



**Submission of Documents to
Department Of Veterans Affairs**

**Board Of Veterans Appeals
Litigation & Support Division
P.O. Box 27063
Washington, D.C 20038**

FAX: (844) 678-8979 or (202) 6324628

Veteran: [REDACTED]	VSC: VBA SEAT346
C-File or SSN: CSS [REDACTED]	
Street Address: [REDACTED]	
City, State, Zip: [REDACTED]	

Date: 2/19/2021	ATTN: Litigation and Support Div. Intake
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From: Gordon A. Graham	Exclusive Contact Requested
Title: Nonattorney Practitioner VA #39029 POA Code E1P	
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Type of Document Submitted:

<input type="checkbox"/> Request for Board Hearing at VA Central Office in D.C.
<input type="checkbox"/> Request for Advancement of the Docket (Rule 900)
<input type="checkbox"/> Request for Copy of Hearing Transcript
<input type="checkbox"/> Submission of New and Relevant Evidence associated with the instant Appeal
<input checked="" type="checkbox"/> VAF 10182 NOTICE OF DISAGREEMENT (BVA Review)
<input type="checkbox"/> Motion for Reconsideration (MFR)
<input type="checkbox"/> Other

Number of Pages Submitted (NOT including this cover sheet): Twenty eight (28) Pages
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VA Directive 6609, NOVEMBER 9, 2007: NOTICE! Access to Veterans records is limited to Authorized Personnel Only. Information may not be disclosed unless permitted pursuant to 38 CFR 1.500-1.599. The Privacy Act contains provisions for criminal penalties for knowingly and willingly disclosing information from the file unless properly authorized

Department of Veterans Affairs **DECISION REVIEW REQUEST: BOARD APPEAL (NOTICE OF DISAGREEMENT)**

PART I - PERSONAL INFORMATION

1. VETERAN'S NAME (First, middle initial, last)
 [REDACTED]

2. VETERAN'S SOCIAL SECURITY NUMBER [REDACTED] 3. VETERAN'S VA FILE NUMBER (if different than their SSN) [REDACTED] 4. VETERAN'S DATE OF BIRTH [REDACTED]

5. IF I AM NOT THE VETERAN, MY NAME IS (First, middle initial, last) [REDACTED] 6. MY DATE OF BIRTH (If I am not the Veteran) [REDACTED]

7. MY PREFERRED MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country) [REDACTED] I AM HOMELESS

8. MY PREFERRED TELEPHONE NUMBER (Include Area Code) (253) 313-5377 9. MY PREFERRED E-MAIL ADDRESS gagraham51@gmail.com 10. MY REPRESENTATIVE'S NAME Gordon A. Graham VA #39029 POA E1P

PART II - BOARD REVIEW OPTION (Check only one)

11. A Veterans Law Judge will consider your appeal in the order in which it is received, depending on which of the following review options you select. (For additional explanation of your options, please see the attached information and instructions.)

11A. Direct Review by a Veterans Law Judge: I do not want a Board hearing, and will not submit any additional evidence in support of my appeal. (Choosing this option often results in the Board issuing its decision most quickly.)

11B. Evidence Submission Reviewed by a Veterans Law Judge: I have additional evidence in support of my appeal that I will provide within the next 90 days, but I do not want a Board hearing. (Choosing this option may add delay to issuance of a Board decision.)

11C. Hearing with a Veterans Law Judge: I want a Board hearing and the opportunity to submit additional evidence in support of my appeal that I will provide within 90 days after my hearing. (Choosing this option may add delay to issuance of a Board decision.)

PART III - SPECIFIC ISSUE(S) TO BE APPEALED TO A VETERANS LAW JUDGE AT THE BOARD

12. Please list each issue decided by VA that you would like to appeal. Please refer to your decision notice(s) for a list of adjudicated issues. For each issue, please identify the date of VA's decision and the area of disagreement.

Check here if you attached additional sheets. Include the Veteran's last name and last 4-digits of the Social Security number.

Check the SOC/SSOC Opt in box if any issue listed below is being withdrawn from the legacy appeals process. Opt In from SOC/SSOC

A. Specific Issue(s)	B. Date of Decision
Entitlement to service connection to Diabetes Mellitus Type II due to direct exposure to herbicides at Ft. McClellan, AL	1/08/2021
Entitlement to service connection for peripheral neuropathy in all four extremities as secondary to Diabetes Mellitus II under §3.310.	1/08/2021

PART IV - CERTIFICATION AND SIGNATURE

I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

13. SIGNATURE (Appellant or appointed representative) (Ink signature) Gordon A. Graham VA #39029 POA Code E1P 14. DATE SIGNED 2/19/2021



Gordon A. Graham #39029
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Dept. Of Veterans Affairs
Board of Veterans Appeals
Litigation and Support Group
P.O. Box 27063
Washington DC 20038

2/19/2021

Re: [REDACTED]

Extra Pages for VA Form 10182

Appellant, through counsel, now appeals his denial of service connection for Diabetes Mellitus Type II with residuals of peripheral neuropathy on a direct basis at Fort McClellan, Alabama. However, the rating decision dated 1/08/2021 ignores the theory of direct exposure. The Veteran's argument is presented for evidentiary review with additional evidence being added to the claim.

