

UNITED STATES MARINE CORPS 01.01-04/03/87-00196
Marine Corps Base
Camp Lejeune, North Carolina 28542-5001

5216
FAC
APR 03 1987

MEMORANDUM FOR THE COMMANDING GENERAL
CHIEF OF STAFF

Subj: REAL PROPERTY LICENSE AGREEMENT WITH UNC-CHAPEL HILL

Encl: (1) Proposed Agreement
(2) SJA ltr 5800 SJA41 dtd 12 Feb 87
(3) Authorization to be signed by Commanding General

1. We are pursuing this agreement to assist UNC-Chapel Hill in a groundwater research project at the Tarawa Terrace Exchange Service Station as shown at enclosure (1). U.S. Environmental Protection Agency has funded UNC-CH to conduct an in-depth multi-year gasoline contaminant study.

2. In the process of reviewing the subject agreement, we have determined that your written authorization is needed to enter into this real property license. At enclosure (2), SJA indicates the authorization is needed because the subject agreement is not routine correspondence to which "By direction" authority applies.

3. As we receive many such license agreements, request authorization by the Commanding General, enclosure (3), to sign such agreements that are routine in nature rather than having to forward each to the Commanding General for signature.

Very respectfully,

T. J. DALZELL
AC/S, Facilities

Writer: Mr. Alexander, EnvEngr, FAC, X3034
Typist: M. Ballentine, 31 Mar 87; revised by Col Dalzell 2 Apr 87



UNITED STATES MARINE CORPS
MARINE CORPS BASE
CAMP LEJEUNE, NORTH CAROLINA 28542-5001

IN REPLY REFER TO:
6280/12
FAC
APR 08 1982

Dr. Cass T. Miller
Assistant Professor
Dept of Environmental Sciences and Engineering
The University of North Carolina at Chapel Hill
Rosenau Hall 201 H
Chapel Hill, North Carolina 27514

Re: Tarawa Terrace Field Research Site

Dear Professor Miller:

We are forwarding the proposed real property license for the subject site. Request you sign the proposed license agreement and return it at your earliest convenience. We will provide a signed copy for your records. Please initial and date on the reverse side of the license agreement the portion of paragraph 10f which is not applicable to this project and which has been deleted.

Mr. Bob Alexander, Marine Corps Base Environmental Engineer, will provide any assistance you may need in conducting this research.

Sincerely,

T. J. DALZELL
Colonel, U.S. Marine Corps
Assistant Chief of Staff, Facilities
By direction of the Commanding General

Encl:
(1) Real Property License

LICENSE FOR NONFEDERAL USE OF REAL PROPERTY
 NAVFAC 11011/29 (6-75) (Supersedes NavDocks 2260)

THIS LICENSE TO USE THE U.S. GOVERNMENT PROPERTY HEREIN DESCRIBED IS ISSUED BY THE DEPARTMENT OF THE NAVY TO THE LICENSEE NAMED BELOW FOR THE PURPOSE HEREIN SPECIFIED UPON THE TERMS AND CONDITIONS SET FORTH BELOW AND THE GENERAL PROVISIONS ON THE REVERSE SIDE HEREOF. BY THE EXECUTION HEREOF THE LICENSEE AGREES TO COMPLY WITH ALL SUCH TERMS, CONDITIONS AND GENERAL PROVISIONS.

LICENSE NUMBER

 LIC-0-37

1. NAVAL ACTIVITY (Property location) Marine Corps Base Camp Lejeune, NC 28542	2. DATES COVERED (Inclusive) FROM 1 April 1987 to 1 April 1988
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3. DESCRIPTION OF PROPERTY (Include room and building numbers where appropriate)
 SITE AS SHOWN BY ATTACHMENT "A". (APPROXIMATELY 400 X 500 FEET)

4. PURPOSE OF LICENSE Use of site in connection with the drilling of 20 to 40 monitoring well clusters of 2 to 5 wells each ranging in depth from 20 to 100 feet and sampling of both newly constructed and existing groundwater monitoring wells at approximately monthly intervals.

5. LICENSOR UNITED STATES OF AMERICA DEPARTMENT OF THE NAVY	5a. LOCAL REPRESENTATIVE, DEPT. OF NAVY OFFICIAL (Title and address) Commanding General, Marine Corps Base, or Assistant Chief of Staff, Facilities, Marine Corps Base Camp Lejeune, North Carolina 28542
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6. LICENSEE (Name and address) University of North Carolina at Chapel Hill, Rosenau Hall 201 H, Chapel Hill, NC 27514	6a. LOCAL REPRESENTATIVE (Name and address) Mr. Farris W. Womack Vice Chancellor of Business and Finance University of North Carolina, Chapel Hill, NC
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7. CASH PAYMENT BY LICENSEE (Payable in advance)
 (If no cash payment is required, enter "None" under item 7a "Amount")

