

# THE AMERICAN **Legion**

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*The magazine for a strong America*

## **AGENT ORANGE**

A RELENTLESS TRAGEDY

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**THE GI BILL IN SPACE**

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**100TH NATIONAL CONVENTION  
A RETURN TO MINNEAPOLIS**

FOR GOD AND COUNTRY SINCE 1919





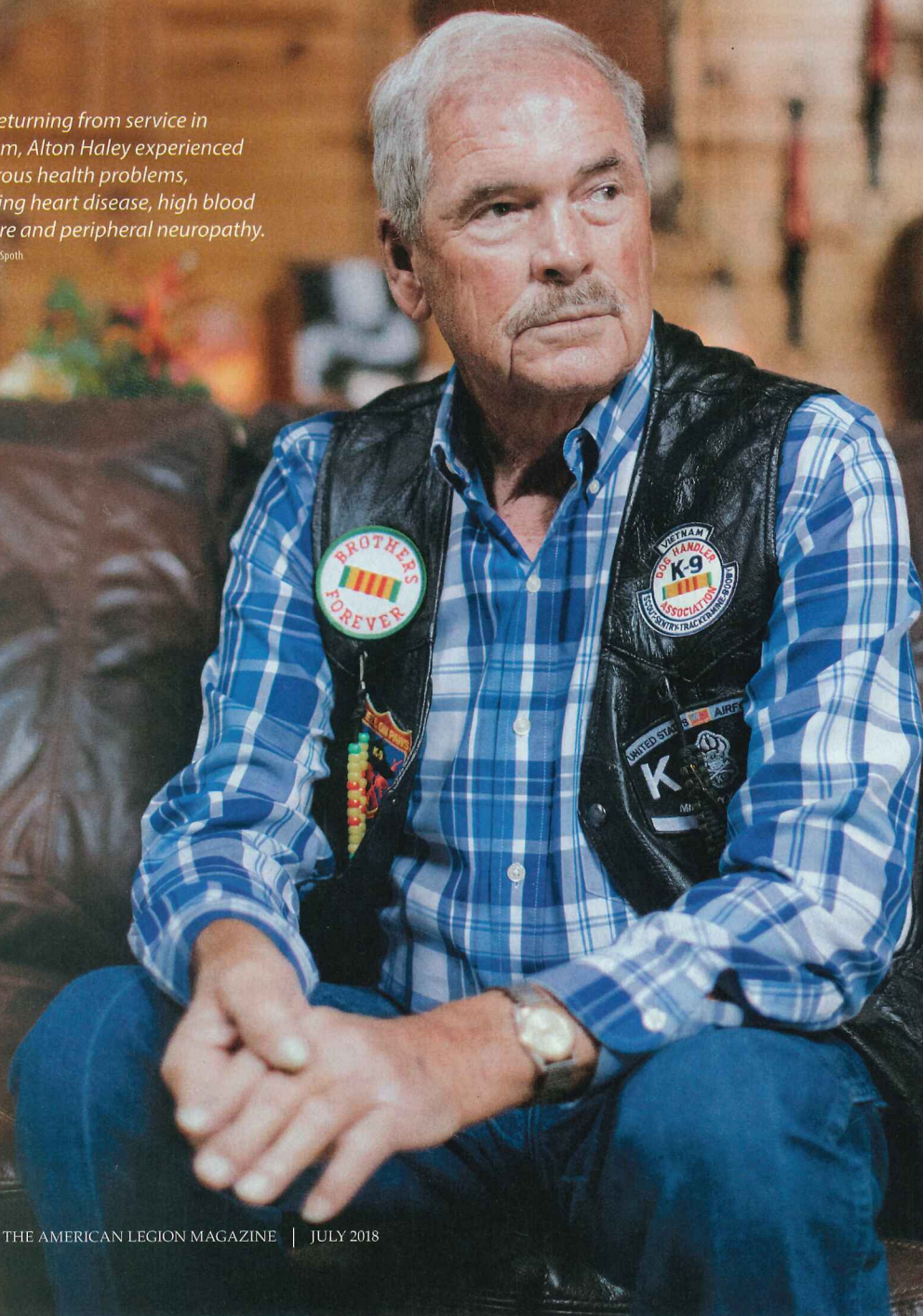
# EXPOSURE WARS

THE LONG, CONNECTED AND CONTINUING FIGHT FOR ACCOUNTABILITY

Part 2: Agent Orange

*After returning from service in Vietnam, Alton Haley experienced numerous health problems, including heart disease, high blood pressure and peripheral neuropathy.*

