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9 MAY 1989

Ms. Mary Curnane
U. S. Environmental Protection Agency
Region IV
Office of Regional Counsel
345 Courtland Street
Atlanta, GA 30365

Re: Federal Facility Agreements Under CERCLA Section 120

Dear Ms. Curnane:

Enclosed please find the minutes from the April 26, 1989 meeting regarding the subject agreement for Marine Corps Base, Camp Lejeune.

We look forward to the next meeting as described in item 4.f. of the enclosed minutes.

Please contact Ms. Sheila Ashton, Code 1152, at (804) 445-1814 with any questions you may have concerning the enclosed material.

Sincerely,

P. A. RAKOWSKI, P.E.
Head, Environmental Programs Branch
Utilities, Energy and Environmental
Division
By direction of the Commander

Encl:

(1) Federal Facility Agreement Meeting Minutes

Copy to: (w/o encl)
Mr. Bill Meyer
North Carolina Division of Health Services
Solid Waste Management Section
P. O. Box 2091
Raleigh, NC 27601-2091

NAVFACENGCOM (Codes 18, 09CB2)
CMC (Codes LFL, CL)
MCB Camp Lejeune (Codes SJA, AC/S)

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FEDERAL FACILITY AGREEMENT MEETING
 BETWEEN
 MCB, CAMP LEJEUNE; LANTNAVFACENCOM; EPA; STATE OF NC
 CMC-LFL; NAVFACENCOM

Meeting began 0900, Wednesday, 26 April 1989. Those in attendance were:

1. Sheila Ashton, Code 1152, LANTNAVFACENCOM
2. LtCol J. Wellington, Deputy SJA, MCB, Camp Lejeune
3. Stephen Anderson, Office of Counsel, LANTNAVFACENCOM
4. LtCol P. Wilbur, Code CL, HQMC
5. Col A. Tokarz, SJA, MCB, Camp Lejeune
6. Mickey Hartnett, Waste Mgt Div, EPA Region IV
7. V. Anne Heard, Office of Regional Counsel, EPA Region IV
8. Victor Weeks, Waste Mgt Div, EPA, Region IV
9. Mary Wheat, Ground Safety Office, MCAS, New River
10. Preston Howard, NC Div of EnvirMgmt, Wilmington Reg Off
11. Bob Alexander, Environmental Engineer, MCB, CamLej
12. Leland Laymond, Groundwater Section, NC Div of EnvirMgmt
13. Wayne R. Mathis, EPA Region IV, Fed. Facilities Coord.
14. Robert Warren, HQMC, Code LFL
15. Sue Jarman, Office of AC/S, Facilities, MCB, CamLej
16. B. W. Elston, Deputy AC/S, Facilities, MCB, CamLej
17. Col T. J. Dalzell, AC/S, Facilities, MCB, CamLej
18. Andrew Kissell, Code 1152, LANTNAVFACENCOM
19. Ray Goldstein, NAVFACENCOM, Asst Counsel (Env)
20. Yvonne Bailey, NRCD, Office of Legal Affairs
21. Jerry Rhodes, NC Hazardous Waste Branch
22. Bill Meyer, NC Solid Waste Mgmt Section
23. Jack Butler, NC Superfund Branch
24. Nancy Scott, NC Attorney General Office
25. Julian Wooten, Director, NREAD, MCB, CamLej
26. Elizabeth Betz, Chemist, NREAD, MCB, CamLej

The following notes describe issues for discussion per the handout provided by LANTDIV:

1. Introductions - Current and Prospective Roles: LANTDIV and EPA Region IV opened the meeting by reviewing the results of the previous day's meeting between the State and EPA. The State felt their major concerns were (1) Resources at the State level to participate in development and implementation of the agreement and (2) Reservation of State's rights to assure compliance under State law. EPA stressed the emphasis being placed on initiating FFAs between EPA Regional offices and military activities.

2. Designation of Points-of-Contact:

a. Ms. Sheila Ashton, Code 1152, Atlantic Division, Naval Facilities Engineering Command, Norfolk will be the primary representative for the Department of the Navy and MCB. Mr. Stephen Anderson, Code 09C, LANTDIV, will represent the Navy on legal issues.

ENCL (1)

b. Ms. Mary Curnane, EPA Region IV, Office of Regional Counsel, will be the primary EPA representative. Mr. Victor Weeks will be the Remedial Project Manager for technical issues.

c. Mr. Bob Alexander, MCB Environmental Engineer will represent Camp Lejeune on technical issues. LtCol Joseph A. Wellington, Deputy SJA for Land Use and Environment, will represent Camp Lejeune on legal issues.

d. The State of North Carolina's primary representative will be Mr. Bill Meyer, Solid Waste Management Section, NC Department of Human Resources. Mr. Paul Wilms, Division of Environmental Management, NC Department of Natural Resources and Community Development, will be the secondary point of contact for the State. A single State representative may be appointed at a later date pending a reorganization of State agencies into one environmental office.

