter*:** an opportunistic strain of bacteria that can become deadly if untreated.
- ✔ **Leishmaniasis:** a parasitic disease spread by the bite of infected sand flies.
- ✔ **Vision loss**
- ✔ **Hearing loss, tinnitus**
- ✔ **Traumatic amputation**
- ✔ **Exposure to depleted uranium**
- ✔ **Substance abuse**
- ✔ **Military sexual trauma**

NOTE: In some cases, Dependency & Indemnity Compensation, education benefits, and CHAMPVA medical care may be available for the surviving spouses and children of certain veterans.

DEPENDENCY & INDEMNITY COMPENSATION

To be eligible for DIC benefits, a surviving family member must show the following:

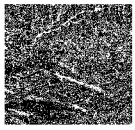
- ✔ The family member meets one of the following criteria: you were married to the veteran at the time of death and you had lived with the veteran from the date you were married until the veteran's death, unless separation occurred because of the veteran's misconduct without fault on your part; you are not currently married, remarried after age 57; or you are not currently living with another person and claiming to be the spouse of that person. There may be different rules that apply if you either were married to the veteran for less than one year or were in a common-law relationship with the veteran;
- ✔ you are a son or daughter of the veteran under the age of 18, unmarried, and there is no eligible surviving spouse;
- ✔ you are a son or daughter of the veteran, 18 years old or older, and before you reached the age of 18, you became disabled and permanently unable to support yourself;
- ✔ you are the son or daughter of the veteran, unmarried, between the ages of 18 and 23, and currently attend a VA-approved school; and
- ✔ you are the surviving parent or parents of a deceased veteran. The term "parent" includes a biological, adoptive, or foster parent. A foster parent is a person who legally stood in the relationship of a parent to the veteran for at least one year before the veteran's last entry into active duty.

Eligibility for dependent parents' DIC is need-based. When countable income exceeds the limit set by law, no benefit is payable. Income limits are adjusted annually.

THE VVA SELF-HELP GUIDE TO

Service-Connected Disability Compensation For Exposure To Agent Orange

FOR VETERANS AND THEIR FAMILIES



NOVEMBER 2009

VIETNAM VETERANS OF AMERICA

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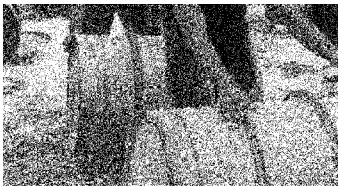
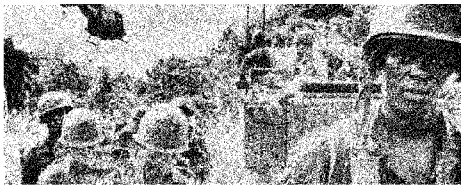


FOREWORD

Agent Orange is a highly toxic herbicide used by the U.S. military during the Vietnam War to defoliate hiding places used by the Viet Cong, rice paddies and fields that provided them with food, and to clear the perimeters of military bases to give service members a clear line of fire. Although colorless, it is known as "Agent Orange" because of an orange band painted on the drums used to store and transport it.

After years of advocating led by VVA, Congress enacted into law the Agent Orange Act of 1991. This legislation empowered the Secretary of Veterans Affairs to declare certain maladies "presumptive" to exposure to Agent Orange/dioxin and enable Vietnam veterans, as well as some veterans who served along the demilitarized zone in Korea in the late 1960s, to receive treatment and compensation for these health conditions. Service-connected benefits, however, also may be granted for other maladies not recognized as presumptive health conditions.

John Rowan
National President
Vietnam Veterans of America



INTRODUCTION

The purpose of this Vietnam Veterans of America (VVA) guide is simple: to present information and describe the process in a user-friendly fashion for a Vietnam veteran or (surviving) family member to file a claim for service-connected disability compensation or death benefits with the Department of Veterans Affairs (VA) for illnesses/diseases associated with exposure to Agent Orange and other related herbicides during military service. At the outset, please understand that the VA claims process is complicated, frustrating, and can be time-consuming. Please understand also that these guidelines are not legal advice.

VVA hopes this guide will be helpful:

- If you have never filed a VA claim for disability or death compensation because of exposure to Agent Orange; or

- If you have filed a VA claim for disability or death compensation because of Agent Orange exposure and it was denied (after all appeals, if any) by the VA *before* September 25, 1985 (this includes claims or death benefits for Adult Onset Type II Diabetes and ancillary conditions); or

- If you have filed a VA claim for disability or death compensation due to Agent Orange exposure and it was denied (after all appeals, if any) by the VA *on or after* September 25, 1985, or if it is still pending. In this situation, do not file a new claim. Contact the appropriate VA Regional Office in writing to confirm and ask the following: 1) whether you filed a claim; 2) what disability was claimed; 3) whether the claim was based on Agent Orange exposure; 4) whether the claim is in the VA's "Special Issue Rating System" as an Agent Orange claim; 5) does the VA have your current mailing address; and 6) request a copy of your entire claims file, your "C-file"; or