Photo by Todd Spoth





Since their first encounter with nuclear weapons tests in the 1940s, U.S. servicemembers have been exposed to atomic radiation, toxic defoliants and choking burn pits, among other contaminations that, while slower-acting, are often just as lethal as bullets and bombs. In each of these situations, the government response to afflicted veterans' needs for information, acknowledgment and health care has been even slower – decades of denial, followed by begrudging but limited acceptance and bureaucratic skepticism. The American Legion has been at the forefront of advocating on behalf of these veterans, from the Legion service officer in Iowa who helped Orville Kelly win the first atomic veteran's claim, to the continuing fight for Agent Orange benefits and today's work on behalf of post-9/11 veterans.

In this second article of a three-part series, *The American Legion Magazine* examines the long fight to provide health care and benefits for veterans exposed to Agent Orange – a battle that continues for many former servicemembers who are suffering the consequences of the massive toxic herbicide campaign without help from VA.

## 'A relentless tragedy'

***Fifty years after the Vietnam War, VA still dodges Agent Orange claims despite federal court rulings and a mountain of scientific evidence.***

BY KEN OLSEN

From the moment Julie Diane Haley was born with a hole in her heart and underdeveloped lungs, her family suspected it was a consequence of her father's service in Vietnam. But they weren't aware of Operation Ranch Hand or the millions of gallons of toxic herbicides the U.S. military sprayed in Southeast Asia. So when Alton and Iralee Haley buried their only daughter four months later, they were left only with questions.

Their suspicions grew as Alton's health problems multiplied: high blood pressure, heart disease, peripheral neuropathy, prostate problems and more. Each new diagnosis brought another frustrating battle for VA health care and benefits.

This is the story for thousands of veterans and their families. On the one hand, more than half a million people are now receiving Agent Orange benefits thanks to the dogged advocacy of The American Legion, the National Veterans Legal Services Program (NVLSP) and other groups. Billions of dollars in claims have been paid as a result of their victory in *Nehmer v. U.S. Department of Veterans Affairs* as well as the Agent Orange Act of

1991. "There's been a lot of progress," says Bart Stichman, executive director of NVLSP.

Yet a significant number of veterans are still fighting VA, even those who had "boots on the ground" in Vietnam and should therefore automatically qualify for Agent Orange benefits for more than a dozen diseases presumed caused by exposure to the U.S. military's arsenal of toxic herbicides. Many give up after the second or third VA denial. Other veterans suffer for decades, without knowing they qualify for help.

Blue Water Navy veterans – who drank and showered in distilled seawater contaminated by Agent Orange-laced runoff from Vietnam – are still trying to regain benefits VA withdrew in the early days of the George W. Bush administration. And former servicemembers who believe they were exposed to toxic herbicides in Thailand, Korea, Guam, Okinawa and military bases in the United States can expect to have their claims denied.

If that's not grim enough, VA has not added benefits for any diseases that science shows are connected to toxic herbicide exposure since 2015,



## World War II

Two key components of Agent Orange — 2,4,5-T and 2,4-D — are tested at Fort Detrick, Md.

## 1962-1972

U.S. military sprays some 20 million gallons of Agent Orange and other toxic herbicides in Vietnam and Laos as part of Operation Ranch Hand.

## 1964

U.S. military tests Agent Orange in Thailand.

## February 1967

More than 5,000 scientists — including 17 Nobel laureates — sign a petition asking President Lyndon Johnson to stop toxic herbicide use in Vietnam.

## Nov. 25, 1967

Arthur W. Galston, a Yale botany professor, warns of possible human health consequences of toxic herbicide use in Vietnam.

## 1968-1971

U.S. military uses Agent Orange at Korean DMZ.

## April 15, 1970

The White House bans the use of one of the key components of Agent Orange around homes, schools, food crops and similar uses because of concerns about the consequences of human exposure to the herbicide.

