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DEPARTMENT OF THE NAVY  
ATLANTIC DIVISION  
NAVAL FACILITIES ENGINEERING COMMAND  
NORFOLK, VIRGINIA 23511-6287

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IN REPLY REFER TO  
5090  
1152SMA



20 APR 1989

From: Commander, Atlantic Division, Naval Facilities Engineering Command  
To: Commanding General, Marine Corps Base, Camp Lejeune

Subj: FEDERAL FACILITY AGREEMENT (FFA) MEETING WITH EPA AND STATE OF NORTH CAROLINA REPRESENTATIVES ON 26 APRIL 1989

Ref: (a) MCB Camp Lejeune ltr 6280/9 FAC of 12 Apr 89  
(b) PHONCON LANTNAVFACENGCOM (Code 1152, S. Ashton)/CMC (LFL, Bob Warren) of 19 Apr 89

1. The following information is provided in response to reference (a) and is presented such that the number/letter designations correspond to those used in your letter. These responses have been coordinated with Headquarters Marine Corps as discussed during reference (b).

a. Camp Lejeune - HQMC discussions, 0830, 25 April 1989:

(1) CMC guidance dated 6 Jan 1989 states in paragraph 2.a of the cover letter that "installations shall enter into FFAs at NPL sites as early as possible during the Remedial Investigation/Feasibility Study (RI/FS)."

(2) The purpose of the FFA is outlined in the second section of the model FFA provisions. The focus of the FFA is on procedural rather than decision-specific aspects of the IR program such as how ARARs will be established, the dispute resolution process, timetables (rather than date-specific schedules) for completing the RI/FS and RD/RA portions of the IR program, and review/comment periods that will be expected on primary and secondary documents.

(3) The model provisions are the result of an intensive negotiating process between DOD and EPA and should be followed as closely as possible. Changes made to the model language that alter the intent of the original document will have to be elevated to the appropriate level for concurrence. This policy applies to the entire FFA including the stipulated penalties clauses.

(4) Applicable or Relevant and Appropriate Requirements, or ARARs, must be chemical-specific, location-specific and action-specific in nature and are therefore best identified through the Technical Review Committee (TRC) process.

(5) EPA's policy (headquarters level) is to negotiate one agreement for the entire facility. Separate timetables for areas such as the Hadnot Point Industrial Area (HPIA) or MCAS New River may be outlined individually within the agreement but the same procedural requirements should apply to all sites.



5090  
1152SMA

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(6) Cleanup standards, or ARARs, are established through the TRC as a part of the RI/FS portion of the program. The identification of ARARs is an iterative process that begins at the start of the RI and continues to be refined throughout the RI/FS as site conditions and feasible alternatives are developed.

b. Camp Lejeune - HQMC - LANTNAVFACENCOM discussions, 1400, 25 April 1989:

(1) - (4) The proposed scope of work for the completion of the Hadnot Point Industrial Area Feasibility Study including responses to EPA/NC comments and completion of the Site Inspection for the remaining IR sites was forwarded to your Command for review and comment on 13 April 1989. The completion of the HPIA FS will fully address both the deep and shallow aquifers. It is expected that this work will be awarded during third quarter this FY.

(5) Technologies exist today for the cleanup of all sites requiring remedial action at MCB Camp Lejeune. The appropriate technology for each site will be identified during the RI/FS through the TRC membership.

(6) The next TRC meeting will be scheduled when a decision point is reached. This may occur at the issuance of a report or when the input of the TRC membership is desired to assist in the direction of the IR program activities at MCB Camp Lejeune.

(7) See item 1.a.(5) above. A single FFA that covers all of the IR program activities at MCB Camp Lejeune is desirable to insure consistency between sites that may be at various stages of the program. It is much easier to understand the procedures that must be followed when there is only one set of procedures to consider.

(8) See item 1.a.(2) above.

(9) The ARARs that have been identified to date include Maximum Contaminant Levels, Recommended Maximum Contaminant Levels, human health risk levels for suspect or proven carcinogens, and organoleptic criteria. Other groundwater, soil, surface water and sediment quality standards may be identified during the RI/FS process and applied to the sites at a later date.

(10) The only official correspondence from EPA Region IV that reflects any position with regard to current IR program status indicated that they were "encouraged by the DON's willingness for early response to MCB Camp Lejeune potentially being finalized for the National Priorities List."



5090  
1152SMA

Subj: FEDERAL FACILITY AGREEMENT (FFA) MEETING WITH EPA AND STATE OF NORTH CAROLINA REPRESENTATIVES ON 26 APRIL 1989

(11) Letters of invitation dated 12 April 1989 were sent from this Command to both NC regulatory agencies (and EPA Region IV) regarding the FFA negotiations. Specific information on previous correspondence regarding TRC membership between this Command, MCB Camp Lejeune, EPA Region IV and the State agencies is available in the activity IR program files located at both MCB Camp Lejeune and this activity. Please contact Ms. Sheila Ashton, Code 1152 of this Command if additional copies of this information are required.

(12) The Superfund Amendments and Reauthorization Act, or SARA, provided the necessary renewal and update of the Comprehensive Environmental Reponse, Compensation and Liability Act, or CERCLA. If the intent of this question was to inquire about the overlap between CERCLA and RCRA, the model provisions outline this integration in the third section of the model FFA. Most importantly, "RCRA shall be considered an applicable or relevant and appropriate requirement pursuant to Section 121 of CERCLA."