- If your claim was denied by the VA in the past, but you did not inform the VA in writing that you believed the disability or death was caused by exposure to Agent Orange. In this situation, re-open your claim by filing a new application that includes an attachment with the following statement: "I am re-opening the claim you denied previously, because I now have new and material evidence, namely, that I was exposed to Agent Orange in Southeast Asia (or other location), and I believe my disability (or veteran's death) is connected with my exposure to Agent Orange;" or

- If you do not remember 1) whether you've ever filed a VA claim; 2) when you filed a VA claim; 3) whether you stated that the disability or death in your VA claim was due to Agent Orange exposure; or 4) you believe you have a medical condition (or the veteran's death was) due to Agent Orange exposure. In this situation, file a claim as soon as possible, and request a complete copy of your C-file from the nearest VA Regional Office.

WHAT IS AGENT ORANGE?

A host of herbicides were used by the U.S. military in Vietnam and other Southeast Asian countries to protect American and allied troops by defoliating the dense jungle vegetation hiding enemy positions. The herbicides were named for the color-coded bands on the 55-gallon drums in which they were shipped; examples included Agent Blue, Agent White, and the most extensively used herbicide, Agent Orange. In Vietnam, herbicides were sprayed from fixed wing and rotary aircraft, trucks, and backpack sprayers to clear vegetation around fire bases, landing zones, and along river banks. It is estimated that between 1962 and 1971, almost 11 million gallons of Agent Orange were sprayed in Vietnam, primarily through an aerial spray program code-named "Operation Ranch Hand." Agent Orange was also used at military installations and other facilities on and outside of the U.S. mainland, including Hawaii and Puerto Rico, as well as Cambodia, Canada, Korea, and Thailand.

Agent Orange is a combination of two compounds, 2,4-D and 2,4,5-T, technically known as chlorinated phenoxy acids in ester form. The most dangerous element of Agent Orange is a contaminant present in the manufacture of 2,4,5-T; this impurity is known chemically as 2,3,7,8-tetrachlorodibenzo-paradioxin, or more commonly, dioxin. Levels of dioxin in Agent Orange ranged from less than 0.05 parts per million to almost 50 parts per million.

In Vietnam, herbicides were sprayed from fixed wing and rotary aircraft, trucks, and backpack sprayers to clear vegetation around fire bases, landing zones, and along river banks.

Some three million veterans served in Southeast Asia, and no one knows for sure how many of these veterans were exposed to Agent Orange. Some of these personnel were deployed in areas during and immediately after spraying operations, while others actually handled Agent Orange and did the spraying. Veterans exposed to Agent Orange and its dioxin contaminants have reported a variety of serious health problems and symptoms; these include chloracne, skin lesions, liver damage, loss of sex drive, changes in skin pigmentation and sensitivity to light, numbing or tingling in the extremities, sore joints, cancers, and birth defects in their children.

For an incomplete list of locations and dates where dioxin (Agent Orange and other agents) was used, consult the "DoD Report on Herbicides Used Outside Vietnam," available online at **www1.va.gov/agentorange**.

ILLNESSES/DISEASES RECOGNIZED BY THE VA AS CONNECTED TO AGENT ORANGE/HERBICIDE EXPOSURE

Acute Peripheral Neuropathy: a temporary dysfunction of the nervous system characterized by involuntary "tingling" or numbness in the extremities.

Adult Onset Type II Diabetes Mellitus: late sequelae complications caused by non-insulin dependent and characterized by high blood sugars.

***Chloracne:** an acne-like eruption on the skin due to prolonged exposure to certain chlorinated compounds.

Hodgkins Disease: a tumor found in the lymph nodes characterized by increasing enlargement of the lymph nodes, liver, and spleen, and accompanied by progressive anemia.

Non-Hodgkins Lymphoma: a rare type of cancer which causes malignant tumors of the lymph nodes, distinguished from Hodgkins disease by the absence of giant Reed-Sternberg cells.

***Peripheral Neuropathy:** a dysfunction of the nervous system involving either the somatic nerves or the autonomic nervous system (see Acute Peripheral Neuropathy); can cause sensory loss, atrophy, and muscle weakness.

***Porphyria Cutanea Tarda:** characterized by skin lesions on exposed portions of the body and transient changes in the skin; liver disease occurs in some patients.

Spina Bifida in children conceived after the veteran first arrived in Vietnam; characterized by a defective closure of the spinal cord in which the cord may be exposed and/or protrude.

Sub-acute Peripheral Neuropathy: a nervous system disorder either acute (temporary) or chronic (long-term) – see acute peripheral neuropathy and peripheral neuropathy.

Cancer of the Bronchus: a malignant tumor found in the bronchus, an extension of the windpipe (trachea) connecting to the lungs.

Cancer of the Larynx: a malignant tumor found in the voice box (larynx).

