

Military-Veterans Advocacy Supplemental Written Testimony

**Examining the impact of exposure to toxic chemicals on veterans  
and the VA's response.**

Submitted to the United States Senate  
Veterans Affairs Committee



Commander John B. Wells, USN (Retired),  
Executive Director

Distinguished Committee Chairman Johnny Isakson, Ranking Member Richard Blumenthal and other members of the Committee, thank you for the opportunity to supplement out testimony on the question of: "Examining the impact of exposure to toxic chemicals on veterans and the VA's response."

A response to the two questions is fairly straightforward. The impact of toxic exposure has been horrendous and the VA response has been disappointing to say the least.

Military-Veterans Advocacy has taken the lead in petitioning Congress for relief for the Blue Water Navy veterans who were exposed to Agent Orange through their potable water supply. Our Australian allies discovered that the evaporation distillation systems did not remove the Agent Orange dioxin during the distillation process - it actually enriched it. Instead of embracing the findings of our Allies, the VA attacked the study until its science was confirmed by two separate committees of the Institute of Medicine.

The Blue Water Navy situation was especially tragic since they were granted the presumption of exposure to Agent Orange prior to 2002. The VA General Counsel, in an opinion that flaunted international law and domestic policy interpreted the provisions of the Agent Orange Act requiring service "in the Republic of Vietnam" as meaning the land mass. Although the General Counsel used the terminology "inside the borders of Vietnam", the VA rejected the inclusion of bays harbors and territorial seas. This is despite the fact that the United States recognized Vietnamese sovereignty over these waters in the 1954 Geneva Accords and the 1973 Paris Peace Treaty. It was an irrational decision and was partially invalidated by the Court of Appeals for Veterans Claims in the landmark case *Gray v. McDonald*. Military-Veterans Advocacy proudly filed an amicus brief in that case. The court listened. That appeal period has expired and the VA is re-writing their regulation. Due to other pending court decisions we expect and hope for a positive decision this Fall.

I do want to take a moment to thank the VA for finally agreeing to cover our brothers in arms who flew the C-123 aircraft after the war. Although not entirely satisfied with the effective date of the new regulation, I do believe it is a step in the right direction. I also want to mention to the Committee that I have met twice with VA Deputy Secretary Sloan Gibson and General Counsel Leigh Bradley on the Blue Water Navy issue. We have shown them how the Agent Orange, mixed with peritoneum, floated out to the bays harbors and territorial seas. They reviewed the report showing the presence of Agent Orange in Nha Trang Harbor. Hopefully, we have finally put to rest the old VA misrepresentation that the Agent Orange never left the landmass. Petroleum floats and rivers run out to sea. A tough concept maybe, but a truism none the less. Both Secretary Gibson and General Counsel Bradley were interested in this matter and I thank them for their courtesy.

Currently pending before this body is S 681 which will restore the presumption of exposure to the territorial seas. Military Veterans Advocacy urges its enactment. In doing so, we

are not unaware of the off set requirements of the Pay as You Go Act. We have identified sufficient funds to pay for the bill through round downs. This would require the disability checks for all veterans to be rounded down to the nearest dollar. The most it would cost a veteran is \$11.88 per year. The average cost is \$5.88 per veteran per year.

We understand and appreciate the resistance to round downs but the bottom line is that we need to ensure that these sick and disabled veterans are covered. Many are dying. Many had to leave the work force early. Some will leave their families destitute when they die. These veterans earned their benefits and we ask that you provide to provide them. While it is possible that the VA will grant the Blue Water Navy veterans partial or complete relief, we must be prepared to act if they do not. Accordingly, Military-Veteran Advocacy asks that you mark up S 681 and if the VA does not grant relief, send it to the floor using round downs as a pay for.

This will not resolve the toxic exposure problem. The Blue Water Navy is a large part of the problem but not the entire problem. Agent Orange was also used on Guam, Johnston Island and in Thailand Laos and Cambodia. In the United States Agent Orange was used in the Canal Zone, Fort McClellan and Gulfport MS. Other veterans have been exposed to PCBs, depleted uranium, petroleum and other toxic fumes, asbestos and the latest killer, open air burn pits.

