

To strengthen
and promote
cities as centers
of opportunity,
leadership, and
governance.



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of Cities**

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STATEMENT OF
INGRID LINDEMANN
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on behalf of

THE NATIONAL LEAGUE OF CITIES

before the

ENVIRONMENT AND PUBLIC WORKS COMMITTEE

UNITED STATES SENATE

on

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

April 2, 2003

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Mr. Chairman, members of the Committee. I am Ingrid Lindemann, Councilmember from Aurora, Colorado and Advisory Council representative to the National League of Cities' Energy, Environment and Natural Resources Committee have also spent most of my adult life as a military spouse. I am here today to testify on behalf of NLC and the 18,000 cities and towns across America we represent on the Defense Department's proposed changes to environmental laws. The concerns of the nation's cities and towns are most especially relevant to the proposed exemptions from the Resource Conservation and Recovery Act (RCRA), Superfund (CERCLA) and the Clean Air Act.

I want to make clear at the outset, that the municipal elected officials who comprise the National League of Cities support effective testing and training of the men and women who serve in our Armed Forces to ensure they are the best-equipped and best-prepared in the world. But we do not believe it is necessary or appropriate to accomplish this goal at the expense of our non-military citizens.

NLC's *National Municipal Policy* calls on federal facilities to comply with federal and state environment, health and safety laws and to be subject to the enforcement provisions of such statutes. The ramifications of a blanket exemption for military facilities and activities from such laws will be serious and untenable at the local government level. First, we believe there is significant potential for adverse public health effects in cities with respect to air, drinking water, and management of hazardous waste. Second, there is substantial potential for serious negative economic effects on local communities,

Potential for Significant Negative Health Effects

The Clean Air Act imposes health-based air quality standards. Creating a fiction – as we believe the DoD proposal does – that an area is in compliance with the National Ambient Air Quality Standards when it is not – is unacceptable. While there may be no legal requirement on either the state or local government to seek offsets to the air pollution caused by military activities, the community will have an air quality problem which, in reality, has health consequences for the people who live there. We are also concerned that a fictitious attainment designation may even exacerbate the air quality problem by allowing non-military facilities and/or activities to use the military's pollution as cover for relaxing or ignoring what might otherwise be required of them.

Exemptions from the Resource Conservation and Recovery Act are equally problematical, in part because of their impact on the appropriate disposal and/or clean-up of hazardous waste, but equally importantly, because of the impact, or potential impact, on sources of drinking water which in many parts of the country are already diminishing and/or scarce. It is estimated that there are 16 million acres of transferred ranges around the country, which are potentially contaminated by unexploded ordnance. Contamination, and subsequent closure, of sources of drinking water by military ordnance constituents such as perchlorate, RDX and TNT have already occurred in Maryland and Massachusetts – under current law. What will happen in these municipalities if the Department of Defense is exempted from the relevant environmental statutes? While finding alternative sources of drinking water in the water-rich eastern

United States may be eminently feasible, those of us in the water-limited west have major legitimate concerns about our ability to identify alternative safe and affordable sources of drinking water. We can ill-afford the kind of contamination we have seen at the Aberdeen (Maryland) Proving Ground or Massachusetts Military Reservation. We believe the citizens in municipalities affected by such contamination should not have their health compromised because of an exempted defense installation, nor should they be required to bear the burden of clean up costs or the costs of finding alternative sources of drinking water.

Negative Economic Impacts on Local Communities

Exemption of military facilities from hazardous waste clean-up standards would be a major impediment to redevelopment of closed facilities. Of the 165 federal facilities currently on the National Priorities List, it is our understanding that 129 are or were military facilities. Many of these facilities are on prime real estate, in or near cities or towns. Among these are sites that are decommissioned or in the process of being decommissioned. Until they are restored, they are unusable and an economic drain on the communities in which they are located. If Congress opts to exempt these facilities from CERCLA remediation requirements, they will never be viable opportunities for reuse and economic growth in the communities that hosted them since federal law prohibits deeding the property before the site is environmentally clean or before effective environmental remediation is in place. Hazardous materials remaining on the properties will continue to pose a threat to the health and safety of near-by citizens and preclude any effective opportunity for redevelopment and economic sustainability in the surrounding community.

The closure of a military facility has a huge economic impact in the area and without the ability to redevelop and reuse the site, it can leave the host community in a permanent economic morass.

Exclusion of military facilities and contractors from the requirements of RCRA and CERCLA will negate the positive economic impact of hosting a military installation. No community would welcome even the short-term economic benefit of having a military facility knowing that the military has carte blanche to contaminate and pollute and no responsibility – now, or in the future – for mitigating, remediating or even controlling such activities.

We also believe the amendments proposed by the Department of Defense to the federal environmental statutes in question are unnecessary. As Assistant Secretary of Defense Paul Wolfowitz indicated in a March 7, 2003 memorandum to the Secretaries of the Army, Navy and Air Force, “In the vast majority of cases, we have demonstrated that we are able both to comply with environmental requirements and to conduct necessary military training and testing.” Exemptions are broadly available – and have been granted – when the president determines such exemptions to be in the “paramount interest of the United States.”

Furthermore, in recent testimony before this committee, EPA Administrator Christine Todd Whitman said she was unaware of any military training program that was held up because of environmental statutes.

To the best of our knowledge, the Defense Department has provided no examples where environmental requirements have impeded its activities. There appears to be no demonstrable problem with environmental laws adversely affecting military training and

testing activities and if there is, the statutes provide adequate and prompt relief. If the issue is that the process for obtaining exemptions is cumbersome – and there appears to be no evidence that this is the case either – then the appropriate response would be to amend or adjust the process. We concur with the March 19th statement of the Attorneys

General before the House Armed Service Committee that

A case-by-case approach to resolving any future potential conflicts between readiness and the requirements of RCRA, CERCLA and the Clean Air Act is preferable to sweeping statutory exemptions because the case-by-case approach provides accountability.

For municipalities the critical issues are protection of public health and the economic impact of contaminated properties in our communities. While supportive of our military, the need for adequate and appropriate training and testing, and the legitimate concerns about national security, we do not believe unfettered authority to pollute our nation's cities and adversely affect the health of our citizens is the appropriate way to accomplish these objectives.

Thank you for the opportunity to present the views of the National League of Cities.