



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

FEB 1 0 2009

Mr. John Paul Rossie, Chief Executive Officer
Blue Water Navy Vietnam Veteran Association
PO Box 1035
Littleton, CO 80160

Dear Mr. Rossie:

Thank you for your December 22, 2008, letter regarding the Department of Veterans Affairs (VA) policy toward certain veterans who served aboard the USS Ingersoll (DD 652) during October 1965. You urged that all Navy and Coast Guard veterans who served during the Vietnam Era should receive the same "rights" of presumptive herbicide exposure as the USS Ingersoll veterans. You offered proposed revised instructions to incorporate into our fast letter previously issued to regional offices describing procedures to be followed with USS Ingersoll veterans.

Your efforts to assist Navy and Coast Guard veterans who served on ships in the Vietnam Theater are praiseworthy and appreciated by VA. However, your suggestion that all veterans should receive the same consideration for presumptive herbicide exposure as that received by the USS Ingersoll veterans is already the established policy of VA, if credible evidence shows service within the Republic of Vietnam or on its inland waterways. To ensure fair and equitable treatment for all veterans, VA has extended the presumption of herbicide exposure to those veterans who actually served within Vietnam, or on its inland waterways, where extensive herbicide use is well documented. In the court case of *Haas v. Nicholson*, the United States Court of Appeals for the Federal Circuit upheld VA's determination that naval service in the offshore "blue water" of Vietnam does not constitute service within the country itself or on its inland waterways. This ruling was appealed to the United States Supreme Court, but certiorari was denied and the Federal Circuit decision has become a final mandate.

Your letter indicates that you favor the idea of drawing an arbitrary line down the coast of Vietnam and assuming that any vessel crossing this line from offshore waters into coastal ports and harbors will be considered within the inland waterways of Vietnam. We are unable to accept your recommendation. It is contrary to established VA policy and Federal Court precedent and is not consistent with the facts of herbicide use in Vietnam. Inland waterways are those located within the country itself and, as such, were those subjected to the same aerial herbicide spraying as the land areas that enclosed them or formed their banks. Inland waterways include rivers, estuaries, canals, and delta areas