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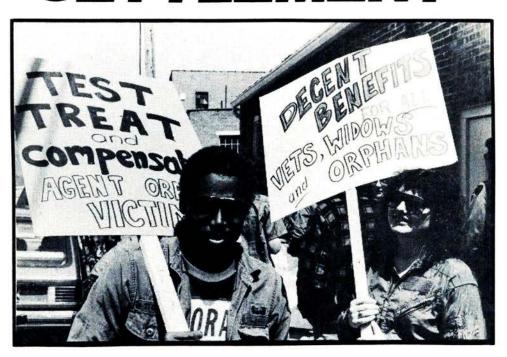


Volume 14 No 3

July ,1984

Everyone Wins! Except Victims

AGENT ORANGE SETTLEMENT



Test,Treat & Compensate Agent Orange Victims!

Decent Benefits for All Vets,Widows,Orphans!

Vietnam Veterans Against the War

P.O. Box 25592 Chicago, IL 6062 Nonprofit Org US POSTAGE PAID Permit No 1425 ~Inside~

Text of Settlement.
Public Hearings:
Where,When,How.

What You Can Do .

also Information on **VVAW Publications**

When the class action suit of Vietnam veterans and their families against the manufacturers of Agent Orange was suddenly settled out of court, it came as a great surprise to all (except the judge, the chemical company executives, and the tribe of lawyers on both sides). Many people, including those generally sympathetic to the problems of vets made pleased murmurs about how now the problems of the Vietnam vets were being addressed, that the wounds of war were being bound up.

For many vets it took several seconds to size up the proposed settlement -- it stinks. It does not assign any blame which means that the government and chemical companies are free and clear to do the same thing all over again somewhere else to another generation of vets. It provides nowhere near enough money to make easier the lives of the victims of this chemical poison, let alone "compensate" for the pain and suffering already part of so many lives. Research that might lead to treatment is not mentioned.

There are plenty of reasons why the settlement should be rejected; fortunately, in the terms of the proposed settlement is the way for us to let the Judge know how we feel. Judge Weinstein is holding a series of public hearings around the country (see below for time and place) so that vets and others affected by Agent Orange can say their piece. VVAW urges every vet and every family member to speak out. If you can't get to one of the hearings, write to the Judge (address below) before the 30th of July; if you can get to one of the hearings, write to the Judge to make sure your name is on the hearing roster. It's our chance to sound off--no one is going to do it for us!

Following is an edited text of the "Settlement" as put out by the Wisconsin Office of Vets Affairs (it has all the material in the original without a lot of the legalese). This "Settlement" only goes into effect after the Judge has heard from us and has then decided the "Settlement" is fair and adequate.

Stipulation of Settlement in re "Agent Orange" Product Liability Litigation M.D.I. 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 in-

SETTLEMENT or SELLOUT?

clude 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 judgement only, exluding defendants' costs and fees rendered against them in "Agent Orange" suits by servicepersons in state court. The indemnification shall be for final judgements rendered against any or all defendants up to an aggregate of \$10 million on all such final judgements. 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 U.S. 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 U.S. and any persons not a party or a subsidiary of a party to this class action.
- 8. Defendants deny any lia-
- 9. Defendants reserve the right to reject this settlement if they feel that the number of optouts 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 25 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.

Tack B. Weinstein

Dated: Brooklyn, NY May 7, 1984

That is the bones of the proposed settlement; we'll get into why we think it's so bad in a moment. First, at the end of June, the following notice appeared in selected newspapers around the country (there's some kind of

legal manuever where a notice like this can be printed in a few major papers and then be assumed to have reached most of the people concerned. Anyhow, in case you missed it, here it is (and you might have missed it -- in the Chicago Tribune it was printed on the second page of the second section of the editorials in back of an article about germs).

it is approved, the defendants collectively will pay One Hundred Eighty Million Dollars, plus interest at the average prime rate from May 7, 1984 to the date of payment into a Settlement Fund to be established and supervised by the Court for the payment of class members' claims.

