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ISSUE SHEET FOR AGENT ORANGE INFORMATION

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Rating Information To Look For:

1 2 3 4 5 I. Federal Tort Claims Act Defenses (GLW): _____

1 2 3 4 5 A. Feres Doctrine All injuries arose out of or were incident to military service. _____

1 2 3 4 5 1. Soldiers came in contact with Agent Orange while on active duty in Vietnam: _____

1 2 3 4 5 2. Ranch Hand and other defoliation teams only came in contact with AO while spraying in Vietnam: _____

1 2 3 4 5 3. Persons involved in procurement, shipping, storage or loading were soldiers on active duty. _____

1 2 3 4 5 B. Combatant Activities: The program was combat support. The decisions or actions which are alleged to be negligent were taken as part of combat operations of the armed forces or any harm that resulted occurred during combat operations (i.e., Vietnam). _____

1 2 3 4 5 C. Foreign Country: All injury (exposure) occurred in Vietnam, Laos, or Cambodia, or in other foreign countries where testing was being done. All decisions were made in Vietnam: _____

1 2 3 4 5 D. Discretionary Function: The alleged negligent acts or omissions resulted from the decisions that were made at the discretion of the decision maker. Look for weighing and balancing of ANY factors in decisions, ANY decisions. _____

1 2 3 4 5 1. Most decisions were made at high levels: _____

1 2 3 4 5 2. Decisions were made following weighing of benefits of using the defoliants against the risks of using the defoliants: _____

Rating	Information To Look For:
1 2 3 4 5	3. Decisions regarding deployment of defoliants in Vietnam (specific missions, etc.) followed weighing of factors: _____
1 2 3 4 5	Decisions on instructions to users or combat troops, use of safety equipment, etc., were made after considering the combat situation. _____
1 2 3 4 5	II. Exposure To Agent Orange In Vietnam Did Not Cause Plaintiff's Injuries (POC; LT): _____
1 2 3 4 5	A. The type and amount of the plaintiffs' exposure to A.O. in Vietnam could not cause harm: _____
1 2 3 4 5	1. Type of Exposure: _____
1 2 3 4 5	2. Duration of Exposure: _____
1 2 3 4 5	3. Level of Dioxin to which soldiers were exposed: _____
1 2 3 4 5	4. Alternative Substances to which soldiers may have been exposed: _____
1 2 3 4 5	5. Medical Problems in Vietnam (e.g., skin diseases): _____
1 2 3 4 5	B. Dioxin does not cause birth defects in children and miscarriages in wives of men exposed: _____
1 2 3 4 5	III. The United States was not negligent in its testing, selection, specifications for or deployment of A.O. (we were <u>reasonable</u>) (AM; JMS): _____
1 2 3 4 5	A. The Military chose a reasonable means to achieve an important end (saving U.S. lives): _____
1 2 3 4 5	1. Defoliants served a vital combat role: _____
1 2 3 4 5	a. Decreased risk of ambush: _____
1 2 3 4 5	b. Enabled to track enemy troop movements: _____
1 2 3 4 5	c. Deprived enemy of food sources: _____
1 2 3 4 5	d. Frightened enemy: _____
1 2 3 4 5	2. Military did not become aware of significant health or ecological issues until the late 1960's: _____
1 2 3 4 5	a. Military believed AO was non-toxic to users or persons accidentally sprayed: _____
1 2 3 4 5	b. Military believed AO had only minor occupational health hazards to manufacturing employees: _____
1 2 3 4 5	c. Military was not aware of presence of dioxin in AO: _____
1 2 3 4 5	d. Military did not have technical ability to detect dioxin in AO: _____
1 2 3 4 5	3. Program was periodically reviewed for effectiveness: _____