As an initial matter, appellant would point out that the rating decision contends no evidence of exposure to herbicide agents at Fort McClellan was submitted in support of the supplemental claim filed on 10/03/2020. See VBMS notes section dated 1/12/2021, Subject title RRC, titled RRC_Dilley_12-01-2021_20-35-33-193.pdf. See also Exhibit A. Appellant argues that in the interests of judicial economy, he extracted the seven pages applicable from the January 1998 Final Environmental Baseline Survey of Fort McClellan, Alabama prepared by Environmental Science and Engineering, Inc. 404 SW 140 Terrace, Newberry,

FL 32669. The document was prepared for the US Army Environmental Center, Installation Restoration Division, Aberdeen Proving Ground, MD 21010-5401. The eleven extracted pages are easily located in VBMS with receipt date of 10/08/2020, Document Type: "Correspondence" and subject: Environments [sic] Baseline Survey at FT McClellan. Document title is: 1718710c-0ea6-4d97-840b-8b1cb8b032f1_a265eb22-d963-48d6-a0a4-e74fdef613cc. Appellant saw no need to inundate the VA with 683 additional pages of extraneous information having no bearing on the instant claim. The same document has been submitted numerous times in support of similarly situated Veterans.

By the numerous references to the Baseline Survey of Ft. McClellan in BVA litigation, it should be conceded that the VA now has constructive possession of these documents. See **Bell v. Derwinski**, 2 Vet. App. 611, 613 (1992) (records generated by VA facilities that may have an impact on the adjudication of a claim are considered constructively in the possession of VA adjudicators during the consideration of a claim, regardless of whether those records are physically on file). See also <https://www.va.gov/vetapp14/files7/1455966.txt> (last visited 2/19/2021). While the Veteran acknowledges BVA decisions are nonbinding and nonprecedential, they are still valuable for taking judicial notice of similar factual scenarios. See **Hime v. McDonald**, 28 Vet.App. 1, 7 n.1 (2016) (opining that a Board decision might be "used to demonstrate that evidence exists to support a particular fact or occurrence"). 38 C.F.R. § 20.1303 (2021) states:

§ 20.1303 Rule 1303. Nonprecedential nature of Board decisions.

Although the Board strives for consistency in issuing its decisions, previously issued Board decisions will be considered binding only with regard to the specific case decided. Prior decisions in other appeals may be considered in a case to the extent that they reasonably relate to the case, but each case presented to the Board will be decided on the basis of the individual facts of the case in light of applicable procedure and substantive law.



See also <https://www.va.gov/vetapp19/files8/19166878.txt> (last visited 2/19/2021); <https://www.va.gov/vetapp19/files3/19117232.txt> (last visited 2/19/2021)

Appellant asks the trier of fact to take judicial notice of VBMS entries reflecting that the submitted (extracted) probative records (Exhibit B Appendix E with Survey title cover sheet) discussing the dates, amounts and types of 2,4-D, 2,4,5-T with its contaminant TCDD, cacodylic acid and Pichloram applied in the years immediately prior to Appellant's service at Ft. McClellan were mislabeled as "correspondence" in VBMS and thus never reviewed.

In any event, to ensure the completeness of the record on review, Appellant includes the Survey cover sheet, table of contents and the entirety of Appendix E containing the lists of pesticides and herbicides employed at Ft. McClellan as listed in the original document to avoid further confusion. See Exhibit B.

Legal Standard of Review

§3.307(a)(6)(i) states:

(i) For the purposes of this section, the term "herbicide agent" means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, specifically: 2,4-D; 2,4,5-T and its contaminant TCDD; cacodylic acid; and picloram. (emphasis added)

Appellant cannot benefit from the presumption of exposure to an herbicide agent under §3.307 nor can he benefit from manifesting the disease while in service or within a year of separation. He has never contended as much. However, direct service connection can be established under 38 C.F.R. §3.303(d) (2019) by showing that the disease was incurred during, or

aggravated by, service without regard to the statutory presumptions. See **Combee v. Brown**, 34 F.3d 1039, 1043-44 (Fed. Cir. 1994).

An important distinction within VA's regulations involves the difference between a presumption of exposure and presumptive service connection. Specifically, 38 CFR §3.307 promulgates a presumption of exposure meaning if a veteran served in a particular location, he or she is presumed to be exposed to herbicides. Furthermore, 38 CFR §3.309 addresses presumptive service connection in which certain disabilities are eligible for service connection without establishing a medical nexus. While these two regulations can work together in many cases to establish service connection, they operate individually as well. Namely, if a veteran satisfies §3.307 but not §3.309, he or she must provide a medical nexus. On the other hand, if a veteran satisfies §3.309 but not §3.307, he or she will have to prove exposure on a facts-found basis. In either case, a veteran is still eligible for service connection.

