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National Veterans Affairs and Rehabilitation Commission

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**STATEMENT OF
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VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
M I I I E E E M
UNITED STATES HOUSE OF REPRESENTATIVES
ON
HEALTH EFFECTS OF THE VIETNAM WAR THE AFTERMATH**

MAY 5, 2010

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on the National Vietnam Veterans Longitudinal Study and illnesses associated with exposure to Agent Orange.

The American Legion supported Public Law (PL) 96-151, which mandated that the Department of Veterans Affairs (VA) to conduct a major epidemiological study of Vietnam veterans who were exposed to dioxin, an impurity in the herbicides sprayed by the United States (US) military stationed in Vietnam.

One of the top priorities of The American Legion continues to assure that long-overdue, major epidemiological studies of Vietnam veterans, who were exposed to the herbicide Agent Orange, are carried out. Shortly after the end of the Vietnam War, Congress held hearings on the need for such epidemiological studies. The Veterans' Health Programs Extension and Improvement Act of 1979, PL 96-151, directed VA to conduct a study of long-term adverse health effects in veterans, who served in Vietnam, as a result of exposure to herbicides. When VA was unable to

do the job, the responsibility was passed to the Centers for Disease Control (CDC). In 1986,

Children of Vietnam Veterans and Spina Bifida

In 2003, The American Legion supported and endorsed the expansion of spina bifida benefits, as set forth in H.R. 533, the Agent Orange Veteran's Disabled Children's Benefits Act of 2003, to a person suffering from spina bifida who is a natural child, regardless of age or marital status, of a parent who performed "qualifying herbicide-risk service," provided the individual was conceived after such service. A parent would be considered to have performed "qualifying herbicide-risk service" if, while performing active military, naval, or air service, the parent "served in an area in which a Vietnam-era herbicide agent was used during a period during which such agent was used in that area; or . . . otherwise was exposed to a Vietnam-era herbicide agent." Spina bifida is a neural tube birth defect that results from the failure of the bony portion of the spine to close properly in the developing fetus during early pregnancy.

According to VA, it is the most frequently occurring permanently disabling birth defect; affecting approximately one of every 1,000 newborns in the US. Although Vietnam veterans are almost out of the age category for having children, VA reports that some future births will occur and some of these children may have birth defects, to include spina bifida. **The American Legion urges Congress to amend title 38, Chapter 18, to provide entitlement to spina bifida benefits for the child or children of any veteran exposed to a Vietnam-era herbicide agent, such as Agent Orange, in any location, including those outside of Vietnam, where herbicides were tested, sprayed, or stored.**

Children of Vietnam Veterans and Type II Diabetes

In 2001, VA added type II diabetes to the list of "presumptive diseases associated with exposure to herbicides in Vietnam." This action was in response to a report by the IOM that found "limited/suggestive" evidence of an association between the chemicals used in herbicides during the Vietnam War, such as Agent Orange, and Type II diabetes. Type II Diabetes occurs mainly in adults, however, a CDC report revealed it is becoming more common among youth and adolescents.

M E conclusive research be conducted to determine if the effects of exposure to herbicides in Vietnam affected the offspring of those who served.

Children of Women Vietnam Veterans

Under PL 106-419, the Veterans Benefits and Health Care Improvement Act of 2000, VA also identified birth defects of children of women Vietnam veterans that:

- Are associated with service in Vietnam.
- Result in permanent physical or mental disability.

The American Legion supported the above piece of legislation and urges Congress to include research involving:

- Women veterans who served in Vietnam to include, in country and other locations, and were exposed to herbicides.
- Children of both men and women veterans who served in Vietnam, to include, in country and other locations, and were exposed to herbicides.

Blue Water Navy

IOM, in Update 2008, specifically stated that the evidence it reviewed makes the current definition of Vietnam service for the purpose of presumption of exposure to Agent Orange, which limits it to those who actually set foot on land in Vietnam, “seem inappropriate.” Citing an Australian study on the fate of the contaminant TCDD when sea water is distilled to produce drinking water, an IOM committee stated that it was convinced that such a process would produce a feasible route of exposure for Blue Water veterans, “which might have been supplemented by drift from herbicide spraying.” (See IOM, Veterans and Agent Orange, Update 2008, p. 564; July 24, 2009.) IOM also noted that a Centers for Disease Control and Prevention study in 1990, found that non-Hodgkin’s lymphoma, a classic Agent Orange cancer, was more prevalent and significant among Blue Water Navy veterans. IOM subsequently recommended that, given all of the available evidence, Blue Water Navy veterans should not be excluded from the group of Vietnam-era veterans presumed to have been exposed to Agent Orange/herbicides. **The American Legion submits that not only does this latest IOM report fully support the extension of presumption of Agent Orange exposure to Blue Water Navy veterans, it provides scientific justification to the legislation currently pending in Congress that seeks to correct this grave injustice faced by Blue Water Navy veterans.**