The Settlement Agreement confirms that the class includes persons who have not yet mani-



Notice of Proposed Settlement of class action, in re "Agent Orange"

You are hereby notified of a proposed settlement of this class action, of hearings, to be held by the court to determine whether it should be approved, and of what you must do now if you believe you have a claim for adverse health effects alledgedly related to Agent Orange exposure in or near Vietnam.

This court has previously certified a plaintiff class consisting of those persons who were in the United States. New Zealand or Australian Armed Forces at any time from 1961 to 1972 who were injured while in or near Vietnam by exposure to "Agent Orange" or other phenoxy herbicides, including those composed in whole or in part of 2,4,5-trichlorophenoxyacetic acid or containing some amount of 2,3,7,8-tetrachlorodibenzo-pdioxin (collectively referred to as "Agent Orange"). The class also includes spouses, parents, and children born before January Chief Judge, U.S.D.C 1, 1984, directly or derivatively injured as a result of the expo-Defendants have denied any

liability or wrongdoing.

The attorneys for the class representatives and the attornies for all of the defendants have entered into a Settlement Agreement made as of May 7, 1984, which is subject to and conditioned upon the Court's approval of its terms. Under the settlement, if

fested injury, and provides that arrangements will be made to assist afterborn children from the

The Settlement Agreement will not become effective unless and un- KING ANY CLA til the Court decides that it should be approved as a fair, reasonable and adequate compromise of the aggregate claims of the plaintiff class as a whole, In order to assist the Court in making this decision, the Court will hold hearings in the following places on the dates indicated:

August 8,9,10, 1984, U.S. District Court, 225 Cadman Plaza East, Brooklyn, NY 11201

August 13,14,1984, U.S. District Court, 219 S. Dearborn St, Chicago, IL 60604

August 16,17,1984, U.S. District Court, 515 Rusk Ave, Houston, TX 77002

August 20,21,1984, U.S. District Court, 75 Spring St SW, Atlanta, GA 30303

August 23,24,1984, U.S. District Court, 450 Golden Gate Ave, San Francisco, CA 94102

Each hearing will begin at 10:00a.m. Any class member may raise any objection he or she may have to the proposed settlement at any of the hearings. Written objections to the Settlement may also be submitted to the Clerk on or before July 30, 1984, at the address given at the end of this Notice.

If the Court approves the proposed Settlement, it will subsequently conduct further proceedings with respect to the question of allocation and distribution of

the Settlement class members their claims a lated to Agent in or near Viet licits and enc consider recor suggestions o any party to th nam veterans persons. Cla given notice a plan for alloca tion of the Set it is developed full opportunit Court at that t they may have whether or not to the Settlem

In an effo cedures and fo location and d Fund, it is imp mine as soon current number claims made b If you wish to sation for adve which are alre you must comp claim form (wh as indicated b on or before O IF YOU FAIL TO CLAIM FORM OR BEFORE OC YOU WILL BE VERSE HEALTH ALREADY MAN THE COURT D THERE IS GOO REASON FOR Y MEET THIS DE

In order to formation abou including a co ment Agreemer Form, call 1-8 outside New Y 832-1303 (from State), or writ address:

Clerk, U. for the E NY P.O.Box Smithtown

DATED: Brook! This 11th Da

So Wha This Me And M

VVAW hop will get to one According to a by the court to who joined the what you do: tions to the Se submitted to th by July 30, 19 address given s in satisfaction of sserting injuries re-Orange exposure tnam. The Court soourages and will mmendations and n this question from he litigation, Vietand other interested ss members will be about the proposed ation and distributtlement Fund after d, and will have ty to present to the time any objections to that proposal, t they have objected nent as a whole. ort to establish proormulas for the aldistribution of the portant to deteras possible the r and nature of the by class members. apply for compenerse health effects eady manifested, plete and mail a hich you may obtain. pelow) postmarked October 26, 1984. O FILE SUCH A POST MARKED ON TOBER 26, 1984. BARRED FROM MA-AIM FOR ANY AD-EFFECT THAT IS IFESTED (UNLESS ETERMINES THAT D AND SPECIAL OUR FAILURE TO EADLINE). o obtain further in-

ut the Settlement. py of the Settlent, and a Claim 800-645-1355 (from ork State) or 1-800mwithin New York e to the following