Appellant, buttressed by probative government records, shows he was present in or on areas involved in the use and/or storage of certain "herbicide agents"-taken to mean the very same chemicals used in support of the United States and allied military operations in the Republic of Vietnam- on Fort McClellan, Alabama in the first year of his enlistment -to wit: 2,4-D, 2- (2,4,5-Trichlorophenoxy and its contaminant TCDD) marketed as Silvex and Silvex Fenoprop 2-(2,4,5-T) and Picloram #160 (4:1 mixture of 2,4-D and Picloram) also marketed commercially as Tordon 101 or Agent White (military).
https://en.wikipedia.org/wiki/Rainbow_Herbicides (last visited 2-19-2021)

The Secretary's list of chemicals is non-exhaustive. Some of the enumerated chemicals in §3.307(a)(6)(i) were present in one chemical "agent" such as Agent White (2,4-D and Picloram) but absent in Agents Blue (cacodylic acid or Ansar 138) or Orange (2,4-D and 2,4,5-T). In sum, it cannot be said that all chemicals listed were in all six of the "rainbow" herbicides used in military operations in Vietnam. Thus, the list is nonexhaustive and disjunctive. This is an important consideration when viewing the list of chemicals applied at Ft. McClellan.



Shedden v. Principi, 381 F.3d 1163, 1167 (Fed. Cir. 2004) and its progeny (Caluza, Hickson et al.) have held a Veteran needs three elements to prove service connection. Appellant has provided the first **Shedden** element-evidence of his presence and duty at Ft. McClellan. Secondly, he has a diagnosed, compensable disease which the VA readily recognizes as one of many illnesses caused by exposure to herbicide agents. Third, he has an independent medical opinion by a subject matter expert linking his illness to the herbicide agents used in and on Fort McClellan on a direct basis. **Combee supra**.

Appellant's service personnel records support, and indeed the Secretary concedes, his assignment as a Military Police Trainee for approximately 5 months at Fort McClellan. As his duties took him to all parts of the base, his exposure to herbicide agents must be conceded. See **Layno v. Brown**, 6 Vet. App. 465, 470 (1994) (a Veteran is competent to report on that of which he or she has personal knowledge). Unlike the regulations governing U.S. Air Force personnel in Thailand during the Vietnam War, Appellant need not show his presence in or on the perimeter areas of Ft. McClellan in the normal course of his duties.

The second prong of **Shedden** demands a current diagnosis of an active, compensable disease process during the pendency of the claim or appeal. Mr. Dilley's medical records more than substantiate his Diabetes Mellitus type II is chronic and requires the use of Insulin or an oral hypoglycemic. His peripheral neuropathy has been diagnosed as secondary to the DM II and medically recognized widely as such. See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2596705/> (last visited 2/19/2021).

Mr. Dilley has provided his third **Shedden** element with the submission of his independent medical opinion (IMO) by a medical professional well-versed in the subject. While the subject matter expert, John N.D. Worpel, M.S., PhD. refers to "Agent Orange" by name, he also discusses the chemicals individually listed in §3.307(a)(6)(i) which provoke disabilities such as DM II.



Mr. Dilley's argument benefits from its simplicity. The 1998 Baseline Survey unequivocally concedes chemicals defined as herbicide agents listed in §3.307(a)(6)(i) were sprayed on base at Fort McClellan as late as 1976. From the Baseline survey, it can be ascertained many of these herbicide agents were stored for years after.

Appellant rests his exposure on a direct basis, buttressed by government records, on the use and storage of certain "herbicide agents" described by chemical content (or commercial nomenclature), on Fort McClellan, Alabama in the years immediately preceding his service there-to wit: Silvex (2,4 D, 2,4,5 T, Silvex Fenoprop 2-(2,4,5-T) and Picloram# 160 (4:1 mixture of 2,4-D and Picloram).

1/08/2021 Rating Decision Denial Rationale

The Secretary attempts to deny Appellant based solely on "Ft. McClellan has not been identified as a location where "Agent Orange" was used, tested or stored." See Rating Decision dated 1/08/2021, page 3, paragraph 2. This is the incorrect legal standard of review. The regulation in question, §3.307(a)(6)(i) identifies a list of enumerated chemicals in herbicide agents, not a specific "agent" such as Agent Orange. Mr. Dilley has met his requirement that he served on a military base where it has been conceded these chemicals were employed. He suffers a disease presumptively attributed to exposure to the aforementioned chemicals (herbicide agents) which same chemicals were sprayed in Vietnam. Lastly, the Veteran has supplied a subject matter expert opinion which attributes his diseases to exposure to these herbicide agents.

The credibility and weight to be attached to medical opinions is within the providence of the Board as adjudicators. **Guerrieri v. Brown**, 4 Vet. App. 467, 470-71 (1993). Greater weight may be placed on one physician's opinion over another depending on factors such as reasoning employed by the physicians and the extent to which they reviewed prior clinical records and other



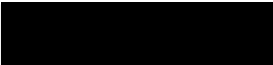
evidence. **Gabrielson v. Brown**, 7 Vet. App. 36, 40 (1994). See **also Nieves-Rodriguez v. Peake**, 22 Vet. App. 295, 301 (2008) (stating that a medical examination report must contain not only clear conclusions with supporting data, but also a reasoned medical explanation connecting the two); “To begin, a VA medical examination report is entitled to no weight if it contains only data and conclusions”. *Id.* at 304. see also **Steff v. Nicholson**, 21 Vet. App. 120, 124 (2007) (stating that a medical opinion must support its conclusion with an analysis that the Board can consider and weigh against contrary opinions).