3. Line of Communication: LANTDIV, Code 1152, will initially receive all documents and distribute for Department of Navy and Marine Corps staff review. EPA Office of Regional Counsel will perform the same function for EPA reviews. NC Solid Waste Management Section will receive all documents and distribute for State review. LANTDIV, EPA and the State agree to provide information copies to all parties of correspondence originated in their respective office.

4. Time Schedule: LANTDIV and MCB personnel indicated that the time schedule proposed by EPA in the letter requesting the FFA could not be accomplished for several reasons: (1) a number of provisions in the EPA proposal which are not included in the DOD-EPA-State Model Provisions will require review and approval by HQMC and HQ, NAVFAC; (2) the length and complexity of these proposed FFAs require additional review time by Navy and MC personnel; and (3) a number of changes to the DOD-EPA-State Model Provisions were made in the EPA Proposal.

a. LANTDIV proposed to submit a counter-proposal FFA by 11 July 1989 for State and EPA review.

b. EPA requested the Navy identify provisions causing difficulty as early as possible, hopefully within the next 30 days.

c. EPA wishes to retain the role of drafting, re-drafting and issuing subsequent revisions and distributing updated proposals for review by the Navy and State.

d. All parties agreed that the process of mark-ups to provide counter-proposals would be made on the basis of an entire FFA package rather than reviews based on separate clauses extracted from an agreement.

e. All parties agreed to encourage free flowing discussions and transmittal via telefax of individual topics or issues between the technical staff or legal counsel prior to submission of the counter-proposal by one of the parties.

f. All parties agreed to a meeting at Camp Lejeune at 0900 on 25 May 1989 to review primary areas of concern and recommend necessary steps to complete a negotiated FFA.

5. Clarification of definitions and CERCLA/RCRA overlap:

a. LANTDIV requested review of the term "site description and findings of fact." EPA indicated they would ask the Navy and MC to draft a section of the FFA on this subject. EPA will provide draft terminology from other FFAs to the Navy.

b. The discussion of the facility boundary to be used in the FFA centered around the issue of including the entire Camp Lejeune-MCAS New River Complex or geographically contiguous portions of the federal property in individual FFAs. EPA indicated the definition issue may be resolved by the pending final listing for the NPL. EPA Region IV plans to contract HQ EPA for their guidance and will contact the Navy afterwards.

c. Definition of Operable Unit: EPA indicated an operable unit may not be a geographical area; it may be a means of grouping a common type of contamination problem for instance. MCB suggested a definition of operable unit based on geographical, media or common release criteria.

d. CERCLA/RCRA relationships:

(1) The current RCRA Permit situation at Camp Lejeune was discussed. A TSD Facility Permit was issued by the State for generation storage and transportation in 1984. A generator ID number was assigned to MCAS New River in 1981 by EPA. An application for modification of the TSD Facility Permit for disposal of hazardous munitions was submitted to the State by Camp Lejeune in November 1988 for two sites, one on either side of New River.

(2) Numerous issues were discussed regarding the necessity of including solid waste management units in the revised RCRA Permit. Several questions were raised (1) about the permitting process for SWMU's on the west of New River, i.e. would a new RCRA Permit including all corrective action needs be required for that geographically contiguous area; (2) about the feasibility or practicality of consolidating all RCRA activities at MCB and MCAS New River under one ID number and (3) the process of revising the RCRA Part B Permit for Open Burning/Open Detonation of Munitions to incorporate contaminated sites being addressed by CERCLA responses through the IR Program.

e. EPA covered their views of the RCRA/CERCLA overlap considering a consolidated technical process for all field investigations under both acts and the administrative process. EPA is still developing RCRA policies on field investigations under RCRA. Public meetings/hearings requirements are different under RCRA and CERCLA. The RCRA permit application review and issuance process is delegated by EPA to the State of NC. EPA's goal is to accomplish a single work process (one field investigation and one set of review comments) while keeping two separate statutory authorities.

f. Funding for both RCRA and CERCLA programs was discussed. The question of using DERA funds for RCRA corrective action has no clear answers at this point. EPA believes DERA funds can be used for implementing a consolidated CERCLA/RCRA Agreement based on their experience with the Air Force in developing the Robins Air Force Base Agreement.

6. Modification of DOD-EPA-State Model Provisions in the EPA Proposal: EPA Region IV used the agreements from Miland Army Ammunition Plant and Robins Air Force Base as the basis for modifying the standard clauses. EPA feels the agreement by DOD for these documents which included modifications to model provisions represents a guideline for future agreements such as the FFA for Camp Lejeune.

All parties agreed to use of the term "Federal Facility Agreement" for subsequent proposals.