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# Agent Orange Blues: How Vietnam Navy Veterans Were Scuttled

**This is the fifth in a series detailing the discovery, the military use, the legal battles over the damaging effects, and the massive ongoing cover-up of Monsanto's Agent Orange.**

January 23, 1973 marked the end of the Vietnam War for American involvement, but it was just the beginning for veterans returning home from the war. Reunited with their wives, children, parents and friends, our returning heroes expected to settle down to pursuing the American Dream, but for many, plagued by illnesses and recurring mental health problems, the dream became a living nightmare.

Looking for answers to explain the presence of illnesses never suffered by members of their families, veterans began comparing notes. They came to believe that a chemical defoliant sprayed over the jungles of Vietnam was the reason for the rapidly increasing numbers of certain illnesses shared by veterans who had toured in Vietnam. They discovered increased numbers of miscarriages, stillbirths, and severe birth defects in themselves (the female veterans) or their wives and children when compared to the general public.

For better than twenty years after the first of the returning soldiers came home, their claims were denied by the Veterans Administration. Government and military officials held fast that there was no evidence of Agent Orange being linked to their myriad illnesses. They insisted it was a safe garden chemical, not likely to cause damages of the type being described. Manufacturers like Monsanto, Dow, and Uniroyal publicly maintained that their products were safe for humans.

Lawsuits arose, bringing media focus on the issue. Monsanto and Dow scrambled to throw together studies proving their cases. Government officials backed the chemical companies they had hired to make the deadly chemicals, but the tenacity of the veterans and their grass roots organizations gained nationwide attention and the pressure was on to prove or disprove their theories. The outcry became so loud that government regulatory agencies began demanding studies in order to make a determination that would serve both the veterans' and the public's interest.

After twenty years of battle, as the damaging evidence linking Agent Orange to the declining health of thousands of war veterans was prevailing, it became evident that there had been duplicity, deceit, and misrepresentation regarding the safety of the herbicide. The chemical industry, the military, and some government officials had been well aware of the hazardous nature of the chemicals found in Agent Orange, all along.

Finally, there was a small win for the ailing veterans. It wasn't much, in fact, if it weren't such a serious issue, it would have been a joke. Regardless, it was a start even if it was only a token. On

March 29, 1990, then Secretary of Veterans Affairs, Edward J. Derwinski announced a decision to honor disability claims from veterans stricken with a rare form of cancer called non-Hodgkin's lymphoma (NHL).

Derwinski was adamant that his decision be viewed merely as a "policy determination", rather than a scientific decision. He said such decision was made after the Centers for Disease Control (CDC) had released their Selected Cancers Study the day before. The report showed evidence that Vietnam veterans are at a 50% risk increase to develop NHL 15-25 years after military service in Vietnam. The results released by the CDC don't show a similar increase in veterans who served in locations other than Vietnam, suggesting that the association to NHL is specific to Vietnam.

Interestingly, though it found a significant link to military service in the Vietnam theatre, the study didn't find any evidence that NHL is related to Agent Orange or any other herbicides used there. The study relied upon by Derwinski was part of the epidemiological study mandated by Congress in 1979, but after four years with no progress, the responsibility was transferred to the CDC in 1983. By 1990, the CDC had still not completed nor released its final results. Years later, analysis of the CDC study, determined there had been suppression and interference by the Reagan Administration in an effort to downplay the connections between Agent Orange exposure and the health of military veterans. The Selective Cancers Study only revealed a very slightly increased possibility of developing NHL by veterans of Vietnam as opposed to other veterans.

Two months after the decision by Derwinski, recognition for other service-connected soft tissue sarcomas (based on exposure to dioxin-containing herbicides) was granted by the VA. Soft tissue sarcomas are a group of cancerous tumors which can appear in muscle, fat, lymph and blood vessels, and connective tissues. There are about twenty five of such tumor type cancers. That same month, retired Navy Admiral Elmo R. Zumwalt, appointee to the Veteran's Advisory Committee on Environmental Hazards, declared that there is sufficient association between twenty seven other health problems and Agent Orange exposure to justify compensation by the VA.

On January 31, 1991, Congress adopted a bill ratifying Derwinski's decisions to provide permanent disability benefits to Vietnam veterans suffering the specified cancers and chloracne. The bill also provided for independent scientific reviews by the National Academy of Sciences to determine other conditions possibly caused by Agent Orange and the other Rainbow herbicides. If and when causes are discovered, the Department of Veterans Affairs is expected to make suffering veterans eligible for service-connected disability benefits.

Since 1991, the original list of illnesses and diseases has continued to grow, but another question to be settled was to determine exactly who would be eligible for benefits under the service-connected criteria. Initially, the eligibility requirement was simply being a veteran who served "in the Republic of Vietnam" between January 9, 1962 and May 7, 1975. All branches of the military were included.

