

Congress of the United States
Washington, DC 20515

August 2, 2017

The Honorable David Shulkin
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Dear Secretary Shulkin:

One of the primary responsibilities of the Department of Veteran's Affairs is to ensure those who have fought for our freedom are afforded the care and benefits they deserve upon their return home. As you are aware, thousands of veterans who served in the territorial seas of Vietnam or "blue water" are now suffering from higher rates of diseases, and other chronic health conditions, attributed to the exposure to the herbicide Agent Orange. Despite this, the Department of Veterans Affairs continues to deny claims from Blue Water Navy Veterans, creating significant hardship for these brave Americans.

During the Vietnam War, approximately twenty million gallons of Agent Orange were sprayed over the Republic of Vietnam, contaminating the land, rivers, harbors, and territorial seas. Under the *Agent Orange Act of 1991*, Blue Water Navy Veterans were initially entitled to presumptive service connection, relieving them of the burdensome process of producing evidence that directly establishes service connection for a specific health condition. However, in 2002, the VA reinterpreted the language of the *Agent Orange Act of 1991* to apply only to veterans who served in the inland waterways or set foot in the Republic of Vietnam.

On April 5, 2017, the House Committee on Veterans Affairs held a hearing on H.R. 299, the *Blue Water Navy Vietnam Veterans Act of 2017*. During their testimony, VA officials cited costs and lack of scientific evidence as the VA's reasoning for the 2002 policy change. However, as you are no doubt aware, there are numerous studies indicating plausible scenarios in which Blue Water Navy Veterans could have been exposed to Agent Orange.

For example, a study conducted by the Institute of Medicine shows a plausible pathway for Agent Orange to have entered the South China Sea via dirt and debris from rivers and streams. Additionally, a study conducted by the University of Queensland found the Australian ship distillation system, which is identical to the system used on U.S. Navy ships during the Vietnam War era, in fact *enriched* the toxic dioxin in Agent Orange. This contaminated water was then used for cooking, cleaning, showering, laundry, and drinking, exposing U.S. Navy personnel to high levels of the toxic chemical.

Furthermore, the U.S. Court of Appeals for Veterans Claims found in *Gray v. McDonald* that the VA's definition of "inland waterways" was "arbitrary and capricious", and the court ordered the VA to redefine "inland waterways" with respect to Da Nang Harbor. It is our opinion the VA did not comply with the court's decision and, instead, persisted in its policy of excluding many sailors and marines from coverage.

Given the amount of time elapsed since the Vietnam War, it is almost impossible to definitively prove the presence of Agent Orange in the territorial seas of Vietnam, and within the shipboard water distillation systems. However, these studies, combined with higher rates of cancers such as Non-Hodgkin Lymphoma among Blue Water Navy Veterans, leaves no doubt these veterans are entitled to presumption of service connected exposure to Agent Orange. We respectfully request you use your statutory authority to reverse the 2002 decision and afford the presumption of service connection to all veterans with Agent Orange-related diseases who served in the territorial seas of the Republic of Vietnam between January 9, 1962 and May 7, 1975.

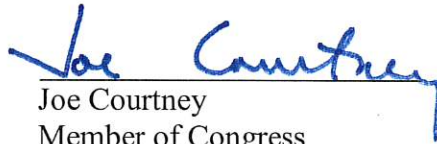
During your recent testimony before the House Appropriations Subcommittee on Military Construction and Veterans Affairs, you expressed doubts with the VA's longstanding position on providing presumptive benefits to Blue Water Navy Veterans, and stated you had asked for additional recommendations. In closing, we would like to request an update on whether the Department of Veterans Affairs has since provided you with additional recommendations, and if so, has the department reached a decision?

We thank you for your service to our nation's veterans and we look forward to working with you to ensure all veterans who have bravely fought for their country receive the support they deserve upon returning home.

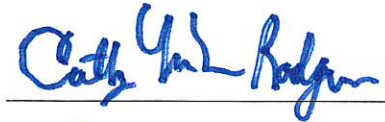
Sincerely,



David G. Valadao
Member of Congress



Joe Courtney
Member of Congress



Lee King

Don LaMott

David Young

Barbara Constock

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Debbie Dingell

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Sue White

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Jim Jones

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