Essentially, the Secretary’s denial rests squarely (and solely) on the absence of evidence of *the use of Agent Orange* at Ft. McClellan. See **McLendon v. Nicholson**, 20 Vet.App. 79, 85 (2006); see also **Forshey v. Principi**, 284 F.3d 1335, 1363 (Fed. Cir. 2002) (en banc) (Mayer, C.J., dissenting) (distinguishing between the existence of negative evidence and the absence of actual evidence and noting that “[t]he absence of actual evidence is not substantive ‘negative evidence’”).

Summary

Appellant makes no contention he is entitled to DM II or its residuals of peripheral neuropathy in the extremities based on presumptive exposure under §§3.307(a); 3.309(e). Appellant only avers the evidence of direct exposure for, is in equipoise with the evidence of direct exposure against, and asks for the benefit of the doubt accorded Veterans in §§3.102; 4.3. The pro-Veteran canon instructs that provisions providing benefits to veterans should be liberally construed in the veterans’ favor, with any interpretative doubt resolved to their benefit. See, e.g., **King v. St. Vincent’s Hosp.**, 502 U.S. 215, 220 (1991).

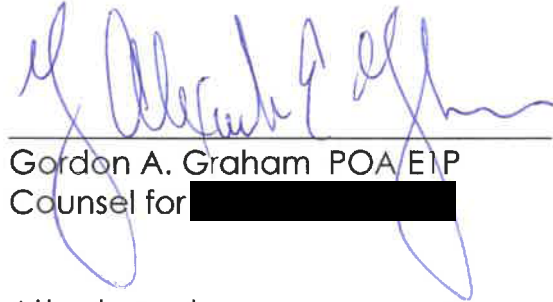
The Supreme Court first articulated this canon in **Boone v. Lightner** to reflect the sound policy that we must “protect those who have been obliged to drop their own affairs to take up the burdens of the nation.” 319 U.S. 561, 575 (1943). This same policy underlies the entire veterans benefit scheme. See also **Barrett v. Principi**, 363 F.3d 1316, 1320 (Fed. Cir. 2004) (“[T]he veterans benefit



system is designed to award entitlements to a special class of citizens, those who risked harm to serve and defend their country. This entire scheme is imbued with special beneficence from a grateful sovereign.”

Appellant also submits a Statement in Support of Claim (Exhibit C) to identify with more concise, detailed descriptions of the areas in which he marched, bivouacked or had cause to train in during his five-month sojourn at Fort McClellan.

Respectfully submitted,



Gordon A. Graham POA/EIP
Counsel for [REDACTED]

Attachments:

Exhibit A- JSCRR response 4 days after rating decision dated 1/08/2021

Exhibit B-1998 Environmental Baseline Survey, Appendix E-Pesticides and Herbicides Report pages E-1 to E-10 (Pages 599-609 in .pdf).

Exhibit C- VA Form 21-4138 Statement in Support of Claim.

Exhibit

A


Records Research Center
(RRC) Response Stating Supportive
Survey Documents Were Never
Associated With Claims File

VBMS Storage Date 4 days
following 1/08/2021 Rating Decision

Records Research Response

Name: [REDACTED]	Type: Exposure
SSN: [REDACTED]	Status: Response Provided

Exposure Incident

Military Branch: ARMY	Exposure Start: 06/11/1980
Unit Assignment: Fort McClellan, AL	Exposure End: 10/01/1980
Ship Name:	Location: Fort McClellan, AL
Hull Number:	

Exposure Circumstance

Veteran claims to have been exposed to AO while in basic training on Ft McClellan. Per email response in VBMS, dated 10/03/2019, Ft McClellan was not identified as a location where AO was used, tested, or stored. Veteran hired an attorney who states that AO was in fact used at Ft McClellan based on the Final Environmental Baseline Survey dated 01/1998. The attorney stated that the survey was enclosed, but it is not included in the documents. Per manual reference IV.ii.1.H.6.a, I am submitting this request to satisfy step 5 prior to making the claim RFD.

Synopsis

Request Closed - No pending or associated EP

Exhibit

B



**Eleven (11) Extracted Pages From
January 1998 Final Environmental
Baseline Survey-Fort McClellan, AL**

Volume II of II

Appendix E



Administrative Copy

**FINAL
ENVIRONMENTAL
BASELINE SURVEY
Fort McClellan, Alabama**



U.S. ARMY
ENVIRONMENTAL
CENTER

Volume II of II

**Contract DACA31-94-D-0065
Task Order Number 0001**

Prepared by:

**Environmental Science & Engineering, Inc.
404 SW 140 Terrace
Newberry, Florida**



January 1998

Distribution limited to U.S. Government Agencies only for protection of privileged information evaluating another command: February 1996; Requests for this document must be referred to: Commander, U.S. Army Environmental Center, Aberdeen Proving Ground, MD 21010-5401; or Commander, Fort McClellan, AL.

