

Rebuttal of USAF Statements to Congress, FAST Letter 09-20 & M21-1MR

The following information is submitted which contradicts statements made by letter to Representative Lane Evans by the Secretary of the Air Force, Legislative Liaison/Public Affairs on June 30, 2005, and in a [response](#) to an inquiry from Senator Akaka, Chairman of the Senate Veterans Affairs Committee by Mr. Gordon H. Mansfield on November 21, 2008, and developed to deny claims made by veterans stationed in Thailand, especially Security Policemen and Military Working Dog Handlers and other military stations in Asia.¹

For the record, any and all information on herbicide testing at Pranburi, Thailand is irrelevant to this particular situation, as are Mr. Buckingham's and Mr. Cecil's histories on Ranch Hand and Operation Flyswatter, as they detail only the aerial application of herbicides and insecticides. These documents have absolutely nothing to do with ongoing changes to the *Rules of Engagement* (ROE) and the authority to continue use herbicides on perimeters for base defense on November 26, 1971, in the National Security Decision Memorandum 141.²

The initial ROE for Thailand was published in late 1968, with revisions in November 1969, 1970, with the last change in 1971.³ Additionally, USMACTHAI Regulation 500-5; *ROE* was published but is still classified, unavailable to FOIA as its location is not known, lost or destroyed.

The Department of Veterans Affairs has long relied on the list provided by the Office of the Under Secretary of Defense on [September 23, 2003](#)⁴ in response to the Honorable Lane Evan's [May 7, 2003](#)⁴ letter to Donald Rumsfeld and later provided to the Secretary, Department of Veterans Affairs and the Under Secretary of Veterans Affairs for Benefits on [March 10, 2005](#),⁴ and the [June 3, 2005](#)⁵ letter to Secretary of the Air Force, and the responses from the SAF/LLP on [June 30, 2005](#)⁵ to Congressman Evans.

Of particular note related to use of herbicides in Thailand is the response of Colonel F. Scott Boyd to request 5, in which he states:

“Answer: Because commanders were at liberty to use herbicides for defoliation around their activities using either handheld or vehicle mounted units, with no accountability required, we do not have any more specific information.”

This statement by Colonel Boyd and included in the FAST Letter by Mr. Mayes of the Department of Veterans Affairs are in part contradicted by the following evidence:

The Rules of Engagement (ROE) for Thailand, documented above, in no way confer authority to commanders to use herbicides; in fact, they strictly prohibit it without express permission from the U.S. Embassy in Thailand. Of significance also, the ROE debunks the contention that these activities were undocumented, as the policy necessitates a process of written requests and a number of approvals that are set forth in the Project CHECO Southeast Asia Report and the Army Field Manual 3-3.

While the individual approval documents may be classified, archived at an undetermined location, or destroyed, it is clear that the statement made by Colonel Boyd and used by the Under Secretary lack credibility as they are contradicted by official DOD documentation.

It also serves to totally refute [VA FAST Letter 09-20](#), dated May 6, 2009, Subject: "Developing for Evidence of Herbicide Exposure in *Haas*-Related Claims from Veterans with Thailand Service during the Vietnam Era", signed by Bradley G. Mayes and the accompanying Memorandum for the Record, Subject: "Herbicide use in Thailand During the Vietnam Era" and well as [M21-1MR, Part IV, Subpart 2, Section C](#), Paragraph 10p, *Exposure to Herbicides in Thailand* and 10q, *Memorandum for Record – Herbicide Use in Thailand*.⁶

The authors of the FAST Letter and the modified manual attempt to insert a new wrinkle into the herbicide debate by using the invented the term "tactical herbicides".

1. There are no specific references in anything written or published by the Department of Defense using the term "tactical herbicides". The official histories, reports and other documents only use the term herbicides.
2. The first use of "tactical" versus "commercial" herbicides actually comes from Contract DAAD19-02-D-0001, [The History of the US Department of Defense Programs for the Testing, Evaluation, and Storage of Tactical Herbicides](#), dated December 2006, by Mr. Alvin L. Young, PhD.⁷ who goes to great lengths to indicate that commercial herbicides needed approval of the AFPCB/AFPMB and were applied by base CE. However, this excerpt is directly from the paragraph:

Summary

"The exception to these Directives was the development of the "Tactical Herbicides" sprayed in combat military operations in Vietnam, or by Department of State approval as used in Korea adjacent to the Demilitarized Zone in 1968."

And from the paragraph:

Implications

"Herbicides used in Operation RANCH HAND for defoliation and crop destruction projects, and by the US Army Chemical Corps for vegetation control on perimeters, cache sites, and similar militarily-important targets were classified as "Tactical Herbicides" and were formulated, tested, evaluated, and assigned "Military Specifications" by the Department of Defense..."

