

KEARSARGE

U.S.S. Kearsarge Association Newsletter

ISSUE 77

CV, CVA, CVS-33, LHD-3

SPRING 2021



Shipmates, Families & Kearsarge Association Friends

It is with disappointment and regret that I must announce the cancellation of our proposed 2021 reunion in Branson, Mo. Covid 19 has continued to plague our country and prevented your leadership team from traveling to the reunion site for planning and negotiation purposes. We normally start the process a full year ahead of the reunion time, and currently are still unable to safely travel. Factually speaking, a September 2021 date was probably unrealistic anyway.

Accordingly, it is our determination that we now work toward a spring (May-June) 2022 date. Association by-laws call for sites to be rotated across the USA by geographic and time zone locations. Since we have been unable to meet in the central U.S. (Central Time Zone) for the 2020 "original" geographic area, we think that we should continue on course and plan for Spring 2022 in Branson. (We have preliminary proposals already from there.) HOWEVER, this is your Association and we strongly request and NEED your input and suggestions for our next reunion. We will strive to satisfy your interest's first and foremost. The Western USA (Mountain or Pacific Time Zone) would be next in the rotation, if we do stay in the central area for our 2022 reunion, Specific locations would be determined by members in the business meeting.

I think that the main consideration for you is to express your choice of staying in the Central USA or skip it and go ahead to the West for Spring 2022. I must emphasize that longevity is not on our side, so we need to have an event somewhere that conditions permit.

PLEASE contact me or VP Barry Rittle with your comments/recommendations either by EMAIL or USPS snail mail at your earliest opportunity.

A personal note: My heartfelt appreciation for your thoughts and prayers for Jan and me during our Covid

illness. We are both almost fully recovered now. Please get your vaccine treatments and stay safe and well. Trust me, you DON'T want this dreadful virus.

"IN OMNIBUS PINNACULUM"

C.V.

DOD ISSUING NEW ID CARDS

DoD has announced that it is issuing new ID cards for retirees and dependents known as Next Generation Uniformed Services Identification Cards, which will replace the current laminated paper card that has been used since 1993. The new cards are made with a more durable plastic material, similar to the common access cards used by members of the military and DoD civilians. Also, the new ID cards feature enhanced security measures that will reduce the likelihood of them being compromised. Although new ID cards are available now, only about 20 Real-Time Automated Personnel Identification Card System sites currently offer the card because new equipment is required to produce them. All RAPIDS sites worldwide will likely have the new equipment by the end of the year. The complete transition to the new ID card, is targeted for January 2026. To locate a RAPIDS site and make an appointment, go online to the ID card Office Locator & Appointments.

TAPS!



Joseph Jurewicz	P72
Martin Donnelly	59
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Jack Hayes	1483

MEMBERSHIP DUES NOTICE

All KEARSARGE Association Members,
Please be attentive to your membership
expiration date that's on the address label.
We don't want to be forced to drop a single
member for EXPIRED dues.

LATEST INFO ON COVID-19 VACCINES AT VA FACILITIES

As of February 17, 2021, we've provided 1 million Veterans with their first COVID-19 vaccine dose. We've provided 329,685 Veterans with their second dose. Both authorized COVID-19 vaccines require 2 doses to be fully effective.

Keep reading to learn more about how our local VA health facilities continue to offer vaccines to more Veterans as quickly and safely as they can. And find out what you need to know before you get a COVID-19 vaccine.

We still have a limited amount of vaccines. So, we continue to follow our phased plan based on VA and CDC COVID-19 risk criteria. Our goal is always to do the most good for the most people.

Many VA health facilities now offer COVID-19 vaccines to Veterans who meet these 2 criteria:

- The Veteran already receives care at VA, and

- The Veteran is at least 75 years old or has health problems that increase risk for severe illness from COVID-19. We base risk on VA and CDC COVID-19 risk criteria.

Some facilities also now offer vaccines to more Veterans, including Veterans 65 years and older.

Please know that different facilities are at different phases of our vaccine plan. Facilities will continue to adjust their local plans based on these factors:

- How much vaccine is available at the facility

- The needs of the local facility and community

- The number of Veterans in each risk group who want a vaccine

- The strict requirements for how the facility must store and handle the vaccine

If you're a Veteran who already receives care at VA, your facility will contact you when you can get a vaccine. To learn about your facility's current plan, find the facility's website. Once you're on the site, go to Health care services, then COVID-19 in the menu.