Cancer of the Lung: a malignant tumor found in the lungs.

Cancer of the Prostate: a malignant tumor found in the prostate gland.

Cancer of the Trachea: a malignant tumor found in the windpipe (trachea).

Adult Fibrosarcoma: a tumor formed from connective tissue.

Alveolar Soft Part Sarcoma: a sarcoma found in the alveoli, the sac-like ducts in the lungs.

Angiosarcoma: a tumor occurring on the breast and skin and believed to originate from blood vessels.

Chronic Lymphocytic Leukemia: characterized by a progressive increase in production of white blood cells.

Clear Cell Sarcoma of Aponeuroses: a sarcoma found at the end of a muscle where it becomes a tendon.

Clear Cell Sarcoma of Tendons: a sarcoma found in the tendons.

Congenital Fibrosarcoma: a malignant tumor formed before birth and derived from connective tissue.

Dermatofibrosarcoma: a relatively slow-growing skin tumor consisting of one or more firm nodules.

Ectomesenchymoma: a tumor found in certain parts of the skin.

Epithelioid Malignant Leiomyosarcoma: a malignant tumor derived from smooth muscle found in the layer covering the muscle.

Epithelioid Malignant Schwannoma: a moderately firm, benign tumor found in the layers of membrane covering surfaces inside the body cavity caused by too many Schwann cells growing in a disorderly manner.

Epithelioid Sarcoma: a tumor found in the membrane covering surfaces inside the body cavity.

Extraskeletal Ewing's Sarcoma: a tumor outside the bone consisting of small rounded cells.

Hemangiosarcoma: a tumor derived from blood vessels and lining blood-filled spaces.

Infantile Fibrosarcoma: a tumor formed as a child derived from fibrous connective tissue.

Leiomyosarcoma: a tumor derived from smooth muscle.

* Diseases with various time requirements

Liposarcoma: a tumor that may occur anywhere in the body consisting of irregular fat cells.

Lymphangiosarcoma: a tumor derived from blood vessels.

Lymphoma: a malignant tumor of the lymph nodes.

Malignant Fibrous Histiocytoma: a type of tumor found in connective tissue.

Malignant Giant Cell Tumor of the Tendon Sheath: a tumor found in the membrane of tendons.

Malignant Glandular Schwannoma: a moderately firm malignant tumor in the glands caused by too many Schwann cells growing in a disorderly pattern.

Malignant Glomus Tumor: a tumor found in the tiny nodes (glomuli) in the the nailbed, pads of fingers or toes, ears, hands, feet, and other body organs.

Malignant Hemangiopericytoma: a tumor characterized by rapidly growing fat cells formed in blood vessels and lining blood-filled spaces.

Malignant Mesenchymoma: a malignant tumor in the embryonic tissue or fluid.

Malignant Shwannoma with Rhabdomyoblastic: a moderately firm malignant tumor found in skeletal muscle resulting from the rapid disorderly growth pattern of Schwann cells.

Multiple Myeloma: cancer of specific bone marrow cells characterized by bone marrow tumors in the skeletal system.

Proliferating Angiedothelliomatosis: increasing numbers of benign tumors in blood cells often causing skin discoloration.

Rhabdomysarcoma: tumors derived from skeletal muscle.

Sarcoma: tumors arising in connective tissue, bone, cartilage, or muscle.

Soft Tissue Sarcoma: a group of soft tissue cancers characterized by malignant tumors which develop on muscles and connective tissue, or in body fat.

Synovial Sarcoma: a tumor found in the lubricating fluid surrounding joints and tendons.

NOTE: This list may change over time. For official updates, see Title 38 Code of Federal Regulations Section 3.309(e) "Diseases associated with exposure to certain herbicide agents."

BIRTH DEFECTS RECOGNIZED BY THE VA AS CONNECTED TO AGENT ORANGE EXPOSURE

Spina Bifida

Children born to Korea Veterans

Achondroplasia

Club Lip and Cleft Palate

Clubfoot (Talipes Equinovarus)

Congenital Talipes Equinovarus

Esophageal and Intestinal Atresia

Hirschsprung's Disease

Hypospadias

Imperforate Anus

Neural Tube Defect

Pallister Syndrome

Polydactyly

Syndactyly

Tracheoesophageal Fistula

Undescended Testicle

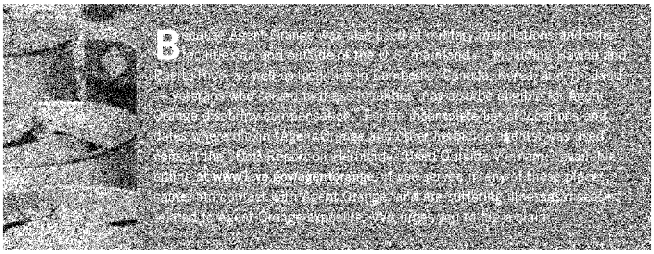
Williams Syndrome

WHAT IS PRESUMPTIVE SERVICE-CONNECTED AGENT ORANGE DISABILITY COMPENSATION?