S. District Court astern District of

n, NY 11787 yn, NY y of June, 1984

ack B. Weinstein

t Does All an To Me ly Family ? es that every vet

of the hearings. document, sent all those vets suit, here's "All written objecttlement should be ne Clerk in writing

Fund to qualifying bers or their representatives may ability! appear at any of the hearings and any objections they have will be heard by the Court. Any person who wishes to be heard should notify the Clerk on or before July right into the next war, with 30, 1984, at the address given above, stating the amount of time he or she requests."

> The hearings, according to the same document, are "for the purpose of considering whether the proposed Settlement is fair, reasonable, and adequate and should be approved." Any class member can appear to object -you do not have to have joined the suit; merely being a veteran of Vietnam, or a member of the family of a Vietnam vet makes you a member of the "class.

> VVAW has been told that the judge will also try to hear those who have not requested hearing but who are in attendance at the various court dates -- we'd suggest getting there early since, as far as we can tell, that will be first come, first serve, and will depend on how many people have asked to testify already.

VVAW urges all veterans to write to the Judge and/or come to the hearings, whether or not you agree with our assessment of the settlement. Send or bring photocopies of your medical records or bills, photos of your kids, anything and everything that will make the Judge understand and rule against the settlement. Some veterans are planning to have their children testify also, with birth defects can sue the and we're hoping that vets will do whatever necessary to have an impact.

For any event in which there are so many lawyers involved and would only mean that once again a large amount of money at stake (to say nothing of the amount that ing with our tax money for Vietshould be involved), there is muchnam casualties--again! The taxdifference of opinion together with payers did not poison us--we a good deal of sniping at those who disagree. One thing we've been told is that those of us who oppose this settlement don't understand what it means. Well, that's a bunch of mule muffins. We're not stupid even if we're vets. And we can read English even though it's legalese.

There are conspicuous absences in the wording of this settlemnt. One is that there is no provision recognizing the link between exposure to dioxincontaminated chemicals and human health problems. This is a very serious omission. If the Court does not recognize a cause and effect relationship between our exposure and our health problems, the VA will never recognize Agent Orange exposure as a service-connected disability. 84, at the Smithtown Can you imagine: we "win" the above. Class mem- suit and then can't claim a dis-

Which brings us to another point. Check out provision #8. It can't be more clear where the chemical companies are headed: Ronald Reagan and all the rest of his cowboys. And where does that leave us? Well, the corporation's answer to Agent Orange problems has always been that our exposure was our own fault, because we didn't apply the chemicals properly. Sound familiar? It should; from the start of that war it's been the GI's who put up with their lies and contradictions in Vietnam, and we've been getting dumped on ever since.

This settlement is what they call a "victory?" If the settlement were to happen, no matter how much money went into the trust fund there would never be enough to take care of every vet with exposure-related health problems, plus their birth-defected children, plus widows and orphans' benefits, plus research. This is what the proponents of the settlement want us to think the money will be used for, plus a couple of other things not yet figured out. All of this? Never in a hundred and eighty million years -- or 250 million years counting in-

And then the argument shifts. "Well, that's OK because the widows and orphans and children government so they'll get their money that way." First, it's far from certain that any such suit would win and if it did, it the American people will be payare the taxpayers. Why should we have to pay for corporate lies and cover-ups--drag the money out of the corporate profits. They are the ones who profited from the Vietnam war in the first place!

In Provision #9 of the settlement, the defendants -- the chemical companies -- will pay up -- in fact they have already deposited their \$180 million in the bank where it is drawing interest. And on the next day they turned right around and sued the government for \$180 million. So that's what #9 is all about. We'll have to wait to see if they back out of this little agreement ten days before the public hearings.

