



DEPARTMENT OF VETERANS AFFAIRS

Regional Office
100 SW Main St Fl 2
Portland OR 97204-2998

JUN 17 2013

SANDRA MCDOW
2037 MANORVIEW CIR NW
SALEM, OR 97304

In Reply Refer To: 48218ALT
C 23 573 219
MCDOW, Marvis Virgil

Dear Ms. McDow:

The Decision Review Officer (DRO) has made a decision on your "Notice of Disagreement" received on April 17, 2013.

This letter tells you about your entitlement amount and payment start date and what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about additional benefits, what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

Your Award Amount and Payment Start Date

Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason For Change
\$1,195.00	Dec 1, 2011	Original Award
1,215.00	Dec 1, 2012	Cost of Living Adjustment

We're paying you as a surviving spouse with no dependents. *Let us know right away if there is any change in your marital status.*

You Can Expect Payment

Your payment begins the first day of the month following your effective date. You will receive a payment covering the initial amount due under this award, minus any withholdings, in approximately 15 days. Payment will then be made at the beginning of each month for the prior month. For example, benefits due for May are paid on or about June 1.





DEPARTMENT OF VETERANS AFFAIRS
Portland Regional Office
100 SW Main St, Fl 2
Portland OR 97204-2998

~~MARVIS V. MCBOW~~

VA File Number

~~100-100000~~

Represented By:
OREGON DEPARTMENT OF VETERANS AFFAIRS

Decision Review Officer Decision
April 17, 2013

INTRODUCTION

The records reflect that **~~Marvis V. MCBOW~~** was a veteran of the Korean Conflict Era, Vietnam Era and Peacetime. The veteran served in the Air Force from December 3, 1947 to June 30, 1969. We received a Notice of Disagreement from you on October 18, 2012 about one or more of our earlier decisions. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for the cause of death is granted.
2. Basic eligibility to Dependents' Educational Assistance is established from November 9, 2011.

EVIDENCE

- Service treatment records for the period December 3, 1947 to June 30, 1969
- The veteran's military personnel records

- DD Form 214, Certificate of Release or Discharge from Active Duty
- Veteran's Death Certificate
- VA Form 21-534, DIC, Death Pension and Accrued Benefits by a Surviving Spouse or Child, received May 31, 2012
- VA Form 21-4138, Statement in Support of Claim, received May 31, 2012
- VA letter to the claimant explaining the evidence needed to grant the benefit sought, dated July 5, 2012
- VA rating decision dated September 8, 2012
- VA notification letter dated September 13, 2012
- Notice of Disagreement (NOD) with election of DRO appeal process, received from the claimant on October 18, 2012
- VA letter to the claimant dated January 17, 2013
- VA Form 21-4138, Statement in Support of Claim, received February 12, 2013
- VA Form 21-4138 received from the claimant on March 29, 2013, together with attached evidence including death certificate and medical records, personnel records, "buddy" statements from those who served with the veteran, photographs and maps of Korat AFB, and other documents

REASONS FOR DECISION

1. Service connection for the cause of death.

This decision has been completed using the Decision Review Officer (DRO) de novo review process. This means that the same evidence that was used in our previous rating decision was re-adjudicated as if that rating decision had not been completed (38 CFR 3.2600). The DRO has also reviewed any/all additional evidence received since our previous rating decision, as shown in our evidence list above.

The death of a veteran will be considered as having been due to a service-connected disability when the evidence establishes that such disability was either the primary or contributory cause of death. The cause of death is recorded as: bronchoalveolar lung cancer. Service connection for the cause of the veteran's death is granted since the preponderance of evidence shows that it was related to military service. Eligibility to Dependency and Indemnity Compensation (DIC) is granted effective November 1, 2011, which is the first day of the month in which the veteran died.

This decision is considered a full grant of benefits sought by your Notice of Disagreement with the denial of service connection for cause of death and DIC.

VA has determined that a positive association exists between exposure to herbicides and the subsequent development of certain conditions, including respiratory cancers such as cancer of the lung, bronchus, larynx, or trachea (see 38 CFR 3.309(e)).

During the veteran's lifetime he did not file a claim with the VA for disability compensation benefits. You contend your husband's death due to bronchoalveolar lung cancer on November 8, 2011, was due to Agent Orange exposure in Thailand. Although he did not serve in the Republic of Vietnam, his military records confirm he served in Thailand from September 1967 to September 1968 as an Airborne Electronic Superintendent at the Korat Royal Thai Air Force Base (RTAFB). You submitted statements from veterans who served with your husband, including his roommate who shared a hooch with him at the Korat RTAFB. You also submitted maps, photographs and other evidence which credibly combine to establish that your husband's hooch was located very close to the airbase perimeter while at Korat, and that he also had frequent occasion to work on parked aircraft very near the perimeter of the airbase.