Scientific evidence has demonstrated that there is an association among service in Vietnam (and in Korea along the DMZ, April to August 1968 and May to July 1969), exposure to Agent Orange, and a variety of serious illnesses. As a result, the VA can make monthly monetary payments to veterans who suffer from serious illnesses related to their exposure to Agent Orange. The VA calls these payments "presumptive service-connected disability compensation."

The amount of the compensation payment depends upon the severity of a veteran's service-connected disability and, in some cases, the number of qualifying family members the veteran has. The VA uses a percentage basis ranging from zero percent to 100 percent for measuring the severity of the veteran's service-connected disability; the higher percent the disability and the more qualifying family members the veteran has, the higher the monthly compensation payment. However, a percentage rating of 0 – 20 percent does not pay extra for dependents.

Generally, the VA will only grant service-connected disability compensation based on exposure to Agent Orange through what the VA calls its "presumptive service connection rules." The VA maintains a list of illnesses and diseases that it agrees are linked to herbicide exposure in Vietnam. These rules cover exposure to Agent Orange and other herbicides used in Vietnam (and along the DMZ in Korea) such as Agent Blue and Agent White. If you are a Vietnam veteran (or served in Korea during the periods noted above) with an illness or disease found on this list, you have the right to disability compensation and health care.



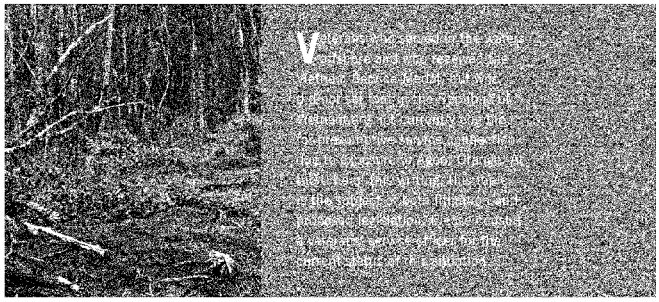
HOW DO I KNOW IF I QUALIFY FOR PRESUMPTIVE SERVICE-CONNECTED AGENT ORANGE DISABILITY COMPENSATION?

To qualify, you generally need to show only two things, that

- You served on active duty in the military, naval or air service in the Republic of Vietnam regardless of the length of that service during the period January 9, 1962, to May 7, 1975, or in Korea along the DMZ during April to August 1968 and/or May to July 1969; and

- You currently have been diagnosed with one of the diseases found on the VA's list of conditions linked to herbicide exposure, or you currently have residual or secondary conditions from one of these illnesses (see pages 4–5).

GET AN EXAM. Even if you feel healthy, there are several exam options available to you, including the VA or a private healthcare facility or physician. If you use the VA system for your examination, consider getting added to the Agent Orange Registry.



WHAT IS THE AGENT ORANGE REGISTRY?

In 1978, the VA began a program to examine and to record the names of veterans concerned about health problems related to their exposure to Agent Orange and other herbicides during their military service in Southeast Asia. Eligible veterans qualify for an Agent Orange Registry examination at the VA. Almost 500,00 veterans — or one out of every six who served there — are in the registry.

Who Is Eligible for the AO Registry Exam?

Under Public Laws 102-585 and 100-687, any U.S. male or female veteran who served in the Republic of Vietnam between 1962 and 1975 for any length of time or in Korea along the DMZ, April to August 1968 and May to July 1969, is *presumed* to have been exposed to phenoxy herbicides and is therefore eligible to enroll and obtain an AO Registry exam. Verifiable evidence of such in-country service constitutes eligibility.

Under these same laws, however, any other U.S. veteran who may have been exposed to dioxin or other toxic substance in an herbicide or defoliant during their military service must provide proof of exposure to enroll and obtain an AO Registry exam. For an incomplete list of locations and dates where dioxin (Agent Orange and other agents) was used, consult the "DoD Report on Herbicides Used Outside Vietnam," available online at **www1.va.gov/agentorange**.

*Veterans eligible for inclusion in the AO Registry **do not** need to be enrolled in the VA healthcare system.*

Does Participation in the AO Registry Constitute a Compensation Claim for VA Compensation?

No, although the results of an AO Registry exam may be used to support a subsequently filed claim. The exam in and of itself does not constitute the filing of a claim.

What Does an AO Registry Exam Entail?

The exam consists of four basic parts:

- An exposure history to determine where, when, and how the veteran was exposed to AO or other toxic chemicals before, during, and after service in Vietnam;
- A medical history to document health problems experienced by the veteran since the time of exposure;
- Laboratory tests such as blood chemistries, urinalysis, and a chest x-ray; and
- A physical examination of 21 body parts, focusing on those systems commonly affected by toxic chemicals, such as the liver, kidneys, skin, and reproductive, endocrine, immunological, and nervous systems.