Provision #12 gives vets the chance to turn the settlement around. Rule 23(e) means that this settlement is subject to the approval of the judge, Judge Jack Weinstein. He has the final say on whether or not the

settlement is settled--whether it is "just" for all concerned. It is vital to convince Judge Weinstein that the settlement is not just and that large numbers of vets do not agree with it. These public hearings are our last hope. We have neither the organization nor the money to hire a new set of lawyers, or even to rehire Victor Yannacone, the man who got the whole class action suit started on behalf of Vietnam vets. (Yannacone was eliminated from the case a while back; at the time we were told it was because he ran out of money. Now it seems clear there was more to it than that, and we may never find out just what happened--if we do we will print it in THE VETERAN in the future).

The attorneys who made this settlement on our behalf (without telling anyone) were appointed by the Judge. We did not go out and hire them to represent us. Many of them were already deeply involved in the case through Victor Yannacone. In any case the Judge is not going to allow us to change attorneys at this point in the progress of the suit, so the public hearings are especially important for us. It is our chance to speak for ourselves, to try to convince the Judge both of what we need and what we want.

The settlement provides nowhere near enough money for what it's supposed to do. The cause and effect clause must be there; the companies must take the blame for the things they have done and then kept from everyone in the name of "trade secrets." That is the only way to move toward preventing the same thing from happening again in the future.

One thing is sure: the Judge has already heard from the leadership of almost every vets' group in the country. He realizes, however, that many Vietnam vets belong to no group and can only speak for themselves. Many vets are just out there, maybe seeing the notices or hearing some of the news about the suit, and wondering what it all means to them and their families. It seems very far away. But it could mean life or death to many families. Please let the Tudge hear from you. The address for writing the Judge:

> Judge Jack B. Weinstein Federal District Court 225 Cadman Plaza East Brooklyn, NY 11201 The people who have been

Where We Came From, Who Are We, Who Can Join

VIETNAM VETERANS AGAINST THE WAR

A National Veterans Organization Recognized as Tax Deductible.

Vietnam Veterans Against the War began in 1967 to join the ranks of those who want-ed an end to U.S. involvement in Indochina. Basic principles of the organization have Basic principles of the organization have continued ever since: we have fought against unjust wars, whether the U.S. invasion of Indochina or, potentially, El Salvador, or the USSR's invasion of Afghanistan. We have supported, by whatever means were possible, those who are fighting for their own liberation. And we have stood with persons of all sea in fighting. stood with veterans of all eras in fighting for the things we need, have been promised, and have been earned.

From its early days VVAW has operated on the knowledge that the government will on the knowledge that the government will give vets what we need only when forced to do so—that vets get nothing for nothing. We've learned that when one vet fights alone, there is a limited amount he or she can accomplish, but when veterans unite to fight together, we can do much. VVAW has seen some real successes, we helped has seen some real successes: we helped to put an end to U.S. troops in Southeast Asia, we helped get Nixon tossed out of office on his ear, we helped to win (to a great extent) amnesty for war resisters. With other vets groups we helped to stir up enough public furor that the Veterans up enough public furor that the veterans Administration took its first halting steps to look for an answer to Agent O:ange poisoning, and recognized what WAW used to call Post Vietnam Syndrome when we were leading rap groups in 1970 (and is now called "post-traumatic stress or delayed stress syndrome") as a servicedelayed stress syndrome") as a servicected disability.

connected disability.

VVAW has consistently stood with the interests of vets of all eras, especially Vietnam and Vietnam-era vets. Sometimes this has brought us into conflict with the "traditional" vets organizations. While they have tended to stand behind the U.S. government and its various warlike manueverings, VVAW has always asked "Why?" We've opposed moves toward war, fight against registration and the draft which will follow, opposed inflated defense expenditures, welcomed vets with "bad" discharges into the organization and fought to get the discharge system dropped fought to get the discharge system dropped entirely from the military.