A note for primary and secondary caregivers enrolled in our Program of Comprehensive Assistance for Family Caregivers: We'll tell you if you can get a vaccine when we invite the Veteran to get one.

How your facility will contact you

Your VA health facility may invite you to get a COVID-19 vaccine at a large vaccination event or by appointment. You may receive an invite by phone, email, or text message. If you're eligible and you want a vaccine, we encourage you to respond. But make sure the phone call, email, or text is really from VA before you provide any personal information or click on any links.

Text messages will always come from 53079. Emails will always come from a va.gov email address.

Note: Severe weather is causing challenges with vaccine deliveries at some facilities. If your area has severe weather, please call to confirm your appointment before going to the facility. Find your VA facility's phone number

What to know before you get a COVID-19 vaccine

You'll need to wait at least 14 days between getting a COVID-19 vaccine and any other vaccine (like a flu or shingles vaccine). This is because there is currently limited information on the safety and effectiveness of getting other vaccines at the same time as a COVID-19 vaccine. We follow CDC guidance on how far apart to space vaccines. As more information becomes available, this guidance may change. Your health care provider can help you decide the best vaccination schedule for you and your family.

If you're currently sick from COVID-19, you should wait until you've recovered, and you're finished with isolation to get a vaccine. Data from clinical trials show that the 2 authorized COVID-19 vaccines are safe in people who've been infected with the virus that causes COVID-19 in the past.

If you've received passive antibody therapy to treat COVID-19, you should wait at least 90 days before getting a COVID-19 vaccine.

If you've had a severe allergic reaction to any ingredients in a COVID-19 vaccine, you shouldn't get the COVID-19 vaccine. Before you get a vaccine, tell the provider giving you the vaccine about all your health conditions.

To learn more about what you should know before getting either of the 2 authorized vaccines, including a list of ingredients, read the FDA fact sheets.

Pfizer-BioNTech COVID-19 vaccine fact sheets:

- FDA Pfizer-BioNTech COVID-19 vaccine fact sheet (PDF)

- FDA Pfizer-BioNTech fact sheets in more languages

Moderna COVID-19 vaccine fact sheets:

- FDA Moderna COVID-19 vaccine fact sheet (PDF)

- FDA Moderna COVID-19 vaccine fact sheets in more languages

Go to the CDC website to learn more about COVID-19 vaccines and allergic reactions.

Go to our main VA vaccine information page to learn more about COVID-19 vaccines at VA.

You can sign up to receive future updates.

Go to <https://www.va.gov>.

FREE NATIONAL PARK ACCESS FOR WOUNDED VETS SIGNED INTO LAW

BAR HARBOR, Maine — A proposal from New England senators to ensure free lifetime entry to national parks for all disabled U.S. veterans has been signed into law.

Democratic Sen. Jeanne Shaheen of New Hampshire and Republican Sen. Susan Collins of Maine proposed the Wounded Veterans Recreation Act to provide the free access to veterans who suffered or aggravated disabilities while serving in the military. President Donald Trump signed the proposal into law.

Vets with disability ratings can get lifetime access to National Parks for free.

By J. D. Simkins

Active Duty military are also eligible for a year-long pass. Collins and Shaheen said a previous act left some uncertainty about whether all wounded veterans would have access to a free National Parks and Federal Recreational Lands Pass. Collins said the new law "will ensure that disabled veterans can continue to access our country's national treasures for outdoor recreation."

U.S.S. ARIZONA & OKLAHOMA TO SAIL AGAIN

By William Cole

Navy ships named USS Arizona and USS Oklahoma will return to active duty with the announcement by Acting Secretary of the Navy Thomas Modly that two new Virginia-class attack submarines will be named after American heroes of the greatest generation who perished on the famed Pearl Harbor battleships.

The move brings back into service the hallowed ship names 78 years after both were badly damaged in the surprise Japanese attack on Dec. 7, 1941. Most of the Navy casualties that day came from losses on those two ships.

