

Submitted to the Honorable Bob Filner this date of August 20, 2008

A Joint Request for Modification to H.R. 6562, "The Agent Orange Equity Act"

in Coordination with Blue Water Navy (BWNVVA) and

Herbicide Exposure Legislative Proposal & Promotion Project (HELPPP)

Request for Inclusion #1: We respectfully request that H.R. 6562 be modified to add in the appropriate sections, subsections, and paragraphs the following language to § 1116:

...including the inland waterways, *ports, and harbors* of the Republic, the waters offshore of the Republic, and the airspace above the Republic...

The inclusion of "ports and harbors" as written above establishes the fact that these areas are to be considered part of the inland waterway system, and not as part of the "waters offshore." - **John Rossie, Executive Director, BWNVVA**

Request for Inclusion #2. We respectfully request that H.R. 6562 be modified to add in the appropriate sections, subsections, and paragraphs the following language to § 1116:

...including the inland waterways, *ports, and harbors* of the Republic, the waters offshore of the Republic, and the airspace above the Republic, and in neighboring countries including Thailand, Laos, and Cambodia, and other locations including those in paragraphs (A), (B), and (C) or received the Vietnam Service Medal, the Vietnam Campaign Medal, the Armed Forces Expeditionary Campaign Medal for Vietnam, or served in combat or direct support of combat operations (*alternative phrase "served in a direct combat support role"*); during the period beginning on January 9, 1962, and ending on May 7, 1975; and:

- (A) Guam, the Philippines, Taiwan, Okinawa, Panama,
- (B) Johnston Island during the period between April 1972 and September 1977,
- (C) Locations listed in "The History of the US Department of Defense Programs for the Testing, Evaluation, and Storage of Tactical Herbicides", December 2006, by Alvin Young for the Office of the Under Secretary of Defense and updated as defined above.
 - i. In adjudication of claims listed in (A) (B) and (C) above where records are presumed lost, destroyed, or unavailable, or non-existent, the Secretary's obligation to explain his decisions and to consider the benefit of doubt rule is heightened, and
 - ii. The Secretary must presume the veteran was exposed during such service to herbicide agents and any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.

Request for Inclusion #3. We respectfully request that H.R. 6562 be modified to add the appropriate sections, subsections, and paragraphs language taken directly from H.R. 5892, Section 111 et al. to § 1116 except as modified:

SEC. 111. TREATMENT OF CLAIMS UPON DEATH OF CLAIMANT.

(a) Treatment of Beneficiary of Veteran's Accrued Benefits as Claimant for Purposes of Incomplete Claims Upon Death of Veteran - Chapter 51 of title 38, United States Code, is amended by inserting after section 5121 the following new section:

‘Sec. 5121A. Substitution in case of death of claimant’

‘(a) Substitution- If a veteran who is a claimant dies while a claim for any benefit under a law administered by the Secretary, or an appeal of a decision with respect to such a claim, is pending and awaiting adjudication, the person who would receive any accrued benefits due to the veteran under section 5121(a)(2) of this title shall be treated as the claimant for the purposes of processing the claim to completion, except that such person may only submit new evidence in support of the claim during the one-year period beginning on the date of the death of the veteran.’ **(We ask that a review of Nehmer take place to insure those requirements are met; i.e. that there be no contradiction to the Court rulings and decisions of that case as it applies to section 5121 of title 38 including 38 CFR 3.100.)**

‘(b) Limitation- Only one person may be treated as the claimant under subsection (a).’

‘(c) Designation of Third Party- If the person who would be eligible to be treated as the claimant under subsection (a) certifies to the Secretary that the person does not want to be treated as the claimant for such purposes, such person may designate the person who would receive the benefits under section 5121(a)(2) upon the death of the person who would otherwise be treated as the claimant under subsection (a) to be treated as the claimant for the purposes of processing the claim to completion.’

‘(b) Clerical Amendment- The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5121 the following new item:’

‘5121A. Death of claimant.’

‘(c) Effective Date- The amendments made by this section shall apply with respect to the claim of any veteran who dies on or after the date of **the effective date** of this Act.’