Prepared for:

**U.S. Army Environmental Center
Installation Restoration Division
Aberdeen Proving Ground, MD 21010-5401**

Table of Contents (continued)

Volume II

List of Appendices

Appendix A	Regulatory Database Searches
Appendix B	Interview Notes
Appendix C	Title Documents
Appendix D	Storage Tank Inventory
Appendix E	Pesticides and Herbicides
Appendix F	Chemical Warfare Materiel
Appendix G	Ranges and Training Areas
Appendix H	Hazardous Materials Inventory
Appendix I	Unexploded Ordnance
Appendix J	Asbestos Containing Material
Appendix K	Lead-Based Paint
Appendix L	Polychlorinated Biphenyls
Appendix M	Radiological Facilities
Appendix N	Radon

List of Acronyms and Abbreviations

AAFBS	Army Air Force Exchange Service
ACM	asbestos-containing material
ADEM	Alabama Department of Environmental Management
AEC/NRC	Atomic Energy Commission/Nuclear Regulatory Commission
AIRS	Aerometric Information Reporting System
AL-ARNG	Alabama Army National Guard
AMSA	Area Maintenance Support Activity
ANAD	Anniston Army Depot
ANCDF	Anniston Chemical Agent Disposal Facility
ANHP	Alabama Natural Heritage Program
APC	armored personnel carrier
APG	Aberdeen Proving Ground
AR	Army Regulation
AREEs	Areas Requiring Environmental Evaluation



Appendix E

Pesticides and Herbicides

[REDACTED]

LIST OF PESTICIDES CURRENTLY BEING USED OR STORED FOR FUTURE DISPOSAL

NSN	Nomenclature	Quantity on Hand
1.	Baygon 1.5 Emulsifiable Insecticide EPA Reg. No. 3125-214-Za	12 gal
2. NSN	Pivacin Concentrate Rodenticide	24 lbs
3. 6840-00-498-4057	Baygon 22 Bait Insecticide	15 lbs
4.	Pivalyn Concentrate, Water Soluble USDA Reg. No. 3240.3	120 grams
5. 6840-00-149-0106	Resmethrin Insecticide	240-12 oz cans
6. 6840-00-082-2541	Insect Repellent Spray	72-6 oz cans
7. 6840-00-242-4217	Insecticide, Lindane, Powder, Dusting	48-2 oz cans
8. 6840-00-926-1481	Malathion, Tech. Grade 95%	55 gal
9.	Diazinon 50W Insecticide EPA Reg. No. 100-4060-AA	25 lbs
10. 6840-00-270-8262	Chlordane, Tech. Grade 72%	25 gal
11.	Oil Conc. No. 3610, Pyrethrins EPA Reg. No. 655-450	5-1/2 gal
12. 6840-00-782-3925	DTOX 4E Insecticide Diazinon Emulsifiable Concentrate	18 gal
13. 6840-00-685-5437	Malathion, 57%	4-55 gal drums
14. 6840-00-926-9163	Dibrom 14 Concentrate Naled 85%	20 gal
15.	Spray Adjuvant Ortho	21 gal
16. 6840-00-145-0016	Phostoxin Tablets, 55% Aluminum Phosphide	9.45 oz
17. 6840-00-442-5698	Phostoxin Pellets, 55% Aluminum Phosphide	2 lbs 3 oz
18. 6840-00-181-7311	Vapona Insecticide Resin Granules, 20%	60 lbs
19. 6840-00-242-4219	Lindane Powder, Dusting, 1%	50 lbs
20.	Lindane Water Dispersible Powder, 75% SI-1-167-75	40 lbs
21. 6840-00-543-7825	Chlordane, Dust Tech Grade, 5%	75 lbs
22.	Insecticide Std. Lead Arsenate Water 20% total arsenic	5 gal
23.	Cyanogas Veneno, 42% Calcium Cyanide USDA Reg. No. 241-5	25 lbs
24. 6840-00-264-6692	Insecticide DDT Water Dispersible Powder, 75% DDT	120 lbs
25.	Dyrene Grass Controller USDA Reg. No. 2720480	48 lbs

Source: FIMC, 1980.

NSN	Nomenclature	Quantity on Hand
26.	6840-00-577-4201 DED-WEED LV 9	275 gal
27.	6840-00-882-4810 DED-WEED SILVEX LV	145 gal
28.	6840-00-582-4810 DED WEED LV 9	96 gal
29.	6840-00-664-7060 2,4-D Amine #4 Weed	75 gal
30.	6840-00-577-4204 Dalapon Grass Killer	1750 lbs
31.	6840-00-965-2071 Herbicide, Disodium Methanarsonate, 63%	6100 lbs
32.	6840-00-781-8195 AAttrax 80W Weed Control	
	EPA Reg. No. 100-439-ZA	210 lbs
33.	Herbicide, 20 Mule Team Maintain CF 125	6 gal
34.	Tandex 80 Soil Sterilant Herbicide	
	Karbutilate 80X, EPA Reg. No. 279-2721	300 lbs
35.	Tordon 10K Pellets Brush Killer	
	EPA Reg. No. 464-320-AA	2005 lbs
36.	Tordon 10I Mixture Brush Killer	
	USDA Reg. No. 464-306	300 gal
37.	Telvar Monuron Weed Killer	100 lbs
38.	Crabgrass Killer	35 gal