"I am honored and humbled to name the next two Virginia-class nuclear fast-attack submarines to be built as the USS Oklahoma (SSN-802) and the USS Arizona (SSN-803)," Modly said in a release. "It is my fondest wish that the citizens of the great states of Arizona and Oklahoma will understand and celebrate our Navy's desire to memorialize the 1,177 heroes who perished in USS Arizona (BB-39) and the 429 more in USS Oklahoma (BB-37) in Pearl Harbor, on Dec. 7, 1941."

Modly added that "there is no greater honor I can think of for

continued on page 4

U.S.S. KEARSARGE ASSOCIATION SHIP'S STORE



Ship's Crest

Cloth CV, CVA, CVS 33 - \$5.00



Magnetic - CV, CVA, CVS 33 - \$5.00



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Sweat Shirts

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Dress Shirts

CV, CVA, CVS 33 Short Sleeve Navy Med, Large, X-Large, 2X Large-\$29.00

Hat



CV, CVA, CVS 33 NAVY - \$16.00

Watch Caps



Navy - CV, CVA, CVS 33 \$11.00



50th Anniversary 1st Day Cover Envelope \$1.50

Jackets



The Port Authority Challenger jacket has a Tekon nylon durable, water repellent outside with a poly-filled body with heavyweight fleece lining. It has rib knit cuffs and waistband, zippered pockets outside and a zippered inside pocket. We are offering it in Navy with a Navy lining with USS Kearsarge, CV, CVA, CVS and ship's silhouette on the back. Small, Medium, Large & 1X Large for \$57.00 2X Large for \$61.00 - 3X Large for \$65.00



A light weight nylon jacket with mesh lining is also available in Navy with the same stitching on back. Small, Medium, Large & 1X Large for \$53.00 2X Large for \$55.00 - 3X Large for \$57.00

They are Special Order items only and all sales are final. When I have 6 orders, I will place the order with the supplier. We need a minimum of 6 to be eligible for the above mentioned prices.

ALL PRICES INCLUDE SHIPPING AND HANDLING

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Charles Patton

2501 Bienville Blvd., Unit 514

(228) 324-7174

Ocean Springs, MS 39564-3129

charlottepat@bellsouth.net

the Navy, the Marine Corps, and the nation than to build and commission into active service two state-of-the-art American warships carrying the spirit of those heroes of the greatest generation, as well as that of their families and the Grand Canyon and Sooner states as they sail through a new American maritime century."

Approximately 1.8 million people annually visit the Pearl Harbor National Memorial, which includes the USS Arizona, USS Oklahoma and USS Utah memorials, six officer bungalows, three mooring quays, and the Pearl Harbor Visitor Center.

"Today is a proud day for Arizona," Arizona Gov. Doug Ducey said in a release. "It's been nearly 80 years since the attacks on Pearl Harbor, which resulted in the sinking of the USS Arizona and deaths of 1,177 of her crewmembers. This ship and the name, 'USS Arizona,' hold special meaning for our country, its history and the people of Arizona--and today, that legacy begins a new chapter." 

MINORITY VETERANS ON VA'S PRIORITY LIST FOR COVID-19

By Patricia Kime

High-risk Department of Veterans Affairs health workers, older veterans and minorities will be the first to be offered a COVID-19 vaccine through VA, department officials announced Tuesday.

VA will consider a patient or staff member's risk of becoming infected with the virus or likelihood of spreading the illness, along with the "risk of harm to society if essential workers are unable to work," in allocating its supply of a COVID-19 vaccine, the first of which is expected to receive emergency approval by Food and Drug Administration this week.

According to an information sheet published Tuesday on the VA's website, essential health care workers -- those in direct contact with patient care -- at VA will receive the vaccine first.

Veterans will then be offered the vaccine based on risk, with the oldest veterans going first, as well as minorities disproportionately affected by the virus, including Black, Hispanic and Native American veterans.

Those with pre-existing conditions like cancer, diabetes or heart disease will follow, as will those who live in high-risk environments like nursing homes and group living facilities.

"Over time, more vaccines will become available," officials said in the information sheet. "We'll then offer a COVID-19 vaccine to all veterans enrolled in VA health care who want one."

According to the documents, the vaccine has been found to be effective regardless of a patient's age, gender, race, ethnicity or preexisting medical conditions that put them at risk for a severe case of the coronavirus.