## Early 1970s

Vietnam veterans raise concerns about chloracne, birth defects in their children and other inexplicable illnesses. VA requires proof of exposure before granting benefits.

## 1974

The National Academy of Sciences finds dioxin, a component of Agent Orange, "is extremely toxic to some laboratory animals."

## March 23, 1978

WBBM in Chicago airs "Agent Orange, the Deadly Fog" — an Emmy Award-winning documentary about health-care problems among Vietnam veterans that started with a tip from Maude DeVictor, an employee at the Chicago VA's regional office.

## Nov. 27, 1979

Orville E. Kelly of American Legion Post 52 in Burlington, Iowa, announces he has won his VA claim for lymphatic cancer related to radiation exposure from 22 atomic tests he witnessed in the Marshall Islands in 1957 and 1958. Veterans exposed to Agent Orange and burn pits continue to cite the Kelly decision in their efforts to gain VA benefits.

## 1979

A class-action lawsuit representing 2.4 million veterans exposed to Agent Orange is filed in federal court against seven large chemical companies who manufactured the deadly herbicide. The case is settled for \$240 million in 1988.



*Alton Haley served as a security dog handler with the 366th Tactical Fighter Wing at Da Nang Air Base. He later learned the base's perimeter, which he patrolled, had been sprayed with Agent Orange.*

when Congress allowed provisions of the Agent Orange Act to lapse that required VA to make decisions within 180 days.

"It's a relentless tragedy," says Fred Wilcox, author of "Waiting for an Army to Die," one of the first books to chronicle the carnage wrought by Agent Orange when it was published in 1983. "We pay a lot of lip service to people who serve in the military. But the reality is we expose them to radiation, we expose them to Agent Orange, we expose them to depleted uranium and burn pits, and then go into a fit of denial when they become ill."

The cost to veterans and their families is staggering, adds William Davis, a Blue Water Navy veteran. "The pain, the suffering is deep. And for the survivors, the grief when the veterans die is both welcoming for the end of the suffering and frightening for what the future holds."

**PERIMETER PATROL** A neighbor introduced Alton and Iralee at a teen recreation hall in Texas shortly before he entered the Air Force in 1969. The couple got to know each other through letters they exchanged during Alton's yearlong deployment to Vietnam. A security dog handler, he knew the U.S. military was spraying something around the perimeter of the air bases in Da Nang and Phan Rang where he patrolled. "I didn't know what it was," Alton says. "I didn't know it was poisonous to people."

Alton and Iralee married in August 1970, soon after he returned from Vietnam. He finished his hitch at Altus Air Force Base in Oklahoma and became a homebuilder in Texas. In 1980, their daughter was born three months premature, and Alton's mother was certain his service in Vietnam was the reason. He began experiencing health problems at odds with his family's history.

"I'd always pondered it," Iralee says of her mother-in-law's belief that something in Vietnam was to blame for the loss of their daughter. "When all of this stuff started happening to him, I began to think about it again." Iralee asked several VA doctors if there was a connection between Alton's service in

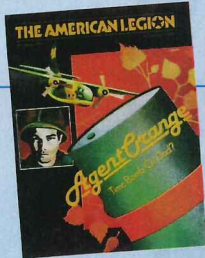


## Dec. 20, 1979

Congress orders VA to study the long-term health effects of exposure to dioxin, a toxic component of Agent Orange.

## 1982

VA decides that Vietnam veterans with chloracne are presumed to have been exposed to Agent Orange.



## January 1982

The American Legion Magazine publishes the first of a three-part series titled "Agent Orange: Time Bomb or Dud?"

## March 12, 1982

Dow Chemical, a major manufacturer of Agent Orange, tries to blame an exotic Asian bacterium for growing health problems among Vietnam veterans.

## May 3, 1983

Fred Wilcox's "Waiting for An Army to Die," which explores the devastating health consequences of Agent Orange exposure among Vietnam veterans, is published.

## Oct. 24, 1984

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act becomes law. It requires VA to establish benefits for veterans exposed to toxic herbicides as well as former servicemembers exposed to above-ground nuclear weapons tests.