Toxic exposure is a personal battle to me. My step-daughter Joanne has suffered birth defects due to Agent Orange. Her natural father was an Australian soldier fighting beside the United States in South Vietnam. She lives in Australia where she receives better services than she could get in the United States.

Personally, I have been exposed to asbestos after working for years in shipboard engineering spaces. Through the grace of God I have not developed symptoms. Many others have.

Open air burn pits have been called the Agent Orange of the 21<sup>st</sup> Century. Troops berthed downwind of these hellish pits were exposed to all types of toxic fumes. Worse, the Special Inspector General for Afghanistan Reconstruction found, even when incinerators were available at places like Camp Leatherneck in Afghanistan, open air burn pits were used. Military-Veterans Advocacy is currently representing a Lieutenant Commander who was sexually assaulted and then forced out of the Navy just shy of her retirement availability for raising the issue of open air burn pits at Camp Leatherneck. LCDR Celeste Santana is fighting with MVA to gain the retirement she lost for trying to do the right thing.

And of course, Sen Burr's comments on Camp Lejeune hit home. Like the Blue Water Navy the Marines and their dependents were poisoned via their drinking water.

The problem is that no one knows the extent of the damage caused by toxic exposure and

whether or not it is generational. A central toxic exposure research facility, located at a state of the art VA medical facility will allow the United States to assess the harm caused by these exposures and to reach out to those harmed. This will allow the VA to become proactive rather than reactive and stop this senseless adjudication on a case by case basis. As this program gains traction it will eliminate much of the backlog and ensure that those who truly need the benefits receive them. Military-Veterans Advocacy also recommends that the IOM Agent Orange Biennial Committee to be expanded to include all toxic exposures and to be made permanent.

As you know we are currently standing up a state of the art facility in New Orleans. This new facility would be a fantastic site for the new facility S 901 will authorized. Southeastern Louisiana has significant toxic exposure experience most recently with the BP Oil spill but also through our familiarity with "cancer alley." Universities such as Tulane and LSU will stand ready to work with the federal government to pursue the needed scientific research and evaluation. Our local industries would step forward to engage in private-public partnerships.

Perhaps the location of the site is a bit premature, but the identification of the problem is needed. This bill is needed to address the many toxic exposures that have placed our veterans in jeopardy. It is a form of chemical warfare that is even more egregious than Saddam Hussein, because most of the chemicals come from our own side.

Military-Veterans Advocacy appreciate the issues surrounding costs and are the first to admit that the Pay as You Go Act has been of tremendous assistance in arresting the trillion dollar deficits that were commonplace not that long ago. But today the Congress is funding several trillion dollars worth of expenditures. Taking care of veterans is part of the responsibility of raising a military force, That is Constitutionally mandated. Many of the things we spend federal dollars on are not Constitutionally mandated. I do not want to get into specifics because, again, I do not want to give rise to partisan disputes. But, we believe, as citizens, that Congress should fund their constitutional mandates first.

Military-Veterans Advocacy is a grass roots organization. We are all volunteers. No one gets paid. We come to you not to address a political agenda but to ask you to keep faith with the veterans. I have met many of you and I respect all of you. We recognize that you are good people trying to do the best job that you can. In the long run, S 901 will help us to take care of our veterans and streamline the bloated and inefficient adjudication system. Accordingly, we urge you to adopt S-681 and S-901. If this requires a modification of the Pay As You Go Act, or an exception thereto, we ask you to take that action.

One final thought - the exposure to toxic substances does not just affect veterans. Agent Orange dumped off the coast of New Jersey was found in seafood several years later 150 miles off the New York bight. Agent Orange that is being rededicated today near Da Nang airport, with U. S. Taxpayers dollars I might add, is finding its way back into the areas where fish farms are located. And by the way, FDA does not test Vietnamese seafood for the dioxin. Next time

you go out to eat, you might want to check where the seafood comes from. Just a thought.

Again thank you for allowing us to present our written and oral testimony and may God bless you, God bless the United States of America and God bless the military and veterans who have kept us safe.



---

John B. Wells, Commander, USN (Retired)  
Executive Director