FDA officials said no serious safety concerns were seen in the Phase III clinical trials of the vaccine, made through a partnership between Pfizer and BioNtech, but did find that those who received it reported common side effects -- especially on the second dose, including headaches, fatigue, muscle pain and fever.

The FDA vaccine panel has scheduled another meeting Dec. 17 to consider emergency use for Moderna's vaccine candidate. Should the Moderna vaccine receive an emergency use authorization, doses of it would immediately be disseminated to prestaged locations and delivered to health facilities and pharmacies for use.

The Pfizer and Moderna vaccine use a new technology to provoke an immune response to the COVID-19 coronavirus -- inserting genetic instructions into body cells to produce the spike protein seen on the virus, triggering the immune system.

According to VA, veterans will not be able to select which vaccine they get, at least in the beginning.

"For the first several months we wouldn't have enough vaccine to allow for this. We will reassess as more vaccines become available," VA wrote in its FAQ sheet.

The VA plans to offer the vaccine free of cost eventually to all veterans enrolled in VA health care who want one, according to officials.

VA health administrators began sending forms to front line health care workers last month asking whether they wanted to receive the vaccine and would provide consent. It's likely any veteran who gets the vaccine will have to complete paperwork, known as informed consent, to receive the vaccine.

Both the Moderna and Pfizer vaccine will require two rounds of immunization -- an initial shot followed by a booster 21 to 28 days later. VA officials said they will monitor all patients who receive the vaccine for side effects or adverse events, categorized as a severe reaction beyond observed side effects.

Older veterans have been among the hardest-hit Americans affected by the coronavirus. Hundreds have died in state-run veterans homes and many have perished in VA hospitals and in their homes.

On Monday, VA recorded a record number of active cases of COVID-19 in the VA health system: 16,405. By Tuesday, the number of hospitalized cases had dropped by 751 to 15,654, but VA also recorded 149 new deaths in that same timeframe.

Since the outbreak began, 122,987 veterans, staff members and others who receive health services have been diagnosed with COVID-19 and 5,378 have died, including 76 employees.

Nationwide, more than 15 million Americans have contracted COVID-19, first detected over a year ago in China, and 283,825 have died.

VA continues to participate in clinical trials for several vaccine candidates and is seeking volunteers for that research.

More than 50 VA medical centers are supporting the research for vaccines developed by Moderna, AstraZeneca and Janssen. The Cleveland VA Medical Center was involved in research on the Pfizer vaccine.

The studies are now searching for volunteers over age 65, those with long-term health conditions and minorities for the research. More information can be found on the VA's website. 

NAVY PLANS TO RETIRE 48 SHIPS DURING 2022 & 2026

By Richard R. Burgess

ARLINGTON, Va. — The Navy's 30-year shipbuilding plan, released Dec. 10, announced the names of 48 ships scheduled to be decommissioned or, in the case of Military Sealift Command Ships, placed out of service, during the fiscal years 2022 through 2026.

Of note, the planned retirements include the first Nimitz-class aircraft carrier, the first two Ohio-class guided-missile submarines, and the first Victorious-class ocean surveillance ship. The list also includes 11 Ticonderoga-class guided-missile cruisers and 11 Los Angeles-class attack submarines.

The retirements are listed by fiscal year below:

In 2022:

- Six Ticonderoga-class guided-missile cruisers will be placed in reserve: San Jacinto (CG 56), Hue City (CG 66), Anzio (CG 68) Vella Gulf (CG 72) and Port Royal (CG 73).
- One Whidbey Island-class dock landing ship will be placed in reserve: Whidbey Island (LSD 41).
- Two Los Angeles-class attack submarines will be recycled: Providence (SSN 719) and Oklahoma City (SSN 723).
- One Powhatan-class fleet ocean tug will be disposed: Apache (T-ATF 172).