**TABLE 3-14
PESTICIDE AND HERBICIDE INVENTORY**

PESTICIDES AND HERBICIDES
Malathion ULV
Dursban LO
Flytek Fly Bait
Sevin
Round-up
DMA 4
Roach Kill
Maxforce
Demon TC
Talon-O (Rodenticide Pellets)
Pre Cor Foggers
Amdro
Bug Geta
Dursban 2E
Drax Ant Killer
Diazinon 4E
Ficam W
2, 4-D Amine
Whitmire PT 240
Perma-Dust
Whitmire PT365 Plus
Whitmire PT365
Anti-Crawl
Fog & Mill Spray
Princep

Source: Ebasco, 1994.

7/14, 1992

DEH ENTOMOLOGY

Pesticides

Product Name	Manufacturer	Active Ingredient(%)	EPA Reg #	Amount
Malathion ULV	American Cyanamid	Malathion	6720-207	10 ga
Dursban LO	Dow Chemical Co.	Chloropyrifos (41.5%)	464-571	38 lb
Flytek Fly Bait	Zocon Industries	Methomyl (1%)	2724-274-50809	12 lb
Sevin	Union Carbide	Carbaryl (80%)	264-316	20 lb
Round up	Monsanto Co.	Glyphosate (41%)	524-306-AA	18 ga.
DMA 4	Dow Chemical Co.	2, 4-D (49.3%)	464-196	5 ga.
Killmaster	Velsicol Chem. Co.	Chloropyrifos (2%)	26693-2-876	0
Roach Kill	R Value, Smyrna GA	Boric Acid (99%)	44314-5	73 lb
Maxforce	Am. Cyanamid Corp.	Hydranethylnon (1.65%)	1730-67	1128 l
Denon TC	ICI Americas, Inc.	Cypermethrin (25.3%)	10182-107	6 ga.
Talon-G (Rodenticide pellets)	ICI Americas, Inc.	Brodifacoum (0.005%)	10182-38	33 lb
Pre Cor Foggers	Zocon Industries	Methoprene (100%)	2724-337-50809	9 lb
Andro	Am. Cyanamid Corp.	Andro (100%)	5905-AR-01	64 lb
Bug Gata	Ortho	Methylcarbamate (2%)	239-2416-AA	10 lb
Dursban 2E	Dow Chemical Co.	Chloropyrifos (24.1%)	464-586	16 gal
Drax Ant Killer	R Value, Inc.	Boric Acid (5%)	44313-6	10 gal
Diazinon	Harcos Chemicals	Diazinon (47.5%)	655-457	8 gal
Ficam W	Nor-Am Chem. Co.	Bendiocarb (29%)	4816-703-45639	25 lb
2, 4-D Amine	Red Panther, Co.	2, 4-D (47.4%)	50534-135-42761	5 gal
Whitmire PT 240	Whitmire Research Laboratories, Inc.	Boric Acid (20%)	499-220-AA	30
Perma-Dust				
Whitmire PT565 Plus	" "	Pyrethrins (0.25%) Piperonyl Butoxide (1%) Dicarboxinide (1%)	499-285	8 lb
Anti-Crawl	AMREP, Inc.	Propoxur (0.5%) Dicarboxinide (.16%) Pyrethrin (0.1%)	10807-4	89 lb
Fog & Mill Spray	Stephenson Chem.	Pyrethrin (0.3%)	4887-29	4 gal
Princep	Ciba Geigy	Cinazine (41.9%)	100-526	8 gal

DEH PESTICIDE DISPERSAL EQUIPMENT INVENTORY

Equipment

1. Spreader Seed 771b, Hopper Elec Powered 1 ea.
2. Pump Insecticide w/gas Eng MALGC5330H-SER-#1429 1 ea.
3. Sprayer Shut Off 1 Gal Ban Drip Multijet Tip Assy, and strainer Serial #E1603, E1604, #1605 3 ea.
4. Sprayer Ban-Drip #114-S w/Multijet Nozzle cat # 761577, 1 gal Ser # E1958, E1959 2 ea.
5. Unit Chemical Dispersal IMDL 2 Ser #4345, 4453 1 ea.
6. Fogger Insecticide Trk Mtd. Gen ED2-20A, Ser #577-G79 1 ea.

Source: FIMC, 1992a.

