

**Opening Statement
Senator Evan Bayh**

**“The Exposure at Qarmat Ali: Did the Army Fail to Protect
U.S. Soldiers Serving in Iraq?”**

**Monday, August 3, 2009
628 Dirksen Senate Office Building**

Mr. Chairman, thank you very much for your continued leadership on the issue at hand today. This committee has done great work in support of today’s issue, as well as the larger issue of government accountability and the pressing need for stronger oversight of defense contracting in Iraq and Afghanistan.

I also want to express my deep gratitude to the witnesses before us today for their courage in speaking out on this issue. Your willingness to share your knowledge and experiences will have a far reaching impact on the many service members who are continuing to suffer as a result of contractor negligence and misconduct.

In 2003, 142 citizen-soldiers from the state of Indiana were called by their nation to serve. The heroes of the Indiana National Guard mobilized, trained, and deployed to carry out the mission assigned to them: to guard an abandoned water treatment plant on the outskirts of Basrah, Iraq and provide protection to the private contractors working onsite.

These brave Guardsmen and women came from Indiana – and were joined by soldiers from Oregon, West Virginia, and South Carolina – to keep safe the workers who were rebuilding the Qarmat Ali water treatment facility. The plant provided treated water for injection into wells as a critical part of the oil production infrastructure in Iraq.

They performed that mission admirably. But, in a tragic irony, they were not kept safe by us. This case unfortunately has helped to expose the inadequacies of the public-private model we have relied on for the bulk of our reconstruction efforts in Iraq.

Neither the U.S. military nor KBR, the private contractor hired to rebuild the plant, ever performed an environmental risk assessment at Qarmat Ali. If they had, they would have discovered that the orange powder found throughout the plant, feet high in some places, was a toxic and highly lethal carcinogen known as sodium dichromate.

I have seen pictures of the plant taken by the KBR health and safety inspector who raised many red flags in this case. The stuff was strewn all over the equipment and all over the grounds. It’s bright orange and can be plainly seen by the naked eye.

Army Secretary Pete Geren, in a candid letter to me in March 2009, admitted that the Army’s environmental review teams were spread too thin in the early stages of the

conflict to send a safety team in to inspect each of several hundred industrial sites to be rebuilt. He wrote, and I quote, “Ordinarily, the Army would perform an environmental assessment of a site prior to deployment of service members or contractors to that site. In this case, however, the number of sites (approximately 4,000) over the geographic area of Iraq potentially needing occupational health assessments in the immediate aftermath of hostilities, combined with the need to restore critical infrastructure as soon as possible, made this impracticable.”

Additionally, the service contract that the Army Corps of Engineers awarded to KBR did not require the company to conduct an environmental health assessment.

Unfortunately, it was months before efforts were undertaken to restrict access to Qarmat Ali and remediate the contamination. Those efforts came too late to prevent long-term health problems for many of the military and civilian personnel who spent months working at the site.

No one bore the responsibility to take sufficient precautions to ensure the health and safety of our men and women in uniform.

One Indiana National Guardsman is already dead from lung disease in what the Army has classified a service-related death. The commander of the 1st Battalion, 152nd Infantry was in hospice care earlier this year with lung cancer. And many members of the Indiana, Oregon, and West Virginia National Guards have come forward with a range of serious respiratory symptoms.

This situation should have never been allowed to happen. However, the tragedy will be compounded if we do not take the steps to 1) make sure this never happens again and 2) provide the best medical care this country has to offer to those soldiers who risked their lives and health in service to their country.

Today we will hear their story. Testifying is Indiana National Guardsman, Russell Kimberling, who was one of those exposed to sodium dichromate while at Qarmat Ali. Since his exposure in 2003, Mr. Kimberling developed chrome holes, which are small perforations in his nose. His condition has continued to worsen with sinus headaches, lesions on his face, and painful joint and muscle aches.

The environmental health threats that the Guardsmen faced at Qarmat Ali are not unique. A senior Department of Defense official testified before the House Committee on Government Reform about numerous incidents involving potentially hazardous materials.

By all standards, the response by the Department of Defense and the Department of Veterans to this issue has been unsatisfactory. It took more than five years and a hearing by this committee for the Army to begin to notify those exposed at Qarmat Ali. Even more unsettling is the continued reluctance of the VA to provide care to soldiers who are suffering painful injuries as a result of their exposure to this toxic chemical.

In February, I forwarded inquiries from Mr. Paul Eckert, an Iraq War Veteran from Indiana, to the VA concerning symptoms he had developed following his exposure to the sodium dichromate. In response, the VA stated that it “has not determined that a positive association exists between exposure to sodium dichromate and the subsequent development of any chronic health problems.”

On the other hand, this committee has already heard compelling testimony about the dire health risks of exposure to sodium dichromate. Dr. Max Costa – Chairman of the Department of Environmental Medicine at NYU Medical School, testified that sodium dichromate contains “one of the most potent carcinogens known to man” and can “enter every cell of the body and potentially produce widespread injury to every major organ in the body.”

Today we will hear testimony from Dr. Herman H. Gibb, a former Senior Science Advisor and Associate Director for Health at the Environmental Protection Agency, who wrote a definitive, award-winning study on the health risks associated with exposure to sodium dichromate. I expect his testimony will clarify that even short exposure to sodium dichromate can result in terrible consequences.

To remedy these problems, I have proposed legislation together with Senators Dorgan, Wyden, Byrd, Lugar, Rockefeller and Merkley that will create a registry of members and former members of the armed forces exposed in the line of duty to occupational and environmental health chemical hazards. The registry would make veterans eligible for a series of medical examinations and laboratory tests and would ensure treatment at VA facilities. A veterans’ inclusion on the registry would be recognized as sufficient proof to receive medical care barring evidence to the contrary. This legislation would help to ensure that selfless veterans, such as Paul Eckert, are not denied the medical treatment they need and deserve.

This legislation is guided by our government’s response to Agent Orange in Vietnam, when we shifted the evidentiary burden so veterans placed at risk did not bear the burden of proof if future health conditions developed.

Today, I look forward to gaining further insight into the Army’s response to the senseless and tragic incident at Qarmat Ali. Last year, Senator Dorgan and I sent a letter to Secretary Gates and Secretary Geren raising our concerns about the Army’s response to the incident, and asking about their actions to ensure that a tragic incident such as this never happens again.

In response, the Army has taken some steps to address these problems, but we cannot delay any longer. The time for action is now.

It is critically important that Congress continue to investigate this issue and work to pass this legislation to ensure that service members from Indiana and around the country obtain the medical care they need now and may need in the future. Soldiers take

enormous risks to defend the United States, and we must ensure that our troops never have to fight with the country they serve to obtain the urgent medical care they need.

Thank you and I look forward to hearing your testimony.