In 2023:

- Two Ticonderoga-class guided-missile cruisers will be placed in reserve: Bunker Hill (CG 52) and Mobile Bay (CG 53).
- Four Whidbey Island-class dock landing ships will be placed in reserve: Germantown (LSD 42), Gunston Hall (LSD 44), and Ashland (LSD 48).
- One Harpers Ferry-class dock landing ship will be placed in reserve: Carter Hall (LSD 50).
- Two Henry J. Kaiser-class fleet replenishment oilers will be disposed: John Lenthall (T-AO 189).
- One Powhatan-class fleet ocean tug will be disposed: Catawba (T-ATF 168).
- One Safeguard-class rescue and salvage ship will be disposed: Grasp (T-ARS 51)

In 2024:

- Two Ticonderoga-class guided-missile cruisers will be placed in reserve: Antietam (CG 54) and Shiloh (CG 67).
- One Whidbey Island-class dock landing ship will be placed in reserve: Rushmore (LSD 47).
- Two Harpers Ferry-class dock landing ships will be placed in reserve: Harpers Ferry (LSD 49) and Pearl Harbor (LSD 52).
- Four Los Angeles-class attack submarines will be recycled: Chicago (SSN 721), Key West (SSN 722) San Juan

(SSN 751) and Topeka (SSN 754).

- Four Avenger-class mine countermeasures ships will be disposed: Sentry (MCM 3), Devastator (MCM 6), Gladiator (MCM 11) and Dextrous (MCM 13).
- One Safeguard-class rescue and salvage ship will be disposed: Salvor (T-ARS 52).

In 2025:

- One Nimitz-class aircraft carrier will be recycled: Nimitz (CVN 68).
- One Harpers Ferry-class dock landing ship will be placed in reserve: Oak Hill (LSD 51).
- Two Los Angeles-class attack submarines will be recycled: Helena (SSN 725) and Pasadena (SSN 752).
- One Henry J. Kaiser-class fleet replenishment oiler will be disposed: Joshua Humphreys (T-AO 188)

In 2026:

- One Ticonderoga-class guided-missile cruiser will be placed in reserve: Chancellorsville (CG 62).
- One Whidbey Island-class dock landing ship will be placed in reserve: Comstock (LSD 45).
- Two Ohio-class guided-missile submarines will be recycled: Ohio (SSGN 726) and Florida (SSGN 728).
- Three Los Angeles-class attack submarines will be recycled: Newport News (SSN 750), Scranton (SSN 756) and Alexandria (SSN 757).
- One Henry J. Kaiser-class fleet replenishment oiler will be disposed: Pecos (T-AO 197).
- One Victorious-class ocean surveillance ship: Victorious (T-AGOS 19).

Wierd Stuff You Didn't Know!

Only two people signed the Declaration of Independence on July 4, John Hancock and Charles Thomson. Most of the rest signed on August 2, but the last signature wasn't added until 5 years later.

It was the accepted practice in Babylon 4,000 years ago that for a month after the wedding, the bride's father would supply his son-in-law with all the mead he could drink. Mead is a honey beer and because their calendar was lunar based, this period was called the honey month, which we know today as the honeymoon.

Most boat owners name their boats. What is the most popular boat name requested? Obsession!

In English pubs, ale is ordered by pints and quarts... So in old England, when customers got unruly, the bartender would yell at them 'Mind your pints and quarts, and settle down.' It's where we get the phrase 'mind your P's & Q's'

VA WON'T FIGHT COURT RULING AWARDING PAYMENTS TO 'BLUE WATER NAVY' VIETNAM VETS

By Richard Sisk

The Department of Veterans Affairs has no plans to challenge a court ruling last week ordering it to make retroactive payments to a small class of "Blue Water Navy" Vietnam veterans and their survivors who were wrongly denied benefits for exposure to Agent Orange, the head of the Veterans Benefits Administration (VBA) said Wednesday.

The Justice Department has not indicated whether the Nov. 5 ruling by federal District Judge William Alsup in San Francisco will be appealed, but Paul Lawrence, VA under secretary and VBA chief, said the VA will comply with the decision in the complicated case.

The VA had prepared for the possibility that Alsup would rule against it, Lawrence said in an interview with Military.com.

"So we tagged certain claims so that we could go back, were that ruling to happen," he explained. "I think we have to go back and find the estates of those who could have potentially filed claims. We have history around this; we are prepared."

The case involves a 1991 consent decree in which the VA agreed to pay death and disability benefits to Blue Water veterans who served off the coast of Vietnam, along with those who served on land, for exposure to Agent Orange, the toxic defoliant used widely during the war.