In December 2009, IOM created a VA sponsored committee to further explore the Blue Water Navy exposure issue. The duration of this project is to last 18 months. According to IOM, their report will include the following:

- Historical background on the Vietnam War, Combat troops, Brown Water Navy, Blue Water Navy.
- Discussions on comparison of herbicides exposure to Blue and Brown Water Navy veterans; examination of the range of exposure mechanisms for exposures, to include toxics in drinking water and air exposure from drifts from spraying; food; soil, and skin.
- Conclusion on the comparative risks for long-term health outcomes comparing Vietnam veteran ground troops; Blue Water Navy veterans; and other “Era” veterans serving during the war in Vietnam at other locations.
- A complete review of studies of Blue Water Navy veterans for health results.

The American Legion looks forward to the completion of this project.

Herbicides Used Outside of Vietnam

The American Legion is also extremely concerned about the timely disclosure and release of all information by DOD on the use and testing of herbicides in locations other than Vietnam during the war. Over the years, The American Legion has represented veterans who claim to have been exposed to herbicides in places other than Vietnam. Without official acknowledgement by the Federal government of the use of herbicides, proving such exposure is virtually impossible.

Information has come to light in the last few years leaving no doubt that Agent Orange, and other herbicides contaminated with dioxin, were released in locations other than Vietnam. This information is slowly being disclosed by DOD and provided to VA.

In April 2001, officials from DOD briefed VA on the use of Agent Orange along the Korean Demilitarized Zone (DMZ) from April 1968 through July 1969. It was applied through hand spraying and by hand distribution of pelletized herbicides to defoliate the fields of fire between the front line defensive positions and the south barrier fence. The size of the treated area was a strip 151 miles long and up to 350 yards from the fence to north of the civilian control line.

According to available records, the effects of the spraying were sometimes observed as far as 200 meters downwind. DOD identified units that were stationed along the DMZ during the period in which the spraying took place. This information was given to VA's Compensation and Pension Service, which provided it to all of their Regional Offices. VA Central Office has instructed its Regional Offices to concede exposure for veterans who served in the identified units during the period when the spraying took place.

In January 2003, DOD provided VA with an inventory of documents containing brief descriptions of records of herbicides used at specific times and locations outside of Vietnam. The information, unlike the information on the Korean DMZ, does not contain a list of units involved or individual identifying information. Also, according to VA, this information is incomplete, reflecting only 70 to 85 percent of herbicide use, testing and disposal locations outside of Vietnam. VA requested that DOD provide it with information regarding units involved with herbicide operations or other information that may be useful to place veterans at sites where herbicide operations or testing was conducted. Unfortunately, as of this date, additional information has not been provided by DOD.

Obtaining the most accurate information available concerning possible exposure is extremely important for the adjudication of herbicide-related VA disability claims of veterans claiming exposure outside of Vietnam. For herbicide-related disability claims, veterans who served in Vietnam during the period of January 9, 1962 to May 7, 1975 are presumed, by law, to have been exposed to Agent Orange. Veterans claiming exposure to herbicides outside of Vietnam are required to submit proof of exposure. This is why it is crucial that all available information relative to herbicide use, testing, and disposal in locations other than Vietnam be released to VA in a timely manner. **The American Legion urges congressional oversight to assure that additional information identifying involved personnel or units for the locations already known by VA is released by DOD, as well as all relevant information pertaining to other locations that have yet to be identified. Locating this information and providing it to VA must be a national priority.**

Department of Veterans Affairs (Readjustment Studies)

In September 2009, VA announced plans to restart the follow-up to the 1984 National Vietnam Veterans Readjustment Study, known as the National Vietnam Veterans Longitudinal Study (NVVLS). In its announcement, VA stated NVVLS will study the Vietnam generation's physical and psychological health. In addition, the new study will supplement research already

in progress at VA, to include studies on posttraumatic stress disorder (PTSD) and the health of women Vietnam veterans.