The [U.S. Army Field Manual 3-3, Tactical Employment of Herbicides](#), 14 December 1971, HQ, Department of the Army, Washington, D.C. ⁸, provides clear definition in the paragraph **1-3. Tactical Employment of Herbicides** on page 1-1. It establishes that **"defoliation of vegetation bordering and overhanging roads, paths, trails, waterways, and railroads enhances security around friendly base camps, airfields, ammunition dumps, ports, along railroads, waterways, and other locations by providing defensive fields of fire..."**

In paragraph 2-1b the manual states that **"various commercial chemical compounds used as herbicides have been adapted for use in military operations. Authority to use these chemicals must be obtained through proper channels as explained in chapter 4. Herbicides described below are nicknamed ORANGE, BLUE, and WHITE..."**

Chapter 4 is very clear about the fact that use of herbicides is governed by national policy. In paragraph **4-1. General** on page 4-1, the second sentence states;

"When the decision to use these agents has been made, commanders will receive the necessary authority through command channels. Specific guidance for their use will include the level of command that may approve herbicide operations."

The remaining paragraphs in the chapter provide detailed instructions for compliance in herbicide use. These requirements permeate the ROE for all of Southeast Asia, including Thailand.

In the [USMACTHAI/JUSMAGTHAI Memorandum "Mission Policy on Base Defense"](#), dated November 1, 1969,⁹ obtained through [AFHRA FOIA 08-0020](#), the use of herbicides required not AFPCB/AFPMB approval but the approval of the Embassy (an extension of State Department).

"E. All new base defense planning, arrangements and major joint exercise proposals are to be coordinated in advance with the US Embassy so that due account can be taken of the vital necessity to balance political and military factors in base defense."

"J. Approval to conduct soil sterilization and/or defoliation operations on or around US occupied installation will be obtained from the US Embassy. Coordination will be effected with the local US Consul where applicable."

The [Project CHECO Southeast Asia Report "Base Defense in Thailand"](#), dated 18 February 1973, prepared by Major Barnett and Captain Barrow for HQ PACAF, Directorate of Operations Analysis, CHECO / CORONET HARVEST Division¹⁰ which was obtained through [AFHRA FOIA 07-066](#) and declassified by the Air Force Declassification Office, is clear.

"Soil sterilization and herbicide use was also approved in 1969, but these were subject to extensive coordination with local RTG authorities and final permission from the Embassy. They could only be used on areas within the perimeter and under no circumstances could the vegetation control agents be used to clear areas of observation to fire off-base.^{144/} This lengthy process, and the inability to go beyond the fences, significantly limited the use of those agents at many bases.^{145/"}

Again, this is specifically a reference to the ROE. The report emphasizes the needs and use of herbicides with Embassy (State Department) approval.

"Base Analysis

Korat RTAFB. Vegetation control was a serious problem at this base in 1972, especially in the critical RTAF area near the end of the runway. The dense growth offered opportunity for concealment in the area contiguous to the unrevetted KC-135 parking ramp. Further, vegetation was thick in many sectors of the concertina wire on the perimeter. The base had received Embassy permission to use herbicides and had just begun that program in June."

"Nakhon Phanom RTAFB. NKP also had the usual rainy season vegetation problems, but heavy use of herbicides kept the growth under control in the fenced areas."

Note: Contrary to the interpretation by some Regional Offices of the VBA, the year of reference to NKP is not 1969, but 1972, as the interviews and visits by

the CHECO team were all accomplished in 1972 as indicated in the report's footnotes.

Mr. Young clearly attempts to provide a definition, "tactical herbicides", which is not used in any DOD document of the period or after the war. The answer appears to come for the Army Field Manual. One must conclude that a "commercial herbicide" may be employed "tactically".

The interpretation by the Veterans Benefit Administration is clearly in error as the US Consul at the US Embassy in Thailand is the representative of the State Department, which makes it certain that it complies with the definition provided by Mr. Alvin L. Young of "tactical herbicides", and makes it more likely than not that the herbicides used and described in the CHECO Report were "tactical" herbicides despite every effort to obfuscate by those administering eligibility for health care, compensation and benefits, and pensions.

Finally, the law (P. L. 102-4) is even more specific, in that it does not require exposure to "tactical herbicides", but **"to an herbicide agent containing dioxin or 2, 4-dichlorophenoxyacetic acid..."**¹¹

It is quite apparent, that the following document details such exposure to all veterans stationed in Thailand, the Philippines, Taiwan, Japan (including Okinawa), as well as Australia and New Zealand as stated by Mr. Alvin L. Young, the "expert", used by the Department of Defense and the Department of Veterans Affairs.