You should try to arrange for the lab tests to be done at the same time as the scheduled physical exam. You may also be eligible for reimbursement from the VA for the cost of travel to the VA exam.

VVA encourages all veterans with Vietnam service to have an Agent Orange Registry exam, regardless of their current health status, as it is always possible that the exam may detect health problems that are caused by something else for which the VA may provide treatment and/or compensation.

What if the AO Registry Exam Uncovers a Medical Condition That Requires Further Treatment?
If the AO Registry exam uncovers a condition in a veteran who is enrolled or otherwise eligible for VA healthcare, and that condition requires further treatment, the veteran is to be referred to a VA primary care clinician to obtain the necessary medical assessment and appropriate treatment. If you are not enrolled or otherwise eligible for VA health care, the VA may suggest that you enroll in the VA or seek non-VA care.

Private Healthcare Examination for Claim Purposes
If you use a private healthcare facility for your examination, you will need to submit a detailed medical report to the VA Regional Office which includes documentation of your diagnosis and whether it is as likely as not due to herbicide exposure and to explain its impact on your life.

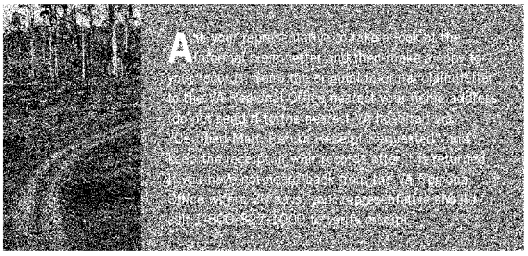
In addition, *always request copies* of the lab results and copies of the medical history and examination reports whether you use the VA or private healthcare provider.

HOW DO I FILE A CLAIM WITH THE VA FOR PRESUMPTIVE AGENT ORANGE DISABILITY COMPENSATION?

Step 1: GET HELP You will probably find the VA laws, regulations, and procedures surrounding Agent Orange-related claims to be complicated and frustrating. Many Veterans Service Organizations (VSOs), including VVA, offer free assistance to help you present your claim to the VA (see page 19 of this guide for VSO information). *Choose a representative carefully*; ask questions about his or her claims' experience; get a feel for the representative by talking with him or her. For example, ask if there are any limits on their service *before* you sign a power of attorney appointing him or her as your representative. Stay personally involved in your case to make certain everything that should be done is done. Communicate regularly with your representative. *Make copies of ALL documents used in your claim, and keep them in a safe place* in the event any of your paperwork is lost, misplaced, or destroyed during the claims process. Missing paperwork is one of the main reasons for delay in processing a claim.

Step 2: APPLY If you believe that you are entitled to compensation benefits under the VA's Agent Orange rules and have never previously filed a VA disability claim for an Agent Orange-related illness, or have previously filed a VA disability or death claim for such an illness, but that claim was denied before September 25, 1985, and that claim is not being currently considered, then *immediately* send the VA an "informal" claim letter. Make sure that the claim letter includes the date, your full legal name, Social Security number, and your VA C-file number, if known. Also make sure to sign the letter. Suggestions about what to write in an informal claim letter can be found on page 18.

The informal claim can be considered as an initial claims application, and you will eventually be required to complete additional official VA forms. Do not delay sending the informal claim until you and your representative have gathered the evidence to support your claim. You will have time after you file the informal claim to gather and submit your evidence. The earlier you file the claim, the better, because if your claim is granted, the monthly compensation usually starts from the date you first filed your claim.



Step 3: FINISH THE CLAIM APPLICATION PROCESS Once the VA receives your informal claim, you will eventually be sent VA Form 21-526, the official "Application for Compensation and Pension." Generally speaking, you have one year (365 days) from the date the VA mailed you Form 21-526 to fill out and return it to the nearest VA Regional Office. Follow the advice of your representative in completing the form. You have the right to review your military service records and any other records in your VA file before completing the form. Make sure to make a copy for your records.

NOTE: From this point on during your claims process, ***never*** *send any written documents directly to the VA without a prior review by your representative. All communication with the VA should be coordinated through your representative.*

Step 4: GATHER EVIDENCE Collecting evidence to support your claim can be time-consuming and very frustrating — but absolutely essential to winning your claim. Once the VA Regional Office receives your VA Form 21-526, it should determine whether or not your claim is plausible. If so, then the VA is legally required to help you gather the evidence — but don't count on the VA to assist you. You and your representative should attempt to obtain all of your private post-military service and VA medical records, along with all of your military personnel and medical records. These records should be provided directly to your representative so that your representative can determine which documents should be submitted to the VA Regional Office in support of your claim. Make a copy for your records. To obtain one free copy of your military personnel and medical records, send a letter requesting such to:

National Personnel Records Center
Military Personnel Records
9700 Page Avenue
St. Louis, Missouri 63132
www.archives.gov

Your representative should have access to the SF-180 form — or you can download it from the VVA website, www.vva.org — that makes this request easier. If the NPRC tells you that your records are missing, your representative can help you file a National Archives and Records Administration Form 13075, "Questionnaire About Military Service." The information you supply on the Form 13075 will be used by the NPRC to reconstruct lost, destroyed, or difficult-to-find military personnel records.

