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Admitted to practice:
Louisiana
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February 7, 2016

Hon. Sloan Gibson
Deputy Secretary of the Department of Veterans Affairs
810 Vermont Ave.
Washington, DC 20420

Re: Denial of earned benefits for Blue Water Navy Sailors

Dear Mr. Gibson:

I am disgusted at the revised Blue Water Navy policy issued this past Friday afternoon. The policy is virtually identical to the “draft” policy rescinded after my objections last August. It does not come close to complying with the court’s order in *Gray v. McDonald*. The Court of Appeals for Veterans Claims, in that decision, indicated that a new regulation should be based upon exposure to Agent Orange. *Gray*, further directed that you consider the effect the fresh water discharge plume would have on the water composition of the harbors and other areas past the mouths of the river.

In defying the Court’s decision, you have ignored scientific evidence and basic common sense to reiterate a position that was untenable prior to *Gray* and is untenable now. As I carefully demonstrated to you during our July meeting, the proven hydrological effects of the river discharge carried the contaminated waters far out to sea. We provided you with river studies showing that the Mekong River discharge plume would travel for hundreds of kilometers in a few weeks. We also presented you with information confirming Agent Orange runoff into Da Nang Harbor. Finally we furnished you with documented and incontrovertible proof that Agent Orange had infiltrated Nha Trang Harbor.

Despite this evidence, your policy continued to misrepresent the facts in an attempt to twist the language of scientific reports to support your unsupportable decision. As you did in *Gray* and in *Haas v. Peake*, you prevaricated in an attempt to justify your decision to exclude deserving veterans from receiving their earned benefits. You and members of your agency, have continued to repeatedly lie to me, to the media and to the United States Congress at the expense of dying veterans.

In this particular case, I have a feeling of personal betrayal since I made the mistake of trusting you. In answer to a direct question during our September meeting, you assured me that you were “leaning closely to our views.” In reliance upon your assurances I agreed to ask the Veterans Affairs Committees in the House and Senate to allow you an opportunity to issue a reasonable and rational regulation. I also delayed several court filings. While that deception may

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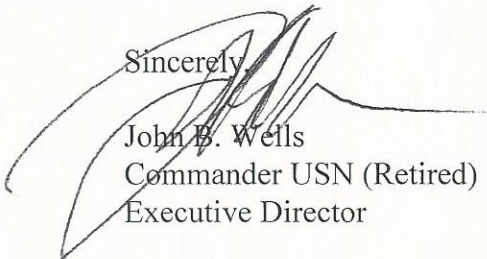
have allowed you to continue to stall the process, I can assure you that this delay will not affect the final outcome. We intend to press forward in the courts and Congress to correct this grave injustice.

I cannot understand why the VA continues to defy logic and science to deprive 174,000 Navy veterans of their benefits. I acknowledge that your General Counsel's office made an arbitrary and capricious decision when they limited the presumption of exposure to the land mass. I honestly believe that this decision was based upon ignorance of international law and the territorial sovereignty of the Republic of Vietnam, as recognized by the United States, rather than maliciousness. The absurd refusal to correct this mistake, however, is unconscionable.

Your office, and that of the Secretary carries with it a special responsibility to care for our nation's veterans. Phony platitudes in correspondence and press releases are not enough when your actions cause them to ring hypocritical. The decision to put bureaucracy before honor and mendacity before veracity merely are illustrations of why the nation's veterans loathe the VA. Congress and the veterans community agree that you have broken faith with the American veteran.

Your decision was not wholly unexpected. We will continue our mission and we will not stop until we are successful. While we are disappointed that you and your agency did not work with us in good faith we are prepared to move forward. While we hoped to engage as partners, we are not afraid to oppose you in the defense of veterans.

Sincerely,



John B. Wells
Commander USN (Retired)
Executive Director