## 1986

The National Veterans Legal Services Program challenges VA's "chloracne only" rule on behalf of hundreds of thousands of veterans and survivors in a class-action lawsuit known as *Nehmer v. U.S. Department of Veterans Affairs*. A federal court rules in favor of veterans three years later, and orders VA to reconsider all claims it rejected under its illegal regulation. It is one of the most far-reaching legal victories for veterans exposed to toxic herbicides.

## March 29, 1990

Vietnam veterans – particularly those who served on ships off the coast of Vietnam – have a far higher rate of non-Hodgkin's lymphoma than veterans who didn't serve in Vietnam, according to a study conducted by the Centers for Disease Control and Prevention. However, CDC also concludes there's no link between Agent Orange exposure and five other cancers, prompting The American Legion to label the CDC's Selected Cancers Study "scientific fraud."

## Feb. 6, 1991

The Agent Orange Act of 1991 provides that any veteran who served in Vietnam from Jan. 9, 1962 to May 7, 1975 is presumed to have been exposed to Agent Orange and automatically qualifies for disability rating and medical care for a list of specified diseases.

Vietnam and his ischemic heart disease. The doctors told her to drop her inquiry. "They said, 'It's not going to do you any good because it's not service-connected.'"

Iralee filed Alton's first VA claims in the 1990s – and continued to file and appeal over the next several years. "They denied and denied it was service-connected," Iralee says of Alton's health problems, many of which are now presumed connected to Agent Orange exposure. VA even denied that Alton had heart disease, even though his own VA doctors had made the diagnosis following an angiogram.

More medical issues appeared: type 2 diabetes, prostate problems, and the sudden onset of peripheral neuropathy so severe that Alton had to learn how to walk again. "There's an old saying," says Alton, who had to retire at 55 because of his failing health. "The war killed me, but I'm not dead yet."

VA kept denying his medical claims. Iralee kept appealing, eventually receiving some benefits. She eventually found NVLSP, and the nonprofit legal advocacy group won retroactive compensation for Alton's ischemic heart disease as a result of the federal court ruling in *Nehmer*.

**DELAY AND DENY** In the years after the war, VA maintained that a painful, blistering skin rash known as chloracne was the only illness caused by Agent Orange exposure. This was the story even as Wilcox and journalists nationwide reported on Vietnam veterans dealing with testicular cancer, bladder cancer, multiple miscarriages, babies with severe and inexplicable birth defects, and other problems.

By the late 1970s, Sen. Alan Cranston, chairman of the Senate Veterans' Affairs Committee, told VA that its denial of nearly all Agent Orange claims suggested the federal government was covering up evidence about the hazards of toxic herbicide exposure in much the same way as information about the adverse health effects from radiation was withheld from nuclear-weapons test participants in the 1950s and 1960s, according to Wilcox's book. Not only were Alton Haley's illnesses excluded under VA's chloracne-only rule, but he couldn't win a simple hearing-loss claim even though he served on the flight line at Altus.

In 1986, NVLSP filed a class-action lawsuit against VA's chloracne-only rule on behalf of hundreds of thousands of Vietnam veterans and their survivors – *Nehmer v. U.S. Department of Veterans Affairs*. A federal court ruled against VA in 1989, ordering the agency to rewrite its Agent Orange regulations and redo claims it denied under its illegal rules.

Next came the Agent Orange Act of 1991, directing VA to revisit scientific research regarding toxic herbicide exposure every two years, then provide Agent Orange benefits for additional diseases on the recommendation of the National Academy of Sciences. That same year, a consent decree in the *Nehmer* case required VA to provide retroactive compensation for all pertinent claims it had previously denied. NVLSP had to repeatedly return to court to enforce that decree, and is the court-appointed watchdog over any new *Nehmer* claims.



## February 2002

VA changes strip Agent Orange benefits from Vietnam War Navy and Marine Corps veterans who cannot prove they had "boots on the ground," reversing a key provision of the Agent Orange Act of 1991.

## Dec. 12, 2002

Royal Australian Navy publishes study showing distilling water on Navy ships increases the concentration of dioxin — a powerful toxin found in Agent Orange.

## 2003

The American Legion recognizes chemist Jeanne Mager Stellman and her husband Steven, an epidemiologist, with the Distinguished Service Medal for decades of work on Agent Orange exposure, including an analysis that shows up to four times more toxic herbicides were sprayed during the Vietnam War than were previously estimated.