If you have used VA medical services in the past, if your claim was filed some time ago, or if this is a claim for compensation increase or a reopened claim, you have the right under the Privacy Act to find out what information is contained in your VA claims file. To obtain a free copy of your VA C-file, simply send a letter to the Regional Office that holds your C-file (usually the one where your claim has been filed) and request a copy. Always make a copy for your records. You and your representative should carefully review the C-file to determine if any information is missing.

Step 5: ORGANIZE EVIDENCE With the assistance of your representative, organize your evidence and arguments in written form for presentation to the VA Regional Office.

What if my claim is denied?
If the VA Regional Office determines that your disability is not service-connected, or if the evaluation of your disability is lower than you think is fair, you have the right to appeal to the Board of Veterans' Appeals in Washington, D.C.

Appeals Step 1: With the assistance of your representative, you should file a written "Notice of Disagreement" with the VA Regional Office within one year (365 days) of being notified of the denial and request a written copy of the rating decision. In your Notice of Disagreement letter, be sure to include the date of the VA's letter of denial, the claim number, and the list of benefits you are still seeking. Make a copy for your records. If you miss the one-year deadline for sending your Notice of Disagreement letter and have not requested an extension, the decision of the VA Regional Office may become final. You can re-open your claim at the VA Regional Office if you provide *new* and material evidence supporting your claim; however, the effective date of your claim will change.

Once you've filed your Notice of Disagreement at the VA Regional Office, you can request a hearing that will determine the status of any new evidence affecting the review of your claim. If the claim is denied, your appeal to the Board of Veterans' Appeals will go forward.

Appeals Step 2: If you and your representative have followed Appeals Step 1, and the VA continues to deny your claim, the VA Regional Office will respond to your notice of disagreement with a "Statement of the Case" letter to you and a copy to your representative, which details the laws that apply to your claim and the reasons why the claim was denied. Along with the Statement of the Case letter, the VA Regional Office will provide you with "the substantive appeal" form, VA Form 9. You and your representative must complete this form and return it to the VA Regional Office *within 60 days* of the date on the Statement of the Case letter for the Board of Veterans' Appeals to further consider your appeal. Again, make copies for your records. Return the completed VA Form 9 to the VA Regional Office within 60 days, regardless of whether or not you've requested a hearing under Appeals Step 1.

After your representative has submitted your VA Form 9, the VA Regional Office will send you and your representative a dated letter telling you that your appeal has been assigned a number and been put on the Board of Veterans' Appeals docket. You will also be notified when your file has been sent to the Board of Veterans' Appeals in Washington, D.C. You will then have 90 days from the date of this second notification to submit new evidence, request a hearing, or change your representative.

What if my appeal is denied, or I am not satisfied by the decision of the Board of Veterans' Appeals?
You have several options, but you should consult an experienced veterans' service officer or attorney before you choose any of these: a) request reconsideration by the Board of Veterans' Appeals; b) formally appeal to the U.S. Court of Appeals for Veterans' Claims; and/or c) re-open your claim at the Regional Office with new and material evidence.

Can I hire a lawyer?
Yes, you may hire a lawyer to represent you, but only after you have filed a "Notice of Disagreement" with a VA Regional Office.

IS PRESUMPTIVE SERVICE-CONNECTED AGENT ORANGE DISABILITY COMPENSATION AVAILABLE TO SURVIVING FAMILY MEMBERS OF DECEASED VIETNAM VETERANS?

Yes. If a Vietnam veteran dies of a medical condition considered to have resulted from exposure to Agent Orange during his/her military service, certain surviving family members may be eligible for monthly VA compensation payments through the VA's dependency and indemnity compensation (DIC) program.

Who Is Eligible?
To be eligible for DIC benefits, a surviving family member must show two things:

1) The family member meets one of the following criteria:

- You were married to the veteran at the time of death, and you had lived with the veteran from the date you were married until the veteran's death, unless separation occurred because of the veteran's misconduct without fault on your part; you are not currently married, remarried after age 57; or you are not currently living with another person and claiming to be the spouse of that person. There may be different rules that apply if you either were married to the veteran for less than one year or were in a common-law relationship with the veteran;

- You are a son or daughter of the veteran under the age of 18, are unmarried, and there is no eligible surviving spouse;

- You are a son or daughter of the veteran, 18 years old or older, and before you reached the age of 18, you became disabled and permanently unable to support yourself;

- You are a son or daughter of the veteran, unmarried, between the ages of 18 and 23, and are currently attending a VA-approved school; and

- You are the surviving parent or parents of the deceased veteran. The term "parent" includes a biological, adoptive, or foster parent. A foster parent is a person who legally stood in the relationship of a parent to the veteran for at least one year before the veteran's last entry into active duty.