75-1, 1992

SELF HELP

Pesticides

<u>Product Name</u>	<u>Manufacturer</u>	<u>Active Ingredient(%)</u>	<u>EPA Reg #</u>	<u>Amount</u>
Maxforce	Am. Cyanamid Corp.	Hydramethylnon (1.65%)	1730-67	24 pk
Roach Kill	R Value, Smyrna GA	Boric Acid (99%)	44314-5	38 lb
Amdro	Am. Cyanamid Corp.	Amdro (100%)	5905-AR-01	1 lb
Wasp Freeze	Whitmire Research	Pyrethrins (.129%)	499-362	20 lb
Combat Ant Stations	Cyanamide Corp.	Amidohydrizon (0.9%)	1730-68	33 pk

CANE CREEK GOLF COURSE

Pesticides

<u>Product Name</u>	<u>Manufacturer</u>	<u>Active Ingredient(%)</u>	<u>EPA Reg #</u>	<u>Amount</u>
Orthene	Valent U.S.A. Corp.		59639-26-AA	74 lb
Princep Caliber 90	Ciba-Geigy Corp.		100-603	520 lb
Dithane -DF	Rohm & Haas		707-180	130 lb
912 Herbicide	Riverside/Terra Corp.		9779-133	17 gal
Hoelon	Hoeshst-Roussel		8340-20-54382	4 gal
Trimec	Fbi/Gordon Corp.		2217-543	51 gal
Round up	Monsanto Corp.		524-308-AA	12 gal
Prograss	Nor-Am Chem. Co.		45639-68	7 gal
2-4D Amine 4	Riverside Terra Corp.		9779-263	25 gal
Daconil 2787 Fungicide	Fermenta Plant Protection Co.		50534-4	72 lb
Red Panther Super Juice MSMA SurFacant	Red Panther Chemical Co.		25030-10-42761	60 gal

Equipment

- 300 gal. Broyhill Fairway & Rough Sprayer
- 100 gal. Broyhill Sprayer Greens only
- 3 gal Ace Handpump for Small Areas

7/1/1992

DEH ENVIRONMENTAL MANAGEMENT DIVISION

Pesticides

<u>Product Name</u>	<u>Manufacturer</u>	<u>Active Ingredient(s)</u>	<u>EPA Reg #</u>	<u>Amount</u>
Round up	Monsanto Co.		524-308-AA	3 gal
Velpar Liquid	Dupont		353-392	1 qt
Diquat	Chevron Chemical Ortho Division		239-1663-ZA	2 gal
Oust granular	Dupont		352-401	4 gal
Surflan	Elanco		1471-113	10 gal
2-4-D Amine	Red Panther Co.		50534-135-42761	3 gal
Atrazine 4L	Drexel		19713-11	38 gal
Rotenone 5*	Argent Chemical Lab.		47677-3	2 gal

Equipment

- AMC Jim Bean Pump Sprayer, 500 gal, With Agitator
- 1 - 2 gal Pump Sprayer
- 2 - 3 gal Solo Mist Sprayers
- 1 - 3 gal Solo Dust Blower
- Six Row Boom Sprayer

410
Folk

BRAC PERSONAL PROPERTY INVENTORY
"NON-EXPENDABLES"

REPORTING ACTIVITY Johnson Controls World Services Inc. FMSP
 POC/PHONE NUMBER 5542/3532
 BUILDING NUMBER 211
 ROOM NUMBER Entomology

NOMENCLATURE	LIN #	STOCK #	SERIAL #	QTY	COND CODE	DISP	HAND REC #	PRICE
Fogger, micro-gen model # F-6		3740-00-18J-0017	168	1				
Table 30" x 72" x 27"		7110-00-266-7163		1				
Shelves steel 4 shelves 53" x 63" x 19"		7125-00-558-0011		4				
Refrigerator, Hotpoint		4110-00-882-4550		1				
Dispenser, drinking, SUNROC		4110-00-255-8760		1				
Table, steel, 60" x 31" x 34"		7110-00-143-0820		1				
Chair, str back w/o arms		7110-00-273-8785		4				
Chair, folding, metal		7110-00-P01-0006		4				
Chair, str back, w/o arms		7105-01-018-6757		1				
Chair, rotary, w/arms on wheel		7110-00-273-8792		1				
Chair, rotary, w/arms on wheels, brown		7110-00-273-8792		1				
Desk, steel / dwrs 60" x 34" x 30 1/2"		7110-00-143-0832		2				
Partition, dk blue, 60" x 72"		7195-00-118-8964		1				
Table, office, metal 36" x 24" x 29"		7110-00-143-0822		1				
Cabinet, file, 5 dwr, legal		7110-00-286-3797		1				
Musketta, fogger, micro-gen model # 3206-47R3-4704		3740-00-18J-0017	12215-593	1				
Spreader seed, 77 lb Hopper elec power w/Andros		3710-00-18J-0062		1				

[REDACTED]

**TABLE 11-B. PESTICIDES AND QUANTITY USED AT FORT McCLELLAN
(1974 THROUGH 1976)**

Material	Concentration	Quantity
Diazinon	0.50% (Water)	6,523 gallons
Baygon	1.10% (Water)	1,338 gallons
Malathion	95.0%* (Kerosene)	166 gallons
Chlordane	1.00% (Water)	5,691 gallons
Pyrethrum	3.00% (Mineral Oil)	8 gallons
Baygon Bait	2.00% (Inert Ingredients)	32 pounds
Lindane Dust	1.00% (Talcum Powder)	46 pounds
Malathion	3.00% (Kerosene)	36 gallons
Dibrom (Maled)	0.80% (Diesel Oil)	2,558 gallons
*Mirex (Kepone)	0.15% (Inert Ingredients)	193 pounds
Anticoagulant (Rat Bait)	0.25% (Inert Ingredients)	775 pounds

* Used in 1974 and 1975 only.