Container Item 318: [Letter: To Mrs. Cleary from Alvin L. Young Regarding Use of Herbicides in Southeast Asia](#), from the Special Collections of the National Agriculture Library, The Alvin L. Young Collection on Agent Orange, Container List, Series II. Military Use of Chemicals.¹²

On page 1 of the letter;

"The chemical herbicides which are being used by the Republic of Vietnam in clearing out jungle to reduce the hazards of ambush by Viet Cong bandits have been used commonly in the United States and other countries for the past 15 years by farmers, ranchers, and home owners.

The two herbicides - - known as 2,4-D and 2,4,5-T -- are used extensively in most countries of both the free world and the communist bloc for selective control of undesirable vegetation."

On page 2, Lieutenant Colonel Young contradicts his own work (and the basis of the information being used by the VBA).

"The two chemicals, 2,4-D and 2,4,5-T, are now in regular use, particularly for weed control, in rice paddies, other field and horticultural crops, and rangeland, in Asian countries such as Burma, Thailand, Philippines, Republic of China, Japan, India, Indonesia, Australia and New Zealand.

The herbicides are being used by the government of the Republic of Vietnam in the guerrilla warfare with the Viet Cong in order to increase visibility on the ground and from the air.

At low rates of application, the herbicides wither the leaves and cause them to fall from the plants, but jungle plants usually re-grow in about 30 days. At higher rates of application, the herbicides will cause defoliation, kill the top growth of brush, plants and trees, and prevent re-growth for a year or more."

This last paragraph also serves to define more clearly the term "sporadic" especially in relationship to the lower rate of application from ground dissemination systems described in paragraph 5-2 on page 5-4 of the Army Field Manual 3-3. Pictorial evidence clearly shows the continued use of herbicides through the withdrawal of high priority assets and personnel from Thailand (at a minimum January 1976).

On page 3, after stating there was no difference in the herbicides used in the Republic of Vietnam and other countries, i. e. there are no references to "tactical herbicides", rather there is reference to higher rates of application, he further erroneously states:

"Scientists have long known that the herbicides 2, 4-D, and 2, 4, 5-T are not toxic to people or animals. The two chemicals are registered in the United States by the Department of Agriculture for use on food crops, in rivers and ponds, and on rangelands where livestock graze. They are available for purchase throughout United States and are labeled nonpoisonous."

Finally, on page 4, the evidence that commercial herbicides indeed fall within the parameters of the law;

"The herbicidal effects of 2,4-D and 2,4,5-T were discovered and published in 1944. Commercial manufacture of the chemicals was developed in the United States between 1944 and 1947.

During the 15 years since 1947, U.S. production of the two herbicides has averaged about 25 million pounds (11.3 million kilograms) per year."

Additionally, the DOD's expert documented those most likely exposed in Container Item 05762: [Working Paper Draft: Criteria for Determining Exposure Levels of Military Personnel to Dioxin and Herbicide Orange During Vietnam](#).¹³ On page 5 of the working papers, Alvin L. Young surmised in the paragraph b. Population Estimates "...**however, there are no data on the number of non-RANCH HAND personnel that may have been exposed to Herbicide Orange (sic). The actual number of people may be in the thousands, since at least one hundred helicopter spray-equipment units were used in South Vietnam, and most military bases had vehicle-mounted and backpack spray units available for use in routine vegetation control programs.**"

The author continues his comments on page 6, under the paragraph heading of **"III. WHAT WAS THE SITUATION AT THE TIME THE INDIVIDUAL WAS EXPOSED?"**

There are a number of exposure scenarios in which an individual was more likely to have been significantly exposed to a specific herbicide or even another pesticide. Examples include:

- 1. Guards at a base perimeter.**
- 2. An individual at a Special Forces Camp in the Inland Forest.**
- 3. An individual on combat patrol in the Rung Sat Special Zone.**
- 4. An individual repairing aircraft.**
- 5. A supply clerk or depot aid handling drums of chemicals."**

Of course scenarios 2 and 3 are specific to South Vietnam, however the others are generic. It also confirms the NSDM, the ROE, the Army field manual, and the CHECO Reports that herbicides used around perimeters were tactical. Despite this, the Veterans Benefit Administration manual specifically denies these facts.

Without the specific approval documents or consideration of the full extent of military documentation, the policies put forth in M21-1MR, Part IV, Subpart ii, Chapter 2, Section C. Service Connection for Disabilities Resulting from Exposure to Environmental Hazards or Service in the Republic of Vietnam (RVN), paragraphs 10p. *Exposure to Herbicides in Thailand* and 10q. *Memorandum for Record - Herbicide Use in Thailand* are not well grounded and are adversarial to veterans.

