

United States Senate

WASHINGTON, DC 20510

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The Honorable Shaun Donovan
Director
Office of Management and Budget
1725 17th Street, NW
Washington, D.C. 20503

We write to urge you to support a disability presumption for veterans exposed to toxic water at Camp Lejeune that includes bladder cancer.

As you know, the Secretary of Veterans Affairs asked the Agency for Toxic Substances and Disease Registry (ATSDR) to conduct a thorough scientific review of the possible link between certain health conditions and exposure to the contaminated water supply at Camp Lejeune for multiple decades during the 20th century. ATSDR is the federal government's statutorily-defined expert agency for determining the relationship between environmental exposures and health outcomes, and rightly is home to the government's premiere core competency in that line of scientific inquiry. ATSDR honored the Secretary's request and conducted the review, including a groundbreaking study that modeled potential exposure levels based on contaminant flow through the water and ground to various parts of the base. The ATSDR analysis was a 65-page document that was peer-reviewed and eventually made public. It was scrupulously footnoted and documented. ATSDR rated bladder cancer in the "sufficient evidence for causation" category, its strongest category, and the VA approved all the diseases in the "sufficient" and the "modest" categories for the new disability presumption – except bladder cancer.

VA excluded bladder cancer from the disability presumption on the basis that its Technical Working Group disagreed with the ATSDR's analysis – or rather, one part of that analysis – a mortality study that ATSDR itself conducted (which one could argue would place ATSDR in the best position to evaluate its contribution to the scientific knowledge). This mortality study showed no statistically verifiable relationship between bladder cancer deaths for Lejeune veterans compared to a control group.

ATSDR discounts this finding, however, because bladder cancer is a disease that has a particularly long latency – it is detected much later after exposure than some other cancers and it doesn't kill for a long time, if at all (there is a high survivability with proper treatment). To elaborate, 90 percent of cancers are diagnosed after age 55, and the vast majority of those diagnosed live another five years. So if these veterans were going to die from this cancer (and thus be counted in the mortality study) they would have had to be around 60-65 at least at the time of the study. But the average age in the study was 49. Therefore, the only thing the study could be expected to show is that 49 year olds exposed at Lejeune haven't died of bladder cancer (yet). This result is absolutely to be expected, given the pathophysiology of bladder cancer, and that's why the ATSDR discounted the study results for bladder cancer (it contained useful information about mortality from other diseases) and gave greater weight to the rest of the evidence.

The VA also argues that ATSDR and other international bodies rely on a meta-analysis, which VA claims is merely a crude instrument that is sometimes unreliable. Nobody disputes that

generalization. The value of a meta-analysis is entirely dependent on the individual value of the studies included in the meta-analysis. That is why the ATSDR scrutinized each of the studies in the meta-analysis before accepting its conclusion, and also ensured that the conclusion was consistent with other evidence, which it was.

When requested to produce a written response to ATSDR's extensive, written analysis, VA has refused. VA claims that this refusal is not of will but of ability – it does not actually have written documents supporting its conclusion – perhaps an even more damning admission.

On balance, there does not appear to be a “tie” in this scientific debate:

- ATSDR has a large body of evidence to justify its conclusion that there is sufficient evidence that the Lejeune exposures cause bladder cancer - except the mortality study. VA only has the mortality study.
- Other international bodies have come to the same conclusions as ATSDR and not the VA.
- ATSDR has the statutory role in the Federal government for determining, definitively, the link between toxic exposures and health outcomes; VA's statutory role is to provide healthcare and other benefits or veterans.
- ATSDR's analysis has been subjected to peer and public scrutiny; VA's has not.
- ATSDR met with VA to discuss its findings and the VA never raised any objections or concerns until it did so in the press.
- VA included diseases assigned to the weaker “modest evidence” category in the Lejeune disability presumption. But there is more evidence for the link between bladder cancer and the Lejeune exposures than the conditions in this “modest” category. What's more, the level of evidence is equivalent to the level of evidence for diseases that VA did approve for the presumption.
- VA will not name all the members of its Technical Working Group or release any work product from this group. VA has an embarrassing history of using subject matter “experts” who have included flatly false scientific assertions in denial letters to veterans as grounds for denying veterans' claims. In contrast, ATSDR leads are the Federal government's premiere experts in environmental epidemiology with careers spent studying the relationship between toxic environmental exposures on human health.

This is not a “tie” between scientific equals. But let's stipulate, for the sake of argument, that it were. We would argue that a tie should go to the veterans. That's certainly the position that Secretary McDonald has repeatedly taken in conversation with us.

If the VA's scientific basis for excluding bladder cancer from the presumption is as weak as it seems to be, this begs the question – is there some *other* reason for the exclusion? We are concerned that this decision is being driven by *cost* considerations rather than scientific considerations. As we mentioned above, there are more claims in the queue for bladder cancer than any other cancer. Excluding bladder cancer from the presumption might be seen as a good way to reduce the cost of the presumption.

We appreciate the difficult job you face, and the challenge of trying to find ways to pay for every worthy program. We would not fault you for worrying about cost, but we would argue that this worry should be ours and not yours. If the presumption is expensive to implement, we hope you

would let us know the estimated cost and work with us to find solutions. We all want what is best for veterans and we recognize that we have a duty to help right a wrong – the hazardous exposures these Marines faced in the service of their country.

Please include bladder cancer in the Lejeune disability presumption immediately and roll out this compensation for these veterans and all the other covered veterans within 90 days. You were able to engage in expedited rulemaking for other presumptive disability benefits in the recent past, so we are confident in your ability to replicate that success in this case.

Thank you very much for your prompt consideration and reply, and we thank you for your service to our country.



Thom Tillis
U.S. Senator



Richard Burr
U.S. Senator