Then in 2002, the VA excluded the Blue Water veterans from Agent Orange benefits on grounds that it lacked scientific proof to show that those who served off the coast had been exposed to the herbicide.

Following a U.S. Court of Appeals ruling, as well as Congress' passage of the Blue Water Navy Vietnam Veterans Act, signed into law by President Donald Trump in 2019, the VA had to reverse course and extend Agent Orange benefits to Blue Water veterans who file a new claim.

However, that still left old claims by the Blue Water veterans who were included in the 1991 consent decree but had the benefits pulled back in 2002.

In his ruling last week, Alsup said the VA's inclusion of the Blue Water veterans for 11 years after the 1991 consent decree clearly indicated what was intended by the agreement.

"This practical construction of the agreement torpedoes the agency's later change of heart," he wrote.

In a Nov. 6 statement, Bart Stichman, executive director of the National Veterans Legal Services Program, said, "We applaud the Court's recognition that Blue Water Navy Vietnam veterans and their survivors have been wrongly denied retroactive disability and death benefits ever since 2002, when VA reversed its prior position and denied the presumption of Agent Orange ex-

posure to veterans who served in the territorial seas of Vietnam."

NVSLP estimated that the Alsup decision could affect 2,000 to 15,000 veterans and their families, and could lead to each of them receiving an average of \$28,000.

On another issue involving the VA and toxic exposure, Lawrence said that no changes are currently under consideration to the department's policy against providing benefits and the presumption of service connection in most cases to veterans exposed to burn pits in Iraq and Afghanistan.

President-elect Joe Biden said on the campaign trail that he would make an overhaul of burn pit policy a priority of his administration. But Lawrence said changes cannot be accomplished administratively and require Congress to pass legislation.

"It's important to emphasize that any veteran can come in at any time and apply for benefits based on their condition," he said. "We have granted benefits to veterans who have conditions related to exposure [to burn pits in isolated cases]."

He explained that the challenge is demonstrating a connection between the illness and the veteran's service. Studies by the National Academy of Sciences have shown there is "insufficient evidence to establish the linkage," he said.

However, "Congress can pass legislation to say this is covered," Lawrence said. "We administer the benefits Congress passes."

If Congress acts on burn pits, "we will execute because that's what we do," he added. 

HAVE YOU FILED FOR AGENT ORANGE BENEFITS

By Jack De Merit, Editor

I filed for benefits in 2003. I was denied because I could not prove boots on the ground. When I refiled I explained to them that I did not need boots on the ground because I served on an Aircraft Carrier. After explaining to them that serving on a Carrier, the planes and helicopters brought the Agent Orange back to the ship to expose the entire crew so we did not need to put boots anywhere. That was when they decided that they needed to see the ships logs to prove that we were even there.

It did not matter that my DD-214 showed that I received the Armed Forces Expeditionary Medal for Vietnam and the Vietnam Service Medal. They claimed that they could not find the ship's log to verify the claim. I sent them a letter showing that the Kearsarge was on the very first list of ships serving off the coast of Vietnam. That was not good enough for them.

I found a document called, "Carrier Deployments for Westpac and Vietnam 1964 - 1975. I will be sending it to them soon. If you want a copy, let me know.

VA MUST PAY RETROACTIVE BENEFITS TO BLUE WATER VIETNAM VETERANS

By Nicholas Iovino

The U.S. Veterans Administration must honor the terms of a 1991 settlement and pay retroactive benefits to thousands of Navy veterans who served on ships off Vietnam's coast for Agent Orange-related health problems, a federal judge ruled Thursday.

"It makes a huge difference to veterans and their families," plaintiffs' attorney Stephen Kinnaird of the firm Paul Hastings said in a phone interview.

The VA had argued that despite a recent law and court ruling entitling so-called Blue Water Navy vets to benefits, it never intended to include them in a deal it signed three decades ago. In that consent decree, the VA vowed to automatically reconsider past denials of benefits for conditions that it later found were tied to Agent Orange and to grant retroactive benefits.

Used ubiquitously by the U.S. military to clear forested areas in Vietnam, the toxic contaminant dioxin in Agent Orange has been linked to a slew of health problems, including leukemia, lymphoma, throat cancer and many other diseases.

