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**DEPARTMENT OF VETERANS AFFAIRS
Louisville Regional Office
321 W Main Street, Suite 390
Louisville KY 40202**

Robert L. Burgett

**Decision Review Officer Decision
March 27, 2007**

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Air Force from May 26, 1966 to March 27, 1970 and the Marine Corps from January 8, 1971 to December 11, 1972. We received a Notice of Disagreement from you on January 25, 2007 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. **This decision is considered under the de nova review process.**

DECISION

1. Service connection for cancer of the larynx with laryngectomy and hemithyroidectomy is granted with an evaluation of 100 percent effective May 17, 2006. **This is considered a full grant of benefits sought on appeal and is now closed.**
2. Service connection for scar of the neck, residuals of laryngectomy and hemithyroidectomy is granted with an evaluation of 10 percent effective May 17, 2006.
3. Entitlement to special monthly compensation based on complete organic aphonia with constant inability to communicate by speech is granted from May 17, 2006.

4. Basic eligibility to Dependents' Educational Assistance is established from May 17, 2006.

EVIDENCE

- All evidence contained in claims file to include numerous medical records from private and VA facilities, lay statements, military personnel records, service medical records 5/66 to 3/70 and 1/71 to 12/72
- Reopened claim received May 17, 2006
- Copies of prior BVA decisions
- Numerous articles on Agent Orange and chemicals used in Vietnam, Guam, and the Pacific
- VA Medical Centers Lexington and Huntington treatment records dated 11-12-02 through 3-13-07
- Informal Conference held on March 27, 2007
- Statement in Support of Claim dated 2-6-07
- Election of post decision review process dated 2-6-07
- Notice of Disagreement received 1-25-07
- Statements from Jimmy Young, Vance Sanderson, Donald Martin, and Roger Richmond
- Statement from claimant received 7-14-06
- Copies of photographs

REASONS FOR DECISION

1. Service connection for cancer of the larynx with laryngectomy and hemithyroidectomy.

Review of evidence from the NPRC shows that you were on TDY and were stationed at Anderson AFB, Guam for the period March 5, 1968 to September 4, 1968 and June 7, 1969 to September 18, 1969. AF Form 7 shows you were a material facility specialist. It also shows that you were on TDY from July 13, 1967 to October 15, 1967, but does not specify where your TDY was performed. You stated while stationed in Guam, you moved chemical stored in drums from one part of the storage area to another and periodically the drums would drop and chemicals would spray on you. It is also noted that while serving in Guam chemicals around the base was used to control the weeds.

Report dated June 23, 2006, Petition for Justice and Peace for Guam and the Pacific reported that soldiers stationed on Guam who have handles Agent Orange in the late 1960's have become ill and symptoms of dioxin poisoning became apparent in the general population of the island, according to the Dow Chemical Investor Risk Report. It is also noted new information has surfaced as the Guam legislature prepares for introduction of a

resolution to ask Congress to include the island in the investigation into the chemical or biological warfare testing projects secretly conducted by the Department of Defense in various locations from 1954 to 1973. It is noted that the Dow Chemical Report that dioxin contamination has been measured at up to 1,900 ppm in some areas of Anderson Air Force Base. Evidence reviewed shows Agent Orange on Guam was confirmed. During the Vietnam War era, Guam was used as a storage facility for Agent Orange, a kind of chemical herbicide used in Vietnam in 1968 and 1969. A CBS News Report on June 12, 2005 stated that Agent Orange was sprayed on Guam from 1955 to 1960's. Report from Dr. Uis Szyfred noted problem with contamination of Guam with toxic chemicals is very complex due to the amount of chemicals, the dispersion factors (evaporation, rain, infiltration, winds, etc), the mechanisms of human exposure (infiltration, food, water, skin etc) but most of all because of government's censorship/cover up. More than 2,000 documents and obtained evidence of contamination of food, water, plants etc. Reports also noted extreme limited number of Air Force records that do not refer to the use of Agent Orange or other chemicals in routine base maintenance activities such as spraying along railroad tracks, weed control on rifle ranges, etc. Information on such does not exist.

Your military occupation duties as a material facility specialist requiring you to handle storage barrels at the Anderson Air Force Base and supporting photographs verifying your handling of these barrels as well as the numerous reports of herbicides used and stored at the Air Force Base, it is conceded you were exposed to herbicides while on TDY in Guam.

Numerous medical statements and treatment records show treatment for larynx cancer which required total laryngectomy and hemithyroidectomy in 1993. You currently use a prosthesis for verbal communication. On December 31, 2003 it is noted you are 10 years status post TL and XRT for laryngeal cancer. You are currently doing well and dysphagia complaints are completely resolved with GERD treatment.

Service connection may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree following military discharge. Although not shown in service, service connection for cancer of the larynx with laryngectomy and hemithyroidectomy has been granted on the basis of presumption. Although you do not meet the requirement of service in the Republic of Vietnam for application of the presumption of exposure to herbicides, the overwhelming evidence does suggest you were exposed to herbicides while stationed in Guam. You are also shown to have a medical diagnosis of larynx cancer which is recognized as being associated with herbicide exposure, under 38 CFR 3.309e. Therefore, service connection for cancer of the larynx, status post laryngectomy and hemithyroidectomy is granted with an evaluation of 100 based on total laryngectomy and hemithyroidectomy.