## 2006

The Australian government authorizes Agent Orange benefits for its Blue Water Navy veterans from the Vietnam War.

## 2007

The George W. Bush administration requests introduction of legislation to eliminate all Blue Water veterans from qualifying for presumptive exposure to Agent Orange. The bill dies in Congress.

## 2008

National Academies of Science confirms the Royal Australian Navy finding that distilling seawater for drinking water increases dioxin concentration. VA calls for more study.

## May 5, 2009

Rep. Bob Filner introduces H.R. 2254 to restore Agent Orange benefits for Blue Water Navy Vietnam veterans. Companion legislation is introduced in Senate. The legislation dies. A second attempt two years later fails to even get a vote in Congress.

## Sept. 30, 2015

Congress allows two key provisions of the Agent Orange Act of 1991 to expire that compel the VA secretary to make a decision about granting presumptive benefits for additional illnesses related to herbicide exposure within 180 days of receiving the most recent National Academy of Medicine's most review of relevant evidence.

## March 10, 2016

National Academy of Science says bladder cancer, hypothyroidism and Parkinson-like symptoms are likely linked to Agent Orange. VA fails to add these conditions to the list of diseases presumed connected to Agent Orange, despite repeated promises to do so.

## May 4, 2018

Legislation to restore Agent Orange benefits for Blue Water Navy veterans is reintroduced in the House of Representatives — but proposes to pay for the benefits by increasing fees veterans and active-duty military pay on VA loans.

Many Agent Orange issues remain unresolved, however. Legislation to restore benefits for Blue Water Navy veterans has repeatedly failed to receive a vote in Congress. The latest effort, introduced in the House in May, proposes to pay for benefits by increasing fees veterans and servicemembers pay on VA loans. VA, meanwhile, has denied claims of veterans exposed to Agent Orange at U.S. bases such as Fort Drum, N.Y., though it acknowledges the herbicide was used there.

Barbara Wright's late husband believed he was exposed to Agent Orange in Korea in 1962 and 1963. However, VA only recognizes claims from servicemembers who can establish they were at the DMZ between April 1968 and August 1971. Joe Dunagan was part of a clandestine Army special ops unit whose records remain classified, so he was never able to prove he'd served overseas, Wright says.

Dunagan died in early March, soon after he was diagnosed with liver and lung cancer. Wright is pushing ahead with her survivor's claim, including sending repeated records requests to DoD and the CIA. Struggling to get by on \$600 a month, she is mystified that the government isn't forthcoming more than 50 years after Dunagan came home. "If you served in Korea during the Vietnam War and need documentation for a VA claim and it isn't in your 201 file, you are basically screwed," Wright says. "When will somebody expose the plight of Korean vets?"

After all these years, there are also Vietnam veterans who are unaware they might be eligible for help. They include John Naldrett, a retired Savannah, Ga., firefighter and Navy veteran who is dealing with prostate and colon cancers. He learned about Agent Orange benefits from a former shipmate just a few years ago and filed a claim, which VA promptly rejected. He's appealing, a task made more daunting by the fact that he's in the last eight to 10 years of his life, he says.

There are illnesses that the National Academy of Sciences found sufficient evidence to connect to toxic herbicide exposure in 2016. But VA still has not added bladder cancer, hypothyroidism, high blood pressure or Parkinson's-like symptoms to the list of Agent Orange presumptions.

"We've been fighting since 1978 and not getting any response," says Brian Russ, a member of American Legion Post 266 in Sarasota, Fla., who was a helicopter pilot in Vietnam. His bladder cancer claim has been denied four times. "I can understand why so many veterans get depressed and give up," Russ says. "Congress has to say, 'Let's get this done and quit giving veterans the runaround.'"

And for Alton and Iralee, there's VA's steadfast denials that Julie Diane Haley's premature birth and untimely death were caused by Alton's Agent Orange exposure. "I think their aim is to prove the veteran wrong," Iralee says. "I've finally let it sit — with the hope that maybe someday VA will finally recognize that something happened." 🌿

*Ken Olsen is a frequent contributor to The American Legion Magazine.*