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12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

15 VIETNAM VETERANS OF AMERICA, et al.,
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 Plaintiffs,
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 v.
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 CENTRAL INTELLIGENCE AGENCY, et al.,
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 Defendants.
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Case No. CV 09-0037-CW (EDL)

**ARMY'S JULY 3 STATUS
REPORT PURSUANT
TO MEDICAL CARE INJUNCTION**

1 Pursuant to paragraph 4.b of the Court’s April 4, 2017 injunction, ECF No. 597, the
2 Department of the Army provides the following status report:

3 **BACKGROUND**

4 On April 4, 2017, the Court entered an injunction requiring the Army to provide medical
5 care to class members for any injury or disease that was proximately caused by their
6 participation in the Army’s long-since terminated chemical or biological substance testing
7 programs. Injunction Regarding the Provision of Medical Care (“Medical Care Injunction”),
8 ECF No. 597. The Army hereby submits this status report in compliance with the Medical Care
9 Injunction’s requirement to submit a status report every six months for six years following its
10 initial July 3, 2017 report, which shall describe “how many applications [for medical care] have
11 been received and considered, including a list of the applications approved, denied and pending.”
12 Medical Care Injunction at ¶ 4.b.

13 **DISCUSSION**

14 **THE ARMY’S EFFORTS TO PROVIDE MEDICAL CARE TO ELIGIBLE CLASS MEMBERS**

15 **a. The Benefits Application Panel**

16 On December 28, 2017, the Army established a Benefits Application Panel (BAP) to
17 review chemical exposure cases and a second BAP panel to review biological exposure cases.
18 *See* Schofield Decl. ¶ 3. The BAP is composed of chemical or biological physician research
19 scientists, and physicians with expertise in environmental/occupational medicine and family
20 medicine. *Id.*

21 Applicants are notified of the BAP’s recommendation for approval or disapproval via
22 letter and the Nurse Case Manager (NCM) makes a follow-up telephone call. *Id.* ¶ 4. The U.S.
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1 Army Medical Command (MEDCOM) Office of the Staff Judge Advocate (OSJA) notifies
2 Plaintiffs' counsel of any recommendations for application denials. *Id.*

3 **b. Applications Processed**

4 As of June 13, 2018, the Army has received 105 applications. *See id.* ¶ 5. The BAP has
5 reviewed 62 applications, out of which 59 were recommended for approval for medical care for
6 some or all of the conditions listed on their application and three (3) were not recommended for
7 medical care. *Id.* Twenty-three out of the 59 class members recommended for approval claimed
8 one or more conditions which were not recommended for approval for medical care. *Id.* On
9 June 8, 2018, MEDCOM OSJA notified Plaintiffs' counsel of the denials of medical care. *Id.*
10

11 As of July 2, 2018, the remaining applications are either in progress and pending BAP
12 review (20 applications), or the applications were incomplete (12 applications), or closed due to
13 veteran declining further participation or death of the applicant (11 applications). *Id.* ¶ 6.
14

15 **c. SECDES Approval**

16 When the BAP recommends approval of an application, the class member is contacted
17 and notified of the qualifying condition(s) for which medical care has been authorized. *Id.* ¶ 7.
18 The NCM coordinates the care at the nearest military treatment facility (MTF) capable of
19 treating the qualifying condition and taking into consideration the applicant's preferences. *Id.*
20 Once the appropriate MTF is identified, the NCM works on obtaining SECDES approval, and
21 ensures that the class member has the documentation necessary to access approved care at the
22 MTF. *Id.*
23

24 As of July 2, 2018, of the 59 applications recommended for approval, six (6) have
25 received SECDES approval, and 30 applicants have declined medical care at an MTF based upon
26 satisfaction with their current providers. *Id.* ¶ 8. The remaining 23 applications are being
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1 processed based on whether a class member has a preference for a specific treatment location.

2 *Id.* If the nearest MTF is more than fifty (50) miles from the applicant's home, or if the
3 treatment is not available at an MTF, the Army will assist the applicant in requesting health care
4 from the Department of Veterans Affairs (VA). *Id.* If the necessary treatment is also not
5 available at a VA facility, the Army will facilitate the identification of an appropriate service
6 provider and any available payment-assistance programs. *Id.* As of June 13, 2018, the Army has
7 not received any requests for such assistance. *Id.*
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11 Dated: July 3, 2018

Respectfully submitted,

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Attestation Pursuant to Civil Local Rule 5-1

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2 I, Nicholas Cartier, am the ECF User whose ID and password are being used to file this
3 document.

4 Date: July 3, 2018

/s/ Nicholas P. Cartier

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