The VA has determined that "a special consideration of herbicide exposure on a factual basis should be extended to Veterans whose duties placed them on or near the perimeters of [certain] Thailand military bases" including Korat RTAFB. We may concede such exposure if the veteran's Military Occupation Specialty (MOS) placed him in frequent proximity to the perimeter, or if he otherwise was near the air base perimeter "as shown by evidence of daily work duties, performance evaluation reports, or other credible evidence." Resolving all reasonable doubt in your favor, we concede on a direct/facts-found basis that your husband was exposed to herbicides while in Thailand, due to his having worked and lived very near the perimeter of the Korat RTAFB.

2. Eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35.

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability; or a permanent and total disability was in existence at the time of death; or the veteran died as a result of a service-connected disability. Also, eligibility exists for a serviceperson who died in service. Finally, eligibility can be derived from a service member who, as a member of the armed forces on active duty, has been listed for more than 90 days as: missing in action; captured in line of duty by a hostile force; or forcibly detained or interned in line of duty by a foreign government or power.

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows the veteran died as a result of a service-connected disability.



Department of Veterans Affairs

STATEMENT IN SUPPORT OF CLAIM

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22, Compensation, Pension, Education and Rehabilitation Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.whitehouse.gov/omb/library/OMB/INVA.html#VA. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN
(Type or print) **Marvis V. McDow**SOCIAL SECURITY NUMBER
458-58-1052VA FILE NO. **23 573 219**
C/CSS -

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

In response to the request for appeal documentation sent January 17, 2013, I, **Sandra M. McDow**, widow of the veteran and the claimant, submit the following:

MSgt. **McDow** died from lung cancer. At the time of his death, he also had, and was being treated for, type II diabetes, hypertension, and prostate cancer.

Sgt. **McDow** was stationed at Korat AFB, Thailand from September 1967-August 1968. He was an Air Electronics Supervisor in the 553rd Recon Wing EMS. He worked in the EMS maintenance shops and on the flight-line 553rd operational apron where the EC121 aircraft were service and maintained. Color-Coded barrels of herbicide were placed near the EMS shops, and stockpiles of herbicide barrels were stacked immediately behind the 553rd Recon Wing operational apron.

Sgt. **McDow** was billeted in hootch #1200. This hootch had plastic walls, and screens rather than glass windows. His clothing and linens were cared for by Thai maids, employed by the base, who washed these items outside, near the hootch, and hung them to dry on clotheslines near the perimeter fence. Sgt. McDow ate his meals at the adjacent NCO annex, and frequently used the nearby NCO swimming pool.

It has already been conceded that Agent Orange was used to clear the vegetation around the perimeter fence, using ground dissemination methods. The US Army Field Manual, "Tactical Employment of Herbicides" (1/9/71) provides the following guideline for ground dissemination of herbicides: "... A 500-Meter buffer distance [1640.4ft/.33 miles] should be maintained to avoid damage to desirable vegetation near the target." Logically, humans who lived and worked within such a buffer zone would also be exposed to harmful spray drift.

The Korat AFB map (1Jan73) shows that the EMS maintenance shops and the EC-121 aircraft operational apron (parking ramp) were within 500 meters of the perimeter fence. The map further shows that NCO hootch #1200, the NCO annex and the NCO swimming pool were within just a few meters from the perimeter fence, well within a 500-meter buffer zone.

(Continued on next page)

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

SIGNATURE

DATE SIGNED
03-28-2013

ADDRESS

2037 Manorview Ct NW Salem OR, 97304

TELEPHONE NUMBER (Include Area Code)

DAYTIME
(503) 689-1617EVENING
(503) 689-1617

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

According to this information, Sgt. McDow would have had frequent, if not daily exposure to Agent Orange while performing his assigned duties and living in his assigned quarters.

In all probability, the serious, debilitating diseases he subsequently incurred, and the lung cancer to which he ultimately succumbed, were the results of his exposure to Agent Orange.

There are precedents for granting a claim from this era, at Korat AFB in Thailand. Three similar claims that have been granted are provided for your reference.

Based upon this information, and the supporting documentation provided, I respectfully request that this claim be reconsidered and granted.

Thank you.

Supporting Documentation:

1. Death Certificate
2. Excerpts from Medical Records
3. 1967-68 Sgt. McDow Performance Reviews
4. Sgt. McDow DD-214
5. Statement from E.R. Atkinson (CMSgt, ret) Sgt. [redacted] immediate supervisor in Korat
6. Statement from L.J. Spence (CMSgt, ret) Sgt. McDow's hootch roommate
7. Copy of 1967 personal letter from Sgt. McDow to spouse
8. Six (6) statements w/ notated material from airmen also stationed at Korat, 1966-69
9. Pictures and maps illustrating Korat AFB during 1966-69
10. Copies of three previous awarded Agent Orange claims
11. Copy of US Army Field Manual "Tactical Employment of Herbicides" (1/9/71)
12. Appendix with names and contact information for sources who provided documentation.