We know what it means to have been used once by the government and its corporate backers, and then be thrown away with a bad GI Bill, wretched healthcare, Agent Orange ravaging our bodies, vivid memories of the war often ravaging our minds, no jobs, and all the multitude of other problems Vietnam vets often face. We do not intend to see our children go through the same thing in the next war

ebody else's profit! etnam Veterans Against the War P.O. Box 25592, Chicago, IL 60625

NATIONAL **COORDINATORS**

Bill Davis (312) 386-1413 Barry Romo (312) 327-5756

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TURN THE PAGE

involved in this suit from the very beginning are also urging veterans to participate in these hearings. The original attorney in the case, Victor Yannacone, has said, "We have to stay with it--even if it takes years! If we don't we become our own worst enemy."

Rena Kopystenski, the hardhitting coordinator of the group Agent Orange Victims of New Jersey, mentioned a case in a small town called Woodbine, Georgia. During the Vietnam War, the Defense Department had a contract with a company in Woodbine to make flares to the military's specifications. Unfortunately the government forgot to tell this little company that they should never store the finished product near heat. To make a long story short, the stuff blew up and 52 families suffered as a result. The government refused to compensate these families until recently. Rena said, "Those poor, uneducated people stuck to it. And after taking it through 27 different courts over a period of 13 years, those families forced the government to give in, and they won \$717 million! When you compare that to our settlement, we got a long way to go and we can't turn back."

Maude de Victor, the courageous VA worker who originally broke the story of Agent Orange exposure among Vietnam vets, said, "The actual living veterans and their families are the real merits of this case. The merits of the case have been lost to the Judge so far, because all he sees are these hot-shot lawyers with their fancy and meaningless interpretations of our suffering. This is history in the making, like all the events that happened during Vietnam all rolled into one event--the civil rights marches, the anti-war marches, the antinuke marches, the world series and the superbowl. The bottom line is that the Judge needs to see the score!"

The Court document mailed to vets enrolled in the suit (all Vieceam vets and families are members of the "class" in the suit, but a much smaller number of individuals actually signed up as plaintiffs) also has information about what will happen if Judge Weinstein agrees to the proposed settlement (everyone interested should write to the Court Clerk and request a copy of the "Notice of Proposed Settlement of Class Action and Claim Form -- the document does not take "sides" in the proposed settlement, but lays out all the relevant facts).

In addition to the points of the Settlement already listed, there's one added small point which will allow the chemical companies to withdraw up to \$10 million from the settlement fund to settle certain claims made against the companies in state courts.

If Judge Weinstein decides in favor of the Settlement, there will be further hearings about distribution of the fund; Judge Weinstein asks already for ideas and suggestions from vets or any other interested parties, and such to be as open and fair as possuggestions may be part of a "pre-sible. At the same time, the liminary oral discussion" during the hearings. More hearings will also be held in Brooklyn on the 24th and 25th of September concerning lawyers' fees; a copy of what the various lawyers are looking for in the way of bucks will be available for examination at the Brooklyn court after the 31st of August. You can bet those requests are going to be dandies!

For vets and families who are affected by Agent Orange, the most important section of the document from the Court is the claim form which must be sent in to an address printed on the form by the 26th of October, 1984; persons who now have adverse health effects related to Agent Orange and do not send in the form will not get money from the Settlement

Fund. For those who start to show bad health effects after the court case, they must submit the form within 120 days: there are some provisions which ease the restrictions a little, but basically, if you think you have a claim, get the claim form and send it in. (THE VETERAN will reprint claim forms in the next issue, but to make sure, send to the Clerk of Court.) The claim form is very general-when you were there, things which you believe are Agent-Orange related problems in yourself or your family. You do not have to prove anything at this point. It appears that the Judge is just trying to get some idea of how many vets are effected, and what kinds of claims are going to be a part of the case. There will still be a long and careful process of determining who gets what, according to the court document, and there will be places for comments and objections along the way.

Vets seem to have been fortunate in having Judge Weinstein as the judge in this case: he seems to making all efforts Settlement would be, for him, the best solution and he seems already to be making plans for post-Settlement operations. In other words, it's up to us to let him know why we believe the Settlement is inadequate, unfair, and wrong. We've got a job ahead to convince him and no one can do that alone -we need everyone involved. Join those who are going to speak up for what we need.'

