



**THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON**

February 5, 2016

The Honorable Steve Daines
United States Senate
Washington, DC 20510

Dear Senator Daines:

Thank you for your January 12, 2016, co-signed letter to the Department of Veterans Affairs (VA) expressing concern about Blue Water Navy Veterans. You requested that VA use its statutory authority to afford the presumption of service connection to 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. It is critically important that any decisions related to presumption of service connection be fully grounded in science.

As noted in your letter, Congress extended a presumption of exposure to Agent Orange and other herbicides to Veterans who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975 (38 U.S.C. § 1116). VA has long interpreted that authority as extending only to those Veterans who actually served in Vietnam where they may have been exposed to the spraying of Agent Orange and other herbicides. This interpretation includes service in the waters offshore and service in other locations if the conditions of service involved duty or visitation in the Republic of Vietnam. (38 C.F.R. § 3.307(a)(6)(iii)). It is also VA's longstanding policy to apply the presumption of herbicide exposure to Navy and Coast Guard Veterans who served on boats and ships that operated on Vietnam's inland waterways.

As a result of the Court of Appeals for Veterans Claims' remand in *Gray v. McDonald*, VA has re-evaluated and clarified its policy concerning these inland waterways where we will presume exposure to herbicides. That policy is as follows: Inland waterways are fresh water rivers, streams, canals, and similar waterways. Explicitly included by policy are the heavily vegetated Mekong River Delta and Rung Sat Special Zone. Specifically excluded are all other coastal water features, particularly bays and harbors, including Da Nang Harbor. As we have long done, VA will continue to extend a presumption of exposure to Agent Orange to any Veteran who went ashore.

I did not reach this decision lightly. I take very seriously our solemn obligation to fulfill President Lincoln's promise "*To care for him who shall have borne the battle, and for his widow, and his orphan,*" but I must also consider the current state of the pertinent science when considering creation or expansion of presumptions.

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Environmental health experts in VA's Veterans Health Administration have reviewed the available scientific information – including the 2002 Royal Australian Navy laboratory study – and have concluded that the information is not sufficient to support a presumption that Blue Water Navy Veterans were exposed to Agent Orange. This review is consistent with a 2011 Institute of Medicine (IOM) study specifically addressing the plausibility of offshore exposure, as well as subsequent research published in reputable scientific journals. In this study, the IOM also reviewed the 2002 Australian study and concluded that exposure through distillation of potable water was highly uncertain and not plausible given the extreme dilution that would have occurred in offshore waters.

VA is looking to further add to the body of scientific knowledge with our own study of Blue Water Navy Veterans' health outcomes, and our partners at the Veterans of Foreign Wars, the Vietnam Veterans of America, and the Blue Water Navy Vietnam Veterans have graciously accepted our offer to collaborate on this groundbreaking study by serving on VA's steering committee for this issue.

I hold in high regard the service performed by Blue Water Navy Veterans. As we gather data and prepare analyses in our study, VA will continue to evaluate Blue Water Navy Veterans' claims on their individual merits, with due consideration paid to ensuring they receive fair, just, and equitable outcomes available under the law.

Should you have further questions, please have a member of your staff contact Mr. Joe Sixeas, Congressional Relations Officer, at (202) 461-5899 or by email at Joe.Sixeas@va.gov. A similar response was sent to the cosigners of your letter.

Thank you for continued support of our mission.

Sincerely,



Robert A. McDonald