Those exposed cannot confirm with any certainty the dates of spraying for the following reasons:

1. Once use was approved by the Embassy there was no requirement to document individual sprayings,
2. There was a requirement to document sprayings but the disposition of the documents is unknown; therefore a FOIA request will more likely than not result in a negative response due to lack of specificity, or
3. JSRRC will not look further based on DOD denials.

It is apparent then that while inquires to and responses from the U. S. Army Joint Services Records Research Center (JSRRC) cannot affirm spraying, neither do they deny it, yet in the absence of evidence, the Department of Veterans Affairs' memorandum disregards this fact and adjudicators use the response to deny claims, contrary to the law.

What is clear is that these same commercial herbicides were adapted for military use. The chemical compounds were not an accident from manufacturing the chemicals too quickly or at too high a heat. The only possible difference between "commercial" and "tactical" herbicides is that of the parts per thousand of the chemicals (Agent Orange was 1:1 2,4-D and 2,4,5-T) and/or the rate of application.

The Department of Defense's misleading statements and responses and the Veterans Benefits Administration memorandum attempt to redefine the terms in Public Law 102-4. The law does not require exposure to a "tactical herbicide", and the use of this criterion to deny veterans by Regional Offices, the Board of Veterans Appeals (BVA), and the Court of Appeals for Veterans Claims (CAVC) is in violation of the law.

Respectfully submitted.

Footnotes

- ¹ The Deputy Secretary of Veterans Affairs Letter, dated November 21, 2008, to The Honorable Daniel K. Akaka, Chairman, Committee on Veterans Affairs, United States Senate,
- ² VA FAST Letter 09-20, dated May 6, 2009, Subject: Developing for Evidence of Herbicide Exposure in Haas-Related Claims from Veterans with Thailand Service during the Vietnam Era, and the accompanying Memorandum for the Record, Subject: Herbicide use in Thailand During the Vietnam Era and M21-1MR, Part IV, Subpart 2, Section C, Paragraph 10p, *Exposure to Herbicides in Thailand* and 10q, *Memorandum for Record – Herbicide Use in Thailand*.
- ³ National Security Decision Memorandum 141, *Subject: Herbicides in Vietnam*, November 26, 1971, by Henry A. Kissinger, National Security Council,
- ⁴ Project CHECO Southeast Asia Report "Base Defense in Thailand", 18 February 1973, prepared by Major Barnett and Captain Barrow for HQ PACAF, Directorate of Operations Analysis, CHECO / CORONET HARVEST Division, pages 33-34,
- ⁵ Lane Evans letter of May 7, 2003 to Donald Rumsfeld by the Office of the Under Secretary of Defense on September 23, 2003 and provided to the Secretary, Department of Veterans Affairs and the Under Secretary of Veterans Affairs for Benefits on March 10, 2005,
- ⁶ Lane Evans letter of June 3, 2005 to Secretary of the Air Force, and the response from the SAF/LLP on June 30, 2005 to Congressman Evans,
- ⁷ Contract DAAD19-02-D-0001, "The History of the US Department of Defense Programs for the Testing, Evaluation, and Storage of Tactical Herbicides", December 2006, from Mr. Alvin L. Young, PhD., page 12,
- ⁸ HQ, Department of the Army Field Manual 3-3, "Tactical Employment of Herbicides", 14 December 1971, Pages 1-1, 2-1, and 4-1,
- ⁹ USMACTHAI/JUSMAGTHAI Memorandum, Subject: "Mission Policy on Base Defense", November 1, 1969, page 2 and page 4,
- ¹⁰ Project CHECO Southeast Asia Report "Base Defense in Thailand", 18 February 1973, prepared by Major Barnett and Captain Barrow for HQ PACAF, Directorate of Operations Analysis, CHECO / CORONET HARVEST Division, pages 68-69,
- ¹¹ P. L. 102-4, The Agent Orange Act of 1991,

- ¹² Special Collections of the National Agriculture Library, The Alvin L. Young Collection on Agent Orange, Container List, Series II. Military Use of Chemicals, Item 318: Letter: To Mrs. Cleary from Alvin L. Young Regarding Use of Herbicides in Southeast Asia, page 2 - 4.
- ¹³ Special Collections of the National Agriculture Library, The Alvin L. Young Collection on Agent Orange, Container List, Series II. Military Use of Chemicals, Item 05762: Working Paper Draft: Criteria for Determining Exposure Levels of Military Personnel to Dioxin and Herbicide Orange During Vietnam, page 5 - 6.