WHAT TO DO!

1. Write the Clerk of Court at Smithtown, NY, before the 30th of July to say that you want to testify at one of the hearings. Tell the Clerk how much time you think you'll need. (What to bring? For instance, if you've spent money for doctors for yourself or your children, bring along bills to show how much

it costs to try to deal with the problems of Agent Orange; for the Judge who can multiply your bills times the number of people

involved, that's one way to see :that the fund is not large enough. Or bring a letter from the VA saying they will not treat some Agent Orange related problem as a service-connected disability; this shows the Judge that we are not going to be able to get free healthcare for Agent Orange problems, and that the Fund better be able to take care of present and future medical problems.) If you cannot get to one of the hearings, send the Judge your written objections to the Settlement.

- 2. Write the Clerk for a copy of the Settlement and a claim
- 3. Get that claim form filled out and in to the address on the form. There's no way to know when the Judge will make his final decision about accepting or rejecting the Settlement, so its best to have the claim form in already to avoid being left out.
- 4. VVAW will organize picket lines, demonstrations, etc at some of the hearings. Let us know where you'll be and we'll see if we can get together to do something to let everyone know where we stand. It's likely that other groups will also be acting in other places -- we'd like to exchange that information as much as possible.

Finally, we believe that no vet can afford to do nothing. This issue is much more than simply getting money to help our brothers and their families, though that is vital. The issue runs straight to who is responsible in a war for the protection of the soldier, and who should be made to pay. Right now it's clear that Dow and other chemical companies profit from the war and it's the vets who pay and pay and pay. That must stop. Join the vets who will be heard!

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'Ranch Hands' Revenge' VVAWwill be organizing for the hearings

Various activities are being planned in the cities where hearings are scheduled. A demonstration, picket and rally are already planned for Chicago. For information call the Midwest co-ordinator. For housing, call; Local co-ordinator, Chris Malloy at (312) 475-2689. For activities in Atlanta, call the Southren co-ordinator. For actions in your area, or transportation, etc., contact your local VVAW.

Don't Sit Back—Fight Back! Contact Your Local Chapter for More Information!





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VVAW P.O.Box 25592 Chicago IL 60625

Companies Comment on Pact

The size of the five major companies | vestors were relieved by the settleinvolved dwarfs the proposed \$180 million fund to compensate Vietnam veterans and dependents who said they were harmed by exposure to Agent Orange. The Dow Chemical Company, for example, reported revenues last year approaching \$11 billion.

stock market results showed that in-

ment. At the close of trading yesterday, Dow Chemical was up % to 22%; the Monsanto Company, up 1% to 95%; the Diamond Shamrock Corporation, up 1/4 to 21%; Uniroyal Inc., up 1/4 to 13%, and Hercules Inc., up 1/2 to 33% All are traded on the New York Stock



Settled?



victims of Agent Orange and experts on the effects of the chemical on Vietnam Vets and thier families . 50¢ post paid.

AGENT ORANGE **BIBLIOGRAPHY**

If there's a doctor or researcher in your community doing work around Agent Orange or dioxin, his or her life could be made much easier with the "Agent Orange Bibliography" for the clinician. Completed by Muriel Hogan, VVAW's national researcher, this volume has collected the best and most recent research on dioxin, with over 200 bibliographic citations. It's a job which hasn't been done before--and which needed doing. Copies are available from Milwaukee VVAW, 3433 N. Fratney St, Milwaukee, WI 53212 at \$5.00.

AGENT ORANGE DOSSIER

A new, 76-page "Agent Orange Dossier" has just come off the presses in Milwaukee. A collection of material which is not brought together anywhere else, the "Dossier" provides a wealth of information which both answers many questions about Agent Orange and will give the reader a lot more questions to think about. The "Dossier" costs \$4; send for your copy from Milwaukee VVAW (address above) or the VVAW National Office, P.O.Box 25592, Chicago, IL 60625: rates for 5 or more copies can be discussed.

VETERANS SELF-HELP GUIDE

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