A few months before the consent decree was signed in 1991, Congress passed the Agent Orange Act, which requires the VA to assume all veterans who "served in the Republic of Vietnam" from 1962 to 1975 were exposed to Agent Orange.

On Thursday, U.S. District Judge William Alsup rejected arguments that the settlement was never meant to include Blue Water Vietnam Navy vets who served on ships in Vietnam's territorial waters but never set foot on the country's soil or entered its inland waterways.

"The objective and reasonable intent of the consent decree was to require automatic readjudications for all persons entitled to benefits under the Acts," Alsup wrote in a 10-page ruling.

From 1991 to 2002, the VA awarded retroactive benefits to Blue Water veterans under the terms of the consent decree. At that time, the VA used a Vietnam War service medal as the basis for assuming Agent Orange exposure.

In 2002, the VA changed its policy and instead started looking at whether each veteran had served on land or on inland waterways in Vietnam.

During a hearing last week, Alsup asked how the government could get around its prior decision to award benefits to Blue Water vets. A Justice Department lawyer replied those benefits decisions were based on "internal guidance to VA adjudicators," not a policy that was binding on the agency.

On Thursday, the judge deemed the inclusion of Blue Water vets in the settlement for 11 years as strong evidence of what was intended.

"This practical construction of the agreement torpedoed

the agency's later change of heart," Alsup wrote.

This is the fourth time veterans filed a motion to enforce the consent decree. The court granted relief each time, and when the VA appealed two of those three decisions, the Ninth Circuit upheld the rulings each time.

"What is difficult for us to comprehend is why the Department of Veteran Affairs, having entered into a settlement agreement and agreed to a consent order some 16 years ago, continues to resist its implementation so vigorously, as well as to resist equally vigorously the payment of desperately needed benefits to Vietnam war veterans who fought for their country and suffered grievous injury as a result of our government's own conduct," the late U.S. Circuit Judge Stephen Reinhardt wrote for a three-judge panel in the Ninth Circuit's most recent 2007 decision enforcing the settlement.

Prior to 2019, a series of court rulings found Blue Water vets were not entitled to a presumption of Agent Orange exposure under the Agent Orange Act. That changed last year when an en banc Federal Circuit panel ruled in *Procopio v. Wilkie* that excluding Blue Water veterans would violate the plain meaning of the 1991 statute, overriding its prior 2008 decision that deferred to the VA's interpretation of the law.

After the *Procopio* decision, Congress passed the Blue Water Navy Vietnam Veterans Act of 2019, which entitles Blue Water vets to retroactive benefits, but only if they file a new claim.

After that law was passed, the VA sent over 77,000 letters to Blue Water vets and their surviving family, received 63,800 claims, issued decisions on nearly 29,000 and granted 20,690, or 71%, of the decided claims. The VA has paid out \$583.8 million in retroactive benefits to Blue Water vets as of August, according to the department. Judge Alsup's decision will ensure that Blue Water vets who had Agent Orange claims denied in the past will have those claims automatically reviewed without having to file a new claim. The settlement also covers surviving children and estates of deceased veterans, unlike the law passed by Congress last year.

Kinnaird said this will entitle thousands of veterans and their families to tens of millions of dollars, or potentially over \$100 million, who would not otherwise have received those benefits.

"There are a lot of people who for whatever reason aren't aware of the Blue Water Navy [Vietnam Veterans] Act or because of various struggles aren't filing new claims," the attorney said. "The VA has to go back automatically and readjudicate."

Alsup ordered the VA to submit a report in four months on how many claims it will reconsider and a follow-up report in eight months on how much it paid in benefits for those claims.

Justice Department lawyer Michael Andrew Zee, who represents the VA, and the U.S. Department of Veterans Affairs did not immediately respond to emails seeking comment.

KEARSAGA

U.S.S. Kearsarge Association Newsletter

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You can now check your membership details on the website roster to determine your expiration date, the date by which your dues are due.



U.S.S. Nimitz CVN 68

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Mail to: **Bill Hollywood**
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New members, send your information including:
Name, Address, Phone Number, E-Mail Address,
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If you are interested in receiving your Kearsaga via E-Mail, go to our website and leave a message stating: "Send KEARSAGA via E-Mail"
If you do not have a computer, we will continue to send it via U. S. Postal Service.

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