(13) LANTNAVFACENGCOM has been delegated the lead in negotiating the FFAs for the Navy and Marine Corps activities falling under our area of responsibility including MCB Camp Lejeune. The purpose of this delegation is to provide a consistent position at all levels within DOD, the State and EPA regional and national offices. It is our responsibility as the "lead" to insure that the positions presented during negotiations with EPA and the State truly represent the policies of both MCB Camp Lejeune and the Navy/Marine Corps as a whole. This effort includes involving the appropriate activity personnel in the development of the draft FFA and subsequent revisions to the document and in the review and approval of proposed correspondence concerning the FFA process. Additionally the installation is expected to participate fully in the technical, legal and public affairs issues at every stage of the negotiation and cleanup process.

(14) The proposed timetable for the next round of work including the completion of the HPIA FS has been forwarded to your Command for review and approval as indicated in item 1.b.(1) above. Part of the FFA negotiations will involve the establishment of other timetables that must be developed for the remainder of IR program at MCB Camp Lejeune (see Section VIII of the model FFA).

c. Camp Lejeune - HQMC - LANTNAVFACENGCOM - EPA - NC discussions, 0830, 26 April 1989.

(1) The level of detail described for the briefing on the IR program is more appropriate for the TRC membership. The FFA discussions should focus on the document and those issues that will be included in future negotiations as they are settled on a national basis (i.e. oversight costs). The technical



5090  
1152SMA

Subj: FEDERAL FACILITY AGREEMENT (FFA) MEETING WITH EPA AND STATE OF NORTH  
CAROLINA REPRESENTATIVES ON 26 APRIL 1989

issues of the investigation such as what has been done, what is to do, what is underway, and the timing of these events should be left to the TRC membership. It is important to maintain the separation of the TRC membership from the FFA negotiating parties in order to insure the integrity of the two groups and their respective missions. The TRC's primary purpose is to meet the requirements of Section 211, Subsection 2705 of SARA. This group is composed of representatives of the Navy, Marine Corps, EPA Region IV, state regulatory agencies, local governments and the public at large. The TRC, which has previously met to discuss the technical issues at these sites, focuses on the site specific information pertaining to the IR program such as identifying cleanup standards, reviewing and providing comments on proposed actions and determining the appropriate cleanup technologies that could be used at each site. The FFA negotiating parties, on the other hand, have the responsibility of developing the agreement by which procedural aspects of the program will be handled. These procedural aspects include resolution of dispute, payment of stipulated penalties, oversight cost reimbursement, and timeframe definitions.

(2) - (3) EPA's national policy on this issue is to pursue one FFA for the entire facility that covers all appropriate sites. Should Region IV desire more than one agreement, the issue should be raised to the national level for response.

(4) This issue will be addressed specifically in the FFA.

(5) FFAs currently being negotiated at Navy NPL sites address only the CERCLA (IR) sites. Any RCRA corrective actions are addressed in the facility's RCRA permit(s). The Hadnot Point Industrial Area is an excellent example of an identified RCRA site overlaying/intermingling with an identified CERCLA site. RCRA corrective actions that do not involve the CERCLA site activities should be addressed in the appropriate RCRA permit for this area.

(6) The FFA will address all IR program sites on MCB Camp Lejeune including the HPIA aquifers. The agreement proposed by NC's letter of 22 September 1988 will be redundant unless the NC Department of Natural Resources and Community Development does not wish to be a party to the FFA.

(7) Yes. The FFA will not include actual site-specific details on the level of cleanup required or the technologies to be used at the individual sites of concern.

(8) A copy of the DOD/EPA model language was provided by this Command in the letters of invitation to participate in the FFA process dated 12 April 1989. Letters were sent to EPA Region IV, and both State regulatory agencies following review and approval by MCB Camp Lejeune. Copies of these letters were provided to the activity.

5090  
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(9) The optional clauses should be a topic of discussion for the meetings of 25 April 1989 before providing to EPA/NC.

(10) The 17 March 1989 DOD/EPA/State model clauses will replace in whole the model agreement provided to EPA and NC by our letters. The 17 March 1989 document will be available for all three meetings scheduled for 25-26 April 1989.

2. Agree that appropriate tone of pending meetings is essential. Detailed site information on what is being done, how clean is clean, and the investigation schedule should be left to the TRC. Please remember that the purpose of the TRC is to reach the best technical decisions possible with regard to the ultimate cleanup of these sites. We must avoid confusing the missions of the two groups at all costs as this would severely impact the effectiveness of either group. The primary purpose of the 25-26 April 1989 meetings is to focus our attention on the FFA and the procedural aspects of the IR program.

3. Any effort to avoid the term "negotiations" may be interpreted by either EPA or the State as an intentional delay on our part. Although the discussions may be preliminary, Navy/Marine Corps policy is still being set with respect to issues that have been elevated on other agreements currently being negotiated. Suggest that the meetings focus on the actual FFA clauses so that the issues that may cause problems with the MCB Camp Lejeune FFA may be identified as soon as possible allowing timely completion of the agreement. Our community relations interests and our ability to allocate necessary resources are best served by a complete and up-front effort as early as possible.

4. Point of contact for this Command is Ms. Sheila Ashton, Code 1152, who may be reached at AUTOVON 565-1814 or commercial (804) 445-1814 for any further information regarding the above.

*for* *Paul R. Kirsch*  
P. A. RAKOWSKI  
By direction

Copy to:  
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