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March 1, 2022

The Honorable Denis R. McDonough
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Dear Secretary McDonough,

In previous correspondence with me, you noted that you have broad authority under existing law to establish presumptions of service-connection to toxic substances.¹ Using that authority, you established three new presumptions last year—asthma, rhinitis, and sinusitis—and announced the creation of nine more on March 1, 2022.²

In a letter to President Biden,³ I asked for his help in unifying the Congress around the *Health Care for Burn Pit Veterans Act*, which unanimously passed the Senate last month. This bill is the quickest way to get help to sick veterans, which is the one authority you have said you need from Congress. It also allows for Congress to continue working with you on establishing a framework, based on the findings from VA's current pilot program, for quicker decisions on presumptions using a holistic approach that considers clinical and claims data. Finally, the *Health Care for Burn Pit Veterans Act* does not risk the negative operational effects on veterans due to claims backlogs that you and other VA officials have expressed concerns about in regard to other legislation.

Based on your previous comments before this committee about what authority you needed and thought was in the best interest of our veterans, I was surprised to learn of the Administration's "strong support" for H.R. 3967, the *Honoring Our Promise to Address Comprehensive Toxics (PACT) Act*, which is scheduled for a vote in the House this week. Support of this bill seems contrary to our conversations and your public comments. Not only is this the first bill on toxic exposure the Administration has endorsed this Congress despite numerous legislative hearings on multiple bills, but it also contains a list of 25 presumptions for veterans of both the Vietnam and Gulf War era.⁴ It would appear then the Administration has resolved its and your concerns

¹ McDonough, Denis. April 13, 2021 letter to U.S. Senator Jerry Moran.

² U.S. Department of Veterans Affairs. March 1, 2022 New Release: VA will propose adding rare cancers to the presumed service-connected list as related to military environmental exposure, <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5768>.

³ Moran, Jerry. February 17, 2022 letter to U.S. President Joseph R. Biden.

⁴ Office of Management and Budget. February 28, 2022 Statement of Administration Policy on H.R. 3967, Honoring Our Promise to Address Comprehensive Toxics (PACT) Act.

regarding whether to proceed with those 25 presumptions, the operational effect doing so would have on claims and veterans seeking VA benefits, and the threshold of available data and scientific evidence backing their establishment in law.

Therefore, I call on you to wait no further and act now under the authority that you agree Congress has already given you to establish the 25 presumptions of service-connection for diseases listed in the *PACT Act*. Waiting any longer, like veterans have for years, would appear inconsistent with the President's call to action on this issue during his State of the Union address. I remain committed to work with Chairman Tester and you on our phased approach to comprehensively address health care and benefits for toxic-exposed veterans, but it would seem that the quickest and surest way to deliver benefits for veterans is for you to act now using the authority you already have.

Please respond as soon as possible regarding the Biden Administration's support for establishing presumptions of service connections and your plans for issuing regulations that cover the conditions listed in the *PACT Act*. Please also include how VA plans to address the negative operational impacts of these new presumptions identified in the enhanced technical assistance you provided on *COST of War Act* last year. Our veterans need not wait any longer for VA to act if you have the authority you need and have a sufficient factual basis for new presumptions.

Sincerely,

A handwritten signature in blue ink that reads "Jerry Moran". The signature is written in a cursive, slightly slanted style.

Jerry Moran
Ranking Member