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On appeal from the  
Department of Veterans Affairs Regional Office in Oakland, California

THE ISSUE

Entitlement to service connection for diabetes mellitus, to include as due to herbicide exposure.

REPRESENTATION

Appellant represented by:      Disabled American Veterans

WITNESS AT HEARING ON APPEAL

The Veteran

ATTORNEY FOR THE BOARD

S. Grabia, Counsel

INTRODUCTION

The Veteran served on active duty from July 1969 to March 1973.

This matter comes to the Board of Veterans' Appeals (Board) on appeal from an August 2007 rating decision of the Department of Veterans Affairs (VA) Regional Office (RO) in Oakland, California.

The Veteran testified at a Videoconference in September 2011 before the undersigned Veterans Law Judge. A copy of the transcript of that hearing has been associated with the record on appeal.

FINDING OF FACT

**The Veteran was exposed to herbicides while stationed in Thailand.**

CONCLUSION OF LAW

**Diabetes mellitus was incurred in service. 38 U.S.C.A. § 1110 (West 2002 & Supplement 2011); 38 C.F.R. §§ 3.303, 3.307, 3.309 (2011).**

REASONS AND BASES FOR FINDING AND CONCLUSION

## Duties to Notify and Assist

The Veterans Claims Assistance Act of 2000 (VCAA) enhanced VA's duty to notify the Veteran of information and evidence necessary to substantiate the claim and redefined its duty to assist him in obtaining such evidence. See generally 38 U.S.C.A. §§ 5102, 5103, 5103A, 5107 (West 2002 & Supp. 2011); 38 C.F.R. §§ 3.102, 3.156(a), 3.159 and 3.326(a) (2011). In this decision, the Board grants this claim on the merits. Because this constitutes a complete grant of the Veteran's claim, no discussion of VA's duty to notify or assist is necessary.

## Analysis

The Veteran contends that he incurred diabetes mellitus as a result of herbicide exposure during active duty service. At the September 2011 videoconference hearing, the Veteran testified that he served as a pavement specialist and landscaper at Udorn Air Force Base, Thailand. His military duties required him to perform landscaping and defoliation duties around the flight line, runways, barracks and perimeter of Udorn Air Force base during his active duty period. He was exposed to herbicides as he personally mixed and sprayed the defoliant used the flight lines, barracks, and along the perimeter of the air force base.

A review of the Veteran's service and personnel records confirms that the Veteran's military specialty was as a pavement and grounds keeping specialist. He served in Thailand from approximately September 1971 to September 1972.

Service connection may be granted for a disability resulting from disease or injury incurred in or aggravated by service. 38 U.S.C.A. §§ 1110, 1131; 38 C.F.R. § 3.303(a). Service connection requires competent evidence showing: (1) the existence of a present disability; (2) in-service incurrence or aggravation of a disease or injury; and (3) a causal relationship between the present disability and the disease or injury incurred or aggravated during service. *Shedden v. Principi*, 381 F.3d 1163, 1167 (Fed. Cir. 2004); see also *Caluza v. Brown*, 7 Vet. App. 498 (1995).

If a veteran was exposed to an herbicide agent (to include Agent Orange) during active military, naval or air service and manifests type II diabetes to a degree of 10 percent or more at any time after service, the veteran is entitled to service connection even though there is no record of such disease during service. 38 C.F.R. § 3.307. 3.309(e).

The record documents that the Veteran has diabetes mellitus that manifested to a degree of 10 percent or more since service. He was diagnosed with diabetes mellitus approximately in 2004, and is receiving treatment through the VA Medical Center (VAMC). Thus, the central inquiry in this case is whether the Veteran was exposed to herbicides during active duty service.

The evidence does not establish that the Veteran served in the Republic of Vietnam between January 1962 and May 1975. See 38 U.S.C.A. § 1116(f) (West 2002). However, the record does demonstrate that the Veteran was exposed to herbicides while serving in Thailand. Service

personnel records show that the Veteran served at Udorn Air Force bases in Thailand, with military occupational specialties (MOS) of pavement specialist, and groundskeeper specialist. In accordance with the current version of the M21-1 MR, if a veteran served at the Ubon or Takhli air bases in a position that brought him or her into contact with the air base perimeter), VA will concede exposure to herbicides. See M21-1 MR, Part IV, Subpart ii, Chapter 2, Section C, Paragraph 10(q). The Veteran's service in Thailand and his MOS has been confirmed by service records, and the Board finds that by his very MOS he was exposed to herbicides during active duty service.

**The Board finds the Veteran's testimony credible. This testimony, taken in conjunction with the information regarding herbicide use in Thailand, supports a finding that the Veteran was exposed to herbicides during service.** The Veteran's post-service medical records reflect treatment of diabetes mellitus. Service connection is therefore warranted for the Veteran's diabetes mellitus, as this disability is presumed to have been incurred during active duty service based on the Veteran's exposure to herbicides during service in Thailand.

ORDER

Entitlement to service connection for diabetes mellitus is granted.

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ROBERT C. SCHARNBERGER  
Veterans Law Judge, Board of Veterans' Appeals

Department of Veterans Affairs