Rating	Information To Look For:
1 2 3 4 5	B. Military chose defoliants carefully to meet their performance needs: _____
1 2 3 4 5	1. Military relied upon chemical companies: _____
1 2 3 4 5	a. Military stated the purpose of the program and sought recommendation for safe, effective defoliants: _____
1 2 3 4 5	b. Chemical companies gave advice on defoliants and gave proposed specifications: _____
1 2 3 4 5	c. Chemical companies participated in military testing of suggested defoliants in Panama, Puerto Rico, Thailand, Florida and Hawaii: _____
1 2 3 4 5	2. Military sought <u>available</u> , <u>safe</u> , <u>commercial</u> defoliants: _____
1 2 3 4 5	a. Defoliants chosen widely used, safe, commercial products: _____
1 2 3 4 5	b. Concentrations and spray rates used were necessary to defoliate triple-tiered jungle canopy; believed safe at that level: _____
1 2 3 4 5	c. Chemical companies were aware of intended use and concentrations and spray rates: _____
1 2 3 4 5	3. Military started building AO plant at Weldon Springs: _____
1 2 3 4 5	4. Defoliants were effective. _____
1 2 3 4 5	C. Manner of using the defoliants was reasonable given the combat situation: _____
1 2 3 4 5	1. Manner of labelling: _____
1 2 3 4 5	2. Manner of drumming, shipping and storage: _____
1 2 3 4 5	3. Ranch Hand (Air Force aerial spray missions) operated in a reasonably safe manner given the program's goals and environment: _____
1 2 3 4 5	a. Many factors considered at many levels in selecting spray sites: _____
1 2 3 4 5	b. All Ranch Hand personnel received adequate instruction on spraying and safety precautions: _____
1 2 3 4 5	c. Failure to follow those instructions resulted solely from the combat situation: _____
1 2 3 4 5	d. Every attempt made to minimize risk of spraying infantry troops: _____
1 2 3 4 5	e. Spray planes often under attack: _____
1 2 3 4 5	f. Aerial spraying was highly accurate: _____
1 2 3 4 5	g. Ranch Hand used good equipment: _____

Rating	Information To Look For:
1 2 3 4 5	4. Ground forces using defoliants did so in a reasonable manner: _____
1 2 3 4 5	a. Spray personnel received adequate instruction on how to spray defoliants safely: _____
1 2 3 4 5	b. Sprayed in manner minimizing contact with non-spraying personnel in spray area: _____
1 2 3 4 5	c. Failure to follow precautions: _____
1 2 3 4 5	d. Army stored defoliants properly: _____
1 2 3 4 5	5. All naval defoliation operations were conducted in a safe and reasonable manner (note <u>any</u> references to such operations by the navy here): _____
1 2 3 4 5	6. No health problems related to spray reported by ANYONE: _____
1 2 3 4 5	D. Decision to phase down defoliant program: _____
1 2 3 4 5	IV. Contract Issues (RCL): _____
1 2 3 4 5	A. Negotiating Process (note all documents that indicate U.S. issued performance bids, companies provided draft specifications): _____
1 2 3 4 5	1. Companies represented that chosen defoliants were safe: _____
1 2 3 4 5	2. Companies contracted voluntarily: _____
1 2 3 4 5	B. Contract Terms: _____
1 2 3 4 5	1. Manufacturing process: _____
1 2 3 4 5	2. Reimbursable costs: _____
1 2 3 4 5	3. Indemnification clauses: _____
1 2 3 4 5	4. Labelling restrictions: _____
1 2 3 4 5	5. Impurities (note anything that indicates what the 2% impurities permitted in the defoliant were understood to be): _____
1 2 3 4 5	6. Chemical companies warranted their product against any defects: _____
1 2 3 4 5	C. Satisfaction of Contract
1 2 3 4 5	1. Meeting specifications (note anything that indicates what "meeting specifications" was intended to mean): _____
1 2 3 4 5	2. Rejection of shipments (note any time a shipment was rejected or the reasons the U.S. would reject shipments): _____
1 2 3 4 5	3. Price and profits: _____
1 2 3 4 5	V. Other/Miscellaneous/F.Y.I. _____ (explain)