TABLE 11-9. HERBICIDES AND QUANTITY USED AT FORT McCLELLAN

Name	1974	1975	1976
Silvex	8,000 gallons		
24D	7,200 gallons	6,000 gallons	4,800 gallons
245T	1,800 gallons		10,000 gallons
OIN DMA	12,000 gallons		
Silvex		18,480 gallons	41,460 gallons
Picloram (#160)		4,000 gallons	
Arseniccrg		8,000 gallons	6,400 gallons
OPN (Tordon 101)		20,300 gallons	
OINDMA		4,000 gallons	
OPN (FORE)			1,200 gallons

11-34

Source: USATHAMA, 1977

E-10

Exhibit

C



**VA Form 21-4138 Statement in
Support of Claim (New)**

VA DATE STAMP
(DO NOT WRITE IN THIS SPACE)

STATEMENT IN SUPPORT OF CLAIM

INSTRUCTIONS: Read the Privacy Act and Respondent Burden on Page 2 before completing the form. Complete as much of Section I as possible. The information requested will help process your claim for benefits. If you need any additional room, use the second page.

SECTION I: VETERAN/BENEFICIARY'S IDENTIFICATION INFORMATION

NOTE: You will either complete the form online or by hand. Please print the information request in ink, neatly, and legibly to help process the form.

1. VETERAN/BENEFICIARY'S NAME (First, Middle Initial, Last)

[REDACTED]

2. VETERAN'S SOCIAL SECURITY NUMBER

[REDACTED]

3. VA FILE NUMBER (If applicable)

[REDACTED]

4. VETERAN'S DATE OF BIRTH (MM/DD/YYYY)

Month Day Year

[REDACTED]

5. VETERAN'S SERVICE NUMBER (If applicable)

[REDACTED]

6. TELEPHONE NUMBER (Include Area Code)

(253) 313-5377 law office

7. E-MAIL ADDRESS (Optional)

gordon.graham@va.gov

8. MAILING ADDRESS (Number and street or rural route, P.O. Box, City, State, ZIP Code and Country)

No. & Street [REDACTED]

Apt./Unit Number [REDACTED] City [REDACTED]

State/Province **W A** Country [REDACTED] ZIP Code/Postal Code [REDACTED]

SECTION II: REMARKS

(The following statement is made in connection with a claim for benefits in the case of the above-named veteran/beneficiary.)

While stationed at Ft. McClellan, AL, my duties as a Basic and Military Policemen Trainee took me all over the base. I participated in numerous hours of daily training, particularly the rifle and pistol ranges, the grenade range, M 60 range and LAWS rocket range- all located on the Pelham Range side of the base. I also participated in various outdoor overnight training exercises requiring bivouacking and setting up tents (twice). These training scenarios took place in forested areas, the obstacle courses, and the various firing ranges mentioned above. In the Pelham range area, the vegetation was sparse and appeared mostly dead. During my deployment at Ft. McClellan, our training in police procedures regularly took me to all areas on the base.

During our Advanced Individual Training (AIT), we were often assigned to the firing ranges to pick up expended cartridges, trash and cigarette butts. Often, this involved getting down on our hands and knees and getting dirt or mud all over ourselves and our uniforms. In addition, our physical training (PT) exercises occurred on dirt fields where we did our daily exercises, including pushups and situps- rain or shine.

When traversing the obstacle courses, we were often horizontal and crawled 30 yards on our bellies through the simulated minefields and overhead machine gun fire. Once contaminated with dirt, we wore these uniforms all day-wet or dry.

I don't pretend to be a person who knows anything about forestry or farming. What I do know is that during my five months stationed at Ft. McClellan, there appeared to be a lot of dead vegetation or lack of any growing in many of the areas we trained, conducted long range marches and fired weapons on a daily basis. On the other hand, our parade fields with the reviewing stands where we did our official formations, medals presentations and parades were lush grass which was well-maintained, watered and mowed on a regular basis. The contrast was easy to see and did not require a college degree. While I cannot say I remember seeing any herbicides sprayed, it was evident vegetation which would normally be expected to be growing freely was absent or extremely sparse in most or all of our daily training areas.

SECTION II: REMARKS (Continued)

(The following statement is made in connection with a claim for benefits in the case of the above-named veteran/beneficiary.)

[Empty space for remarks]

SECTION III: DECLARATION OF INTENT

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

9. SIGNATURE *(Sign in ink)*

10. DATE SIGNED *(MM/DD/YYYY)*

[Handwritten Signature]

2/19/2021

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.

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, 58VA21/22/28, Compensation, Pension, Education, and Vocational Rehabilitation and Employment 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.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.