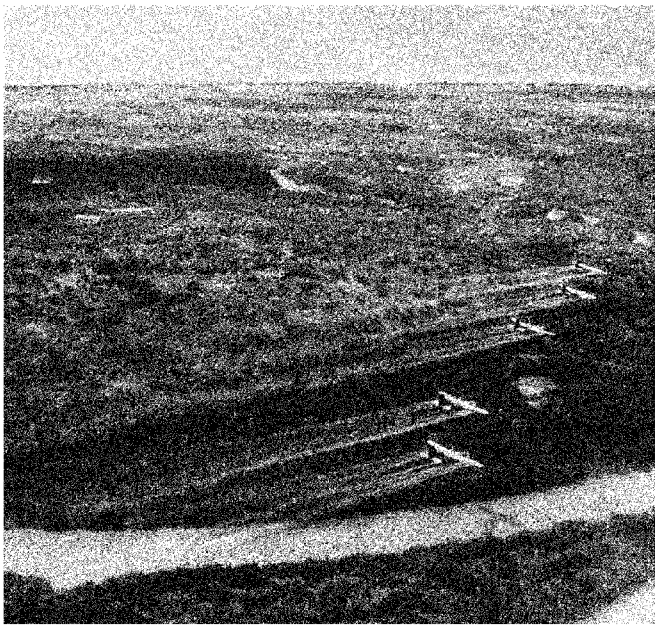
Eligibility for dependent parents' DIC is need-based. When countable income exceeds the limit set by law, no benefit is payable. Income limits are adjusted annually.

2) In addition to one of the eligibility criteria noted above, you must also show that the veteran had active service in Vietnam (or Korea along the DMZ in April to August 1968 and/or May to July 1969), the veteran developed one of the illnesses/diseases considered by the VA to be presumptive to exposure to Agent Orange, and that the illness/disease was the principal or a contributory cause of the veteran's death.

NOTE: These eligibility requirements can be met, even if the deceased veteran never applied to the VA for disability compensation before death; or if the veteran had applied for compensation before death, but the claim was denied; or if the claim/appeal was pending at the time of death.

How Do I File a DIC Claim?

The procedures used by the VA for this type of claim are generally the same as those used to handle any veteran's claim; VA Form 21-535 is used. Information to be included in an informal claim letter can be found on page 18 of this guide.



IS PRESUMPTIVE SERVICE-CONNECTED AGENT ORANGE DISABILITY COMPENSATION AVAILABLE TO BIOLOGICAL CHILDREN OF VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS?

Yes. The children of Vietnam veterans who are born with a birth defect may be eligible for compensation, free medical care, and vocational rehabilitation services.

Who is Eligible?

To be eligible for these benefits, you must show three things:

1) You are the natural, biological child of a Vietnam veteran – one of your biological parents served in the active military, naval, or air service in the Republic of Vietnam for at least one day during the period January 9, 1962, to May 7, 1975;

2) You were conceived after the veteran parent first began service in Vietnam; and

3) You were born with a birth defect listed on page 5 of this guide.

Proof of the parent's exposure is not necessary. These children are entitled to three types of benefits: a) monthly compensation payments based upon the degree of the child's disability; b) VA medical care or reimbursement from the VA for private medical care for medical problems related to the birth defect; and c) vocational rehabilitation services.

How Do I File a Claim?

The procedures used by the VA for this type of claim are generally the same as those used to handle a veteran's claim, but a special application, VA Form 21-0304, is used. Information needed for an informal claim letter can be found on page 18 of this guide. Such children are generally not required to undergo a VA medical exam.

NOTE: In addition to the Service-connected Agent Orange Disability Compensation award noted above, the VA also offers "dependents' allowance" to children of veterans who have been rated with at least a 30 percent service-connected disability. Children of veterans who are rated with a 100 percent permanent disability also are eligible for education assistance and health care under a separate VA program, CHAMPVA (the Civilian Health and Medical Program of the VA). This program covers dependents and survivors of certain veterans who are ineligible to receive health benefits under the Department of Defense TRICARE program.

IS PRESUMPTIVE SERVICE-CONNECTED AO DISABILITY COMPENSATION AVAILABLE TO INCARCERATED VIETNAM VETERANS?

Yes, but even if you are awarded Agent Orange disability compensation, you will likely not receive the entire monthly amount while you remain incarcerated, especially if you were convicted of a felony. However, any monetary benefits withheld from you may be "apportioned" (divided between you and an assigned family member).

How Do I File a Claim?

The procedures used by the VA for this type of claim are generally the same as those used to handle any veteran's claim, but VVA recognizes that incarcerated veterans face many challenges, especially when seeking the required Agent Orange medical exam. A few Departments of Corrections will arrange transport to VA medical facilities, but most do not. Try to obtain a detailed medical report or exam conducted by the facility's doctor. To assist the doctor, obtain a copy of the "VA Physician's Guide to Disability Evaluation Examinations" and rating schedule by writing to the nearest VA Regional Office and invoking the federal Freedom of Information Act. Another alternative is to submit a petition to your facility administrator asking that he or she request a VA doctor visit your facility.

