

FOR MEDIA INTERVIEWS: Contact our media consultant James Hartman at [james@jameshartman.net](mailto:james@jameshartman.net)

Talking Points for letters to editor, local talk shows and letters to Senators

- The VA position opposing the bill was a complete reversal from former Secretary Shulkin's testimony in support at the Oct 24, 2017 House Veterans Affairs Committee hearing.
- Dr. Erickson's testimony that ships did not distill water within 12 nautical miles of land is untrue. The Institute of Medicine found that this was guidance that was routinely ignored. Actually water was routinely distilled for the boilers close to land and in harbors and there was no prohibition against that. Since the same distillation system was used for both boiler water and potable water the entire system would have been contaminated.
- Under Secretary Lawrence testified that the Navy ships were "miles offshore." That is untrue. Some ships were anchored in harbors just a few feet from shore and often in the discharge path of the river discharge. Studies discovered that toxic level of dioxin remained in the harbor sediment 20 years after the war in Nha Trang Harbor. Another study showed that dioxin that was accidentally spilled into the Passaic River was found in seafood 150 nautical miles from shore.
- Dr. Erickson's testimony that the Australian study was flawed as was the methodology used is untrue. The theory behind the enrichment of the dioxin during the distillation process is based on Henry's Law of thermodynamics. Two separate committees of the Institute of Medicine reviewed and affirmed the methodology used and the enrichment effect of the dioxin process.
- Dr. Erickson testified that "The Australian format allowed them to draw water close to shore. You cannot go from that experiment and make a conclusion about U.S. naval personnel." Dr. Erickson is wrong. Most Navy ships operated in the bays harbors and close shore waters to maximize their field of fire.
- Under Secretary Lawrence's statement that the Institute of Medicine could not confirm the contamination of the bays harbors and estuarine waters is misleading. The Committee indicated that due to the passage of time they could not confirm the presence of Agent Orange with certainty but that there was a plausible path for exposure. The Committee went on to note that there was no more or less evidence to support exposure among the blue water Navy veterans than there was among the ground force and brown water compatriots. Several IOM Committees since have indicated it is generally accepted that the dioxin entered the estuarine waters. One IOM committee specifically recommended that the Blue Water Navy personnel not be excluded from the presumption.
- Under Secretary Lawrence's statement that the Blue Water sailors can receive benefits on

a case by case basis is patently false. Claims are routine rejected based on a lack of “boots on the ground.” The VA’s own adjudication manual requires the rejection of claims if the veteran was not on land or served in the inland rivers. While a ship moored to the pier may be covered if the veteran went ashore, ships anchored a few feet off the coast are not covered.

- The term inland waters has been defined by national and international law. This includes the waters landward of the demarcation line marking the start of the territorial seas. All bays and harbors and most estuarine waters are covered in this definition of inland waters. The VA has repeatedly ignored the law on this subject in formulating their flawed policy. The Court of Appeals for Veterans Claims rejected the VA definition and methodology in *Gray v. McDonald*, 27 Vet. App. 313 (2015).
- The dynamics here are fairly straight forward, The Agent Orange was mixed with petroleum. Petroleum floats. It flowed down the rivers and streams and washed off the land mass into the bays and harbors. Tidal action took it to the South China Sea. It was taken into the distillation plant suction. Some emulsified and fell to the sea bed where maritime traffic would stir it up causing it to float up to the distillation intake. The distillation process enriched the dioxin. The same system used for potable water made water for the boilers.