Common sense seemed to dictate that any ground troops would certainly have been exposed, as well as those charged with activities related to the spraying of the herbicide. But what about those in the Navy? This is a question that has risen and caused much debate in recent years. No one argues the fact that Navy veterans rode up and down the Vietnam waterways, as openly exposed as regular foot troops. The question being asked is about those termed "Blue Water" Navy veterans?

Prior to 1997, there wasn't much consistency in determining Blue Water service, but one of the standards was whether a veteran possessed a Vietnam Service Medal (given to those Blue Water sailors who served in or near Vietnamese waters). Then in 1997, the VA took the position that "service on a deep water naval vessel, in waters off the shore of the Republic of Vietnam does not constitute 'service in the Republic of Vietnam' for purposes...", eliminating compensation benefits to many Blue Water Navy personnel.

The case of Haas v. Peake (Secretary of Veterans Affairs) created a long drawn out debate over the question of Blue Water veterans being eligible for presumptive service connection to herbicide exposure. After being denied eligibility by the VA, he appealed the decision to the Board of Veterans' Appeals, where it was denied again in 2004. Not willing to give up and accept the decision, he appealed, yet again. The VA decision to deny was reversed in 2006 by the US Court of Appeals for Veterans Claims.

**“Given the spraying of Agent Orange along the coastline and the wind borne effects of such spraying, it appears that these veterans serving on vessels in close proximity to land would have the same risk of exposure to the herbicide Agent Orange as veterans serving on adjacent land, or an even greater risk than that borne by those veterans who may have visited and set foot on the land of the Republic of Vietnam only briefly (Haasv. Nicholson. 2006. Jonathan L. Haas, Appellant v. R. James Nicholson, Secretary of Veterans Affairs, Appellee. No. 04-0491. United States Court of Appeals for Veterans Claims.)”**

But 2008 saw yet another reversal in favor of the Department of Veterans' Affairs who had appealed the 2006 decision. Haas continued his battle, but the high court refused to hear the case early in 2009. The VA took the refusal to be an affirmation of their prerogative to rewrite the rules as they did in 2002, preventing Blue Water veterans from receiving Agent Orange benefits.

In 2002 (under the Bush Administration), without public notice or regulatory comment, the VA changed the guidelines for presumptive connection to Agent Orange. The change required Navy, Marine, and Coast Guard veterans to demonstrate that they had actually set foot in Vietnam, regardless how close or far their offshore service ship may have been to the shore, or what duties were assigned to the ship.

That very same year, an Australian study provided evidence that distillation processes on Blue Water ships could result in increased concentrations of TCDD (chemical in Agent Orange) in potable water made on the ship. The study was prompted by the higher mortality rate of Royal Australian Navy veterans than “boots on the ground” Australian veterans.

In comparing those findings to how they would relate to American Navy water-distillation systems, the Institute of Medicine determined, “No measurements of TCDD concentrations in seawater were collected during the Vietnam conflict, so it is not possible to ascertain the extent to which drinking water on US vessels may have been contaminated through distillation processes. However, it seems likely that vessels with such distillation processes that traveled near land or even at some distance from river deltas would periodically collect water that contained dioxin. Thus, a presumption of exposure of military personnel serving on those vessels is not unreasonable.”

The contamination of potable water isn't the only consideration to be taken when determining exposure on such ships. The boilers on such ships required far more distilled water than the crews consumed. Fumes from the distillation process were sent into the air circulating throughout the ship, so sailors were not only drinking, cooking, and bathing in contaminated water, they were also breathing contaminated air.

Perhaps even more telling is a citation taken from the CDC's own study, which has been revealed to be less than truthful and accurate. In an effort to remove agent orange exposure as a cause to Vietnam veterans' illnesses, they described their findings regarding non-Hodgkins lymphoma,

“Compared with other Vietnam veterans, the risk of NHL tended to be higher among Navy veterans, most of whom were stationed on ocean-going vessels. Overall, the risk tended to be higher for men based at sea than for those based on land.”

Over the last decade there have been a number of bills introduced as the Agent Orange Equity Acts, designed to correct this injustice. They have been introduced in 2008/9/10 and now the latest, S.1629: Agent Orange Equity Act of 2011. Introduced on September 23, 2011 by Sen. Kirsten Gillibrand (D-NY) there has been no word of progress since it was assigned to the Senate Committee on Veterans' Affairs.

The committee has fifteen members. For a complete list of the members:

<http://www.govtrack.us/congress/committee.xpd?id=SSVA>

The site you will be taken to is a tracking site for elected government officials. If you click on the image of each committee member, a complete analysis of the track record will be presented, including voting record, campaign contributions, etc.

It's time the Vietnam question of compensation is settled. Contact the committee members and let them know where you stand, as well as your own senators. And then spread the word.

[Source](#)