The Veterans Administration (now known as VA) initiated the National Vietnam Veterans Readjustment Study in 1984 as a result of a congressional mandate. Until the NVVLS completion in 1988, this study included utilization of a nationally representative sample of male and female veterans. Following the 1984-1988 study PL 106-419 required VA to contract with a non-VA entity to conduct a new approach. In addition, PL 106-419 required the new study to employ the database and sample population from the original Readjustment Study.

In January 2001, the Veterans Health Administration (VHA) assigned the project to the Mental Health Strategic Healthcare Group (MHSHG) to plan and manage the study. The MSHSG, then, created a management structure to oversee the study, to include:

- An Executive Committee comprised of the Readjustment Counseling Director (Vet Center), three mental health professionals from different VA medical facilities, and a veterans' service organization (VSO) representative.
- A Project Coordinator and Project Officer; both having served in the same capacities during the original Readjustment Study.
- A Scientific Advisory Board of 10 expert consultants in various disciplines, to include cardiology-epidemiology, psychiatry, and biomedical statistics (A similar advisory board had also been used for the original Readjustment Study).

Later in 2001, VHA allotted \$4.9 million and awarded a noncompetitive contract to the Research Triangle Institute (RTI) to conduct the study, to include \$460,000 for Fiscal Year (FY) 2001. However, in 2003, after the RTI had worked for more than 2 years, VA chose not to exercise the third-year of the contract. This was due to concerns of lack of competition in the contract award, as well as estimated costs of completing the study, which had increased from the original estimate of \$4.9 million to \$17 million. VA ultimately ruled that the study was not properly planned, procured or managed, and ordered that it be completed; in the interim they were making provisions to avoid these same problems.

The American Legion, as before and at the onset of all Agent Orange-related illnesses, will continue to closely monitor the development of all ongoing research on the long-term effects of Agent Orange exposure and disclose all findings to Congress regarding any perceived deficiencies or discrepancies; and to ensure that Federal government committees charged with review of such research are composed of impartial members of the medical and scientific community.

The American Legion/Columbia University Study

In 1983, The American Legion initiated a joint study with Columbia University to ascertain the effects of exposure to service in Vietnam on veterans of the Vietnam War. The joint study facilitators were Columbia University Drs. Jeanne Stellman and Steven Stellman. The study, a cross-sectional survey of then current and past health status among members of The American Legion, compared veterans who served in Southeast Asia with those who served in locations outside of Southeast Asia. The results of the study revealed serious combat-related mental,

physical and social problems. Veterans, who served in heavily-spread areas, had poorer general health. The studies also showed that veterans were not satisfied with the services provided by VA. A follow-up study conducted in 1998 showed that many of the health effects had endured over the decades.

Conclusion

The American Legion believes the new study facilitators should take heed of the circumstances prompting the abrupt halt of the 2001 NVVLS study. When studies, such as those involving Agent Orange and of the more than 900,000 Vietnam veterans, are proposed and/or conducted, we must keep in mind that other circumstantial processes, to include funding and contracting, should be properly planned, executed, and maintained. Otherwise, opportunities for inclusion of new illnesses are missed, resulting in thousands of affected veterans going without treatment.

Other additional consideration placed on the new study includes the fact that the previous NVVLS was concluded in 1988. **The American Legion urges Congress to insist on the assessment and review, with all pertinent parties, of all VA-sponsored and IOM studies, to fulfill the most recent charge by VA to ensure no evidence and information is lacking.**

To prevent that which occurred with the incomplete 2001 NVVLS Study, The American Legion encourages proper congressional oversight, as well as continuous inclusion of stakeholders, such as veterans' service organizations. Since 1990, when The American Legion brought suit against the US government for failure to carry out its congressionally-mandated Agent Orange study, The American Legion remains steadfast in its belief that such studies are needed. **The American Legion firmly believes Congress should exercise congressional oversight to make sure these studies, it has mandated, are carried out. We also urge timely disclosure of ongoing studies by IOM, through Veterans and Agent Orange (VAO) update publications; promptly every two years, as directed by PL 107-103, Veterans Education and Benefits Expansion Act of 2001.**

Mr. Chairman and Members of the Committee, The American Legion sincerely appreciates the opportunity to submit testimony and looks forward to working with you and your colleagues on the abovementioned matters and issues of similarity. Thank you.