



THE LEGION TIMES

Official Newspaper of The American Legion, Department of Texas

June 2015 • Volume 96, Issue 11

Message from the Commander

Greetings,

June is here and it is time for Boys State and Girls State. Both of these programs are remarkable. They change the lives of the candidates and the experience stays with them forever.



American Legion Baseball is gearing up. Although it is one of the most recognized American Legion Programs we are struggling to keep it going here in Texas. Please plan on attending some of the games in your area this year. We really need to support these young athletes.

All of the District and Division Conventions are over. New officers have been elected for the odd numbered Districts and the four Divisions. All of these officers will be sworn in at the Department Convention in July. I hope you are planning on attending. Beaumont always shows us a great time.

Most of the Posts will be having their officer installations this month. Please attend your Post ceremony and show your support to your new officers. Remember, everything starts at the Post level.

For God and Country,
Lynn



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**Do you have an article or
announcement for
The Legion Times?**

**If so, please send all
submissions to
times@txlegion.org
by the 20th of every month
and it will appear in the
following issue**

THE LEGION TIMES
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HINTS FROM HINCE

Media around the state did a great job covering the Memorial Day ceremonies all around the Lone Star State. Thank you to all the American Legion families who made it possible for our message to be a part of so many community wide gatherings.

HINT: Make sure thank you notes are sent to the media involved, to the guest speakers, to the contributors of food and drink....these are the groups that recognize how important our service members have been and are to our nation. Just as they make it a point to remember those who have died and to thank those of us still serving, we need to say thank you for their care and kindness.

This is the award time for the Legion and I am hopeful that Posts and Auxiliaries put in their First responders, their media and their active duty service members for our State awards.

HINT: The task of putting together award nominations is one that can be cross generational. Take you experienced Legion family member who knows how to put together an award (or a scrapbook for that matter) and work with a younger member who may have great skills in automation...the product can be a winner! There is no reason why Texas is not taking top honors in many of our programs.

I AM THE AMERICAN LEGION...look familiar? If you read our magazine or the Dispatch, you know that this phrase is being used as a marketing catch phrase and they are looking for folks to write about. Our leaders have been asked for names and angle to submit folks.

HINT: Make me use my Journalism degree. Give me a call or an email and I will be more than happy to help!

God bless,
Gerry Hince
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Hince57@msn.com

2014-2015 DEPARTMENT OFFICERS

Lynn Sparks, Department Commander
Fred Rogers, Department Vice Commander
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C. W. Sparks, Alternate National Executive Committeeman
William West, Department Adjutant
Cheryl Williams, Department Chaplain
Walter Ivie, Department Treasurer
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Cyndi Miller, Department Historian
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Glen Scott, Assistant Sergeant-at-Arms
James Fleming, Immediate Past Department Commander
Michael Simon, Director of Internal Affairs
Edward Reyes, Department Service Officer
Michael Lacy, Department Service Officer
Renee Monczynski, Department Service Officer
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Juan Torres, Jr., 22nd District Commander
Jerome Iltis, 23rd District Commander

ARTICLE SUBMISSION GUIDELINES

Do you have an article or news announcement to share with the rest of the Department of Texas? If so, please follow these simple guidelines for submissions.

- Submit your text in Microsoft Word format (.doc) or as a text file (.txt or .rtf). **Save your file as the name of the article, so we can keep track of it.** And be sure to make it clear who the author is, whether it's you or if you are just forwarding it to us.
- Please include any photos and/or artwork for articles *separately* (NOT embedded in your text file) as high resolution (300 dpi, or better) JPGs. Please name these files accordingly so we can track them along with your article. Let us know in your e-mail of any corresponding captions, name of the photographer, etc.

- Please spell check everything! Especially people's names, web addresses, etc. We do our best to catch typos, but sometimes they still slip by. You can help us greatly here by simply running your spell check function in your word processing program.

- **E-mail everything directly to us at times@txlegion.org by the 20th of every month for it to appear in the following issue.** This way we have plenty of time to work with in case we need to clarify anything with you.

We hope you enjoy this issue, and hope you continue to help us grow The Legion Times!

Court strikes down VA interpretation of own regulation as ‘inconsistent, irrational’

Decision could mean benefits for more Vietnam vets

While serving in the Vietnam War in 1972, Robert Gray and his ship, the U.S.S. Roark, anchored several times in Da Nang Harbor.

There, he was surrounded on three sides by the shoreline of Vietnam.

But when he went to Veterans Affairs with diabetes, bilateral neuropathy of the lower limbs and heart disease—all presumptive-status conditions for veterans exposed to Agent Orange—the bureaucracy determined his ship had served in an area designated as “blue water.”

Blue water veterans are presumed to have served in open waters on the ocean and away from Agent Orange, while “brown water” veterans, according to VA, served in “inland water ways” which VA defines as “rivers, estuaries, canals, and delta areas inside the country...” that traveled through lands likely to have been contaminated. VA found Gray ineligible for benefits.

But in a new decision, a federal court found VA’s determination that Da Nang Harbor is not inland “arbitrary and capricious.”

In fact, the policy for blue water, or offshore, designation “is like a ship without an anchor: aimless and adrift from the regulation,” wrote Judge Mary Schoelen for the U.S. Court of Appeals for Veterans Claims.

The case could have wide-reaching consequences for some of the tens of thousands of so-called “blue-water veterans” who believe they are sick because of exposure to Agent Orange.

“The Court found VA did not base presumptive status on whether veterans were likely to be exposed to Agent Orange, but rather on arbitrary designations not based on fact,” said Glenn Bergmann, a partner of Bergmann & Moore, LLC., a national law firm that exclusively represents veterans in disability benefits claims. “We applaud this decision and hope that VA quickly creates a definition of ‘inland’ that accurately accounts for the likelihood of exposure for such close-in areas where Agent Orange exposure is indisputable.”

The court ordered VA to “reevaluate its definition of inland waterways,” and sent Gray’s benefits claims for diabetes, neuropathy and heart disease back to VA to be decided again using the new definition.

“Obviously, VA has to draw the line somewhere,” Bergmann said. “However, excluding veterans who served on a ship surrounded by land on three sides seems unfair.”

VA grants “presumptive status” to veterans who served in the Vietnam War and who have ailments, such as diabetes or heart disease, that have been associated with exposure to Agent Orange. But the benefits that come with that status have been denied to veterans who did not serve as ground troops or whose watercraft did not travel into Vietnam’s rivers and channels.

Agent Orange was used to destroy crops and clear foliage that could serve as hiding places for the enemy.

Schoelen made clear that the court would not address whether “blue water” veterans should receive presumptive status for exposure to Agent Orange. Instead, she wrote, the issue was whether Da Nang Harbor should be considered “blue water” or “brown water.”

In the case of Da Nang Harbor, she wrote that “the manner in which VA defines inland waterways is both inconsistent with the regulatory purpose and irrational.” The determination should be based on “providing compensation to veterans based on the likelihood of exposure to herbicides.”



Sailors aboard the guided-missile destroyer USS John S. McCain man the rails as the ship transits into the port of Da Nang, Vietnam, Aug. 10, 2010, to commemorate the 15th anniversary of normalized relations between the United States and Vietnam, and to conduct the first training exchange between the U.S. and Vietnamese navies. (U.S. Navy/Petty Officer 1st Class Brock A. Taylor)



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