

FOR IMMEDIATE RELEASE

October 12, 1995

Attempted Exemption Of Secret Air Force Base By President Clinton Is Challenged As Military Violates Commitment Previously Made To Federal Court

On Friday, October 13, 1995, workers at a secret air force base will ask a federal court in Las Vegas to strike down an attempted exemption of the base from requirements of the hazardous waste laws. President Clinton's personal exemption of the base was made public on October 3, 1995 in an unprecedented act under the environmental laws. (The only other exemption was a global exemption in handling the Haitian boat crisis).

President Clinton's exemption occurred after months of argument by the government that they would not issue such an exemption and that a court order would violate the President's constitutional authority as Commander and Chief. Instead the military argued that it can simply classify all information on violations at the facility as a state secret, including evidence of possible crimes committed at the base. In a thirty-page opinion, Judge Philip Pro ruled that the national security arguments of the government were "illusory" and "unpersuasive." Judge Pro gave the military until October 2, 1995, to declassify the information demanded by Plaintiffs or secure a personal exemption from President Clinton. In filing the exemption, the Justice Department simultaneously asked the Court to reverse its earlier order requiring the exemption.

On Friday, the workers in this litigation will file a motion to strike the exemption as legally invalid under the federal law. Their counsel, Jonathan Turley dismisses the exemption as "little more than the military's rejected legal theory placed on a piece of paper and signed by the President." He continues:

This document does not resemble anything recognizable in the statute. The President can exempt the facility from 'requirements' under the Act, not their results. Exempting the military from releasing information that they classify would create a unilateral, self-exempting authority in military officials and permit the total concealment of evidence of environmental violations. If the President wishes to exempt this facility from its responsibility under environmental laws, he must take responsibility for this decision and specifically state the requirements that he is waiving. Otherwise, the President would create a type of stealth law to be used by the military whenever it decides to conceal violations from the public.

Professor Jonathan Turley, a George Washington University law professor and Director of the Environmental Crimes Project, represents workers at a secret Air Force base in two cases charging that the military has committed environmental crimes at the base. Various workers have died of cancer and other workers have become ill from a variety of complications, including a rare painful skin disease linked to the burning of hazardous wastes.

President Clinton's exemption was made public on the same day that he announced compensation for the victims of prior military abuses in radiation experiments and production. Without mentioning his exemption decision, the President stated:

Those who led the government when these decisions were made are no longer here to take responsibility for what they did, They are not here to apologize to the survivors, though family members and the communities whose lives were darkened by the shadow of the atom and these choices. There are circumstances where compensation is appropriate as a matter of ethics and principle, I am committed to seeing to it that the United States of America lives up to its responsibility. Our greatness is measured not only in how we so frequently do right, but also how we act when we have done the wrong thing, how we confront our

mistakes, make our apologies, and take action.

This decision came after a Commission showed how the military had misused secrecy laws to hide evidence of environmental and safety violations. In the Area 51 case, the military has claimed the existence of "jet fuel," "paint," "car batteries" and other generic items at the air base to be top secret matters and incapable of disclosure without "risking American lives." The contradiction of these two acts on the same day was not lost on the workers or their counsel. Professor Turley noted:

The hypocrisy of President Clinton's statements was both painful and shocking for these families. The criminal acts committed at Area 51 may have caused the death of at least two workers and certainly injured a greater number of workers, President Clinton has confronted his mistakes by personally exempting the military from releasing any information to the widows or the Federal Courts. It appears that President Clinton's concern over "how we act when we have done the wrong thing" extends to the mistakes of his predecessors alone. It is one thing to allow the military to engage in this type of criminal conduct at the cost of their own workers, it is another to claim moral superiority by compensating the military's victims of the 1940s while actively opposing their victims in the 1990s. The Area 51 victims do not want compensation, they want justice and will clearly not find it In the Oval office.

In another development, October 11, 1995, was the day that the military had agreed to publicly list the base for the first time on a federal facilities docket. In asking for a dismissal of the worker's claims, the military assured the Court that the facility would be publicly listed on the docket by this date. They have now violated this commitment and this violation will be raised with the Court in Friday's filing. "Repeatedly in this litigation, the military demanded immediate dismissal on the basis of statements or promises that were later proven to be false," Turley stated. "This is only the latest example of a litigation policy to say and do anything to avoid legal responsibility for these acts."

###