Requests #2 and #3 are submitted as a consensus opinion of BWN/VVA and HELPPP to clearly specify those locations where veterans were exposed to herbicides (as defined by the law) and to ensure that widows of veterans who have fallen victim to presumed diseases are provided equitable treatment and the same rights afforded their deceased spouses. It is critical to this legislation. - **Blue Water Navy/Vietnam Veterans of America and the Herbicide Exposure Legislative Proposal & Promotion Project.**

Request for Inclusion #4. We respectfully request that H.R. 6562 be modified to strike from the appropriate legal references in the legislation or the authorization for the concession of exposure to herbicides in areas near the DMZ in Korea and adding:

strike “April 1968, and ending July 1969” and replace with **“September 1, 1967, and ending August 31, 1971.”** for the DMZ in Korea.

The inclusion of "September 1, 1967 and ending on August 31, 1971" as written above establishes the time frames Congress considered for inclusion in H.R. 972- The Civilian Agent Orange Act of

2007; and is already part of M21-1MR, Part IV, Subpart ii, Chapter 2, Section C, paragraph 10 I. - **Charles Wayne Kelley, SP5, 2nd Battalion 94th Artillery**

Request for Inclusion #5. We respectfully request that the following language be inserted into appropriate legislation as it applies to the activities of federal departments in compliance with the VCAA.

Sec. 5106. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Secretary **and other responsible organizations (JSRRC)** as **becomes available for any reason or that** the Secretary may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

The reference to the VCAA is incorporated to strengthen the access to, release of, and dissemination to appropriate agencies and organizations specifically created to assist veterans in obtaining information pertinent to successfully validating their claim. - **Kurt Priessman, "Project CHECO: Base Defense in Thailand", HELPPP.**

Submitted by the Undersigned:

<u>Name</u>	<u>Position/Organization</u>	<u>Residence</u>
Mr. John R. Rossie	Executive Director, BWN/VVA	Littleton, CO
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Mr. John C. C. Vincent	Owner, PTSD Support Group (8336 US Members)	Canada
Mr. Michael A. Moynihan	President, Agent Orange Diabetic Victims (AODV)	Kimball, MI
Mr. Gary J. Chenett	National Director, Order of the Silver Rose	Grand Blant, MI
Mr. Kurt Priessman	MSgt, USAF (Ret), 70% Disabled AO Victim Thailand & Okinawa ('71-'76), Korea ('77-'81) Veteran Vietnam Dog Handler's Association (VDHA) Thailand Vietnam Vets for Equal Treatment (TVVET) Owner, HELPPP, The Bottom Line	Vernon, TX
Mrs. Sheila Snyder	Home of the Agent Orange "Quilt of Tears" President, AO Victims & Widows Support Network, Inc	Davenport, FL
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Mr. William F Fiegel	Vietnam Veteran Life Member, Veterans of Foreign Wars, Vietnam Veterans of America Disabled American Veterans Director, Order Of The Silver Rose Jr Vice Commander 2007-2008, VFW Membership Director, NMSOA Wooden Ships-Iron Men Member, PGR	Mt. Prospect, IL
Mr. Charles Kelley	Veteran DMZ Vietnam Author Vietnam's Rain Agents Orange, White, Blue	Snellville, GA
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Mrs. Laura Zolman	Director, Order of the Silver Rose Wife of a Vietnam Veteran	Mt Vernon, OH

Name	Position/Organization	Residence
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Mr. Michael Weldon	Saigon Vietnam Veteran (1969) Korat (1966) & U-Tapao (1967) Thailand Vet	Udon Thani, Thailand
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Mrs. Norma Capps	Thailand Veteran Wife	Puryear, TN
Mrs. Marianne Anderson	Thailand/Vietnam Veterans Widow	Washington, DC
Mrs. Linda Bowlin	Thailand Veteran Wife	Kingsport, TN
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Mr. Dan Wilson (Rat Patrol Man)	Vietnam Veteran Member, Veterans of Foreign Wars Vietnam Veterans of America American Legion	Ballwin, MO
Mr. David Adkinson	U-Tapao Thailand Veteran ('71-'72) Eglin AFB, FL Gulfport NGB, MS	Milton, FL

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Mr. Sam Huff	NKP Thailand Veteran ('70-'71)	Roseburg, OR
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