WHAT OTHER BENEFITS ARE AVAILABLE TO A VIETNAM VETERANS WITH AN AGENT ORANGE-RELATED ILLNESS?

Social Security Benefits

The Social Security Administration administers certain kinds of insurance and Supplemental Security Income (SSI) benefits for eligible adults and some eligible children of Vietnam veterans under the age of 18. In some cases, veterans can receive both Social Security Disability Insurance and VA disability compensation. You should check with your nearest Social Security Administration office for details about these programs.

Information for Military Retirees

As of June 1, 2003, some disabled military retirees no longer have their military retired pay offset by VA compensation. However, eligible veterans must apply to DoD to be included. In addition, for a veteran disabled by an illness associated with Agent Orange — if your disability is rated at 60 percent or more and you have 20 years of service for retired pay purposes — you are eligible for the Combat-related Special Compensation Program. Eligible veterans must apply to their respective branch of military service using Form DD-2860.

INFORMAL CLAIM LETTERS

An informal claim letter should be typewritten or printed legibly. It should include your full legal name; your name when you served in the military if different; official mailing address; Social Security number, and VA C-file number, if known. Ask your vetrans' service representative to look it over. Make sure to sign the letter, make a copy for your records, and then mail the original to the nearest VA Regional Office. Send it via "Certified Mail, Return Receipt Requested," and keep the receipt in your records after it is returned from the VA Regional Office.

Vietnam veterans should include the following in your letter: "I am applying for service connection for (identify your illness/disease or disability) and any other benefits for which I may be entitled. Please send me the formal application form (VA Form 21-526) and delay deciding my claim, unless it is in my favor, until I submit additional evidence." Do *NOT* include any additional information in this letter unless approved by your representative.

The surviving family member of a deceased Vietnam veteran should include the following in your letter: "I am the (identify your relationship with the deceased veteran) of a Vietnam veteran named (include the full legal name, Social Security number, and VA C-file number, if known, of the deceased veteran), and I am applying for the service-connected death benefits (DIC) because of the death of this veteran and for any other benefits to which I am entitled. Please send me the formal application form (VA Form 21-535) and delay deciding my claim, unless it is in my favor, until I submit additional evidence." Do *NOT* include any additional information in this letter unless approved by your representative.

Vietnam veteran's child born with birth defect(s) should include the following in your letter: "I am the (son or daughter) of a Vietnam veteran named (include the full legal name, Social Security number, and VA C-file number, if known), and I am applying for the monthly compensation payments and any other benefits to which I am entitled as a result of being born with (spina bifida or other listed birth defect). Please send me the formal application form (special application VA Form 21-0304) and delay deciding my claim, unless it is in my favor, until I submit additional evidence."

A parent or legal guardian of such a child can write: "I am the (identify the relationship to the child) of (full legal name of child), who is the child of (include veteran's full legal name). This is an application for monthly compensation payments and any other benefits for which this child may be entitled as a result of being born with (spina bifida or other listed birth defect). Please send me the formal application form (special application VA Form 21-0304) and delay deciding my claim, unless it is in my favor, until I submit additional evidence." Do *NOT* include any additional information in this letter unless approved by your representative.

VETERANS SERVICE ORGANIZATIONS

Many Veterans Service Organizations offer free assistance to help you present your claim to the VA. This includes representation at hearings before the VA Regional Office, the Board of Veterans' Appeals, and the U.S. Court of Appeals for Veterans Claims. Some of these VSOs have a representative at your nearest VA Regional Office. You can also locate a VSO representative by contacting the organization's national office online or by phone. These are just a few of the many VSOs able to assist.

Vietnam Veterans of America:
www.vva.org
1-800-VVA-1316

American Legion:
www.legion.org
1-202-861-2700

AMVETS:
www.amvets.org
1-877-726-8387

Disabled American Veterans:
www.dav.org
1-877-426-2838

Military Order of the Purple Heart:
www.purpleheart.org
1-703-354-2140

Paralyzed Veterans of America:
www.pva.org
1-800-424-8200

Veterans of Foreign Wars
www.vfw.org
1-816-756-1149

In addition, almost every state has a commission, division, or department of veterans' affairs that provides representation to veterans and their families. In some states VSO representatives' offices are located in county, state, or federal government facilities. These may be found in the government pages of your local telephone directory.

REFERENCES and RESOURCES

Vietnam Veterans of America Agent Orange/Dioxin and Other Toxic Substances Committee
www.vva.org/Committees/AgentOrange

Title 38, Code of Federal Regulations.
Available from the Government Printing Office; to order, call 202-512-1800

VA's Agent Orange Webpage:
www.va.gov/Agentorange