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Report/Article Title Statement of Kenneth R. Feinberg, Special Master

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Description Notes

May 7, 1984

Statement of Kenneth R. Feinberg, Special Master:

The parties in the Agent Orange litigation have agreed to a settlement of the case. The settlement agreement is expected to result in payments to members of the defined class of over 1/4 billion dollars over the next six years. Payments by the seven defendants to the settlement trust fund will total a 180 million dollars plus full interest from today. Funds from the settlement trust fund will be available over a 25 year period to assure benefits for members of the class, including spouses and afterborns of Vietnam veterans (as defined in the class).

The plaintiffs and defendants reserve all rights and claims that they may have against the United States.

The Court will hold public hearings concerning the terms of the proposed settlement pursuant to Rule 23 of the Federal Rules of Civil Procedure. Any person or organization requesting information or input into the specific terms of the settlement agreement should contact the Plaintiffs' Management Committee.

STIPULATION OF SETTLEMENT IN IN RE "AGENT ORANGE" PRODUCT
LIABILITY LITIGATION M.D.L. 381

It is hereby stipulated and agreed that:

1. Defendants as a group will pay \$180 million, plus interest, to the class in a manner ordered by the court. Interest is to accrue at the prime rate from May 7, 1984. The intent of the parties is to have this settlement cover defendants as well as their subsidiaries and parents.

2. Defendants will advance out of this fund expenses on account of notice and settlement administration (but not to include attorneys' fees or attorneys' expenses).

3. No other distribution will be made from the settlement fund until after an order approving settlement has become final, including appeals.

4. The settlement fund will indemnify defendants for any final compensatory judgment only, excluding defendants' costs and fees rendered against them in "Agent Orange" suits by servicepersons in state court. The indemnification shall be for final judgments rendered against any or all defendants up to an aggregate of \$10 million on all such final judgments. The court may allow additional payments after January 1, 1990 if the payments to members of the class are assured.

5. The class definition as interpreted will specifically include those servicepersons and other members of the class who have not yet manifested injury.

6. If plaintiffs pursue claims against the United States within one year, they may retain documents until after any case or cases have been concluded.

7. Plaintiffs and defendants reserve all rights and claims against the United States and any persons not a party or a subsidiary of a party to this class action.

8. Defendants deny any liability.

9. Defendants reserve the right to reject this settlement if they feel that the number of opt-outs is substantial. This right must be exercised no later than 10 days before the public hearing on Rule 23(e).

10. Any class member who has opted out shall have the opportunity to opt back in within a reasonable time as determined by the court.

11. Any party may apply for disposition of the remaining funds on order of the court after twenty-five years.

12. This agreement is subject to Rule 23(e) of the Federal Rules of Civil Procedure.

13. Arrangements will be made from the fund to assist afterborns.

14. The court retains jurisdiction until the fund is completely disposed of.

SO ORDERED.

Chief Judge, U.S.D.C.

Dated: Brooklyn, New York
May 7, 1984