a. AMOUNT (Each payment) None	b. FREQUENCY PAYMENTS DUE	c. FIRST DUE DATE	d. TO (Title and address of local representative of the Government)
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8. DEPOSIT FOR UTILITIES AND SERVICES (Payable in advance)
 (If no cash payment is required, enter "None" under item 8a "Amount")

a. AMOUNT (Each deposit) SEE ITEM e UNDER GENERAL PROVISIONS ON REVERSE SIDE	b. FREQUENCY PAYMENTS DUE	c. FIRST DUE DATE	d. TO (Mailing address)
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9. INSURANCE REQUIRED AT EXPENSE OF LICENSEE
 (If any or all insurance requirements have been waived, enter "None" in a,b,c, or d as appropriate)

TYPE	MINIMUM AMOUNT	TYPE	MINIMUM AMOUNT
a. FIRE AND EXTENDED COVERAGE	\$ None	c. THIRD PARTY PERSONAL INJURY PER PERSON	\$ None
b. THIRD PARTY PROPERTY DAMAGE	\$ None	d. THIRD PARTY PERSONAL INJURY PER ACCIDENT	\$ None

10. GENERAL PROVISIONS (See Reverse Side) Part of General Provision 10.f has been deleted from this license prior to its execution. This license can be renewed for one additional year upon written request. (Upon written request, the licensee will supply all information derived from the research.) Applicable provisions are also shown on Attachment "B".

II. EXECUTION OF LICENSE

FOR	BY		DATE
	NAME AND TITLE (Typed)	SIGNATURE	
DEPARTMENT OF THE NAVY	T. J. DALZELL, Col, USMC AC/S, Facilities, By direction of the Commanding General		APR 08 1987
LICENSEE	Mr. Farris W. Womack Vice Chancellor of Business and Finance		

If Licensee is a Corporation, Certification of signature is attached

This license between Marine Corps Base, Camp Lejeune, North Carolina and the University of North Carolina at Chapel Hill (hereinafter called UNC-CH), provides for use of facilities at the Marine Corps Base in connection with the drilling of 20 to 40 monitoring well clusters of two to five wells each ranging in depth from 20 to 100 feet and sampling of both newly constructed and existing groundwater monitoring wells at approximately monthly intervals.

1. UNC-CH shall have the right to use the site as shown by exhibit "A", which is approximately 400 by 550 feet. Any use of utilities, water, electric power, signal lines, and sewer lines will be on a reimbursable basis (see paragraph 2).
2. UNC-CH shall reimburse the Marine Corps Base for the actual cost incident to the provision and use of utilities and services in accordance with applicable statutes, regulations, and instructions if any utility is used.
3. Upon termination of this license, unless otherwise provided for by prior written agreement, UNC-CH shall remove from the site all structures placed or erected by it and shall permanently abandon all wells, in accordance with Federal and State law. Well casing will be removed at ground level and the well will be filled with concrete.
4. To the extent authorized by the North Carolina Tort Claims Act, UNC-CH shall indemnify and save harmless the Government its officers, agents, servants, and employees from all liability under the Federal Tort Claims Act (62 Stat. 869, 982, 28 U.S.C. 2671-2680) or otherwise, for death or injury to all persons or loss or damage to the property resulting from the use of the site by UNC-CH.
5. Upon written request, the UNC-CH will supply the owner all information derived from the research.
6. UNC-CH shall be responsible for obtaining monitoring well construction permits from N.C. Division of Environmental Management prior to constructing wells.
7. UNC-CH shall construct all monitoring wells in accordance with applicable portions of 15 NCAC 2C (N.C. well construction standards).
8. The United States Marine Corps understands that the activities to be carried out by UNC-CH under the terms of this license are for the primary benefit of The University of North Carolina at Chapel Hill and any benefits accruing to the owner are incidental. UNC-CH is not and shall not be construed to be an agent, employee, or contractor of the owner under the terms of this license.

OFFICE OF THE STAFF JUDGE ADVOCATE
 Marine Corps Base
 Camp Lejeune, North Carolina 28542-5000

5800
 SJA41

12 FEB 1987

From: Staff Judge Advocate, Marine Corps Base, Camp Lejeune
 To: Assistant Chief of Staff, Facilities, Marine Corps Base, Camp Lejeune

Subj: LEGAL REVIEW OF REAL PROPERTY LICENSE AGREEMENT, UNC-CHAPEL HILL

Ref: (a) AC/S, Fac, Memo 6280 FAC of 13Jan87
 (b) LANT DIV INST 11011.4B, Use of Navy Real Property under License or Use Agreement
 (c) BO P5000.43, SOP for Administration

1. In response to your request in reference (a), I have reviewed the subject proposed license agreement, and, in my opinion, it is contrary to regulation.

2. The following items require correction.

a. The asterisk added to Block 10 of the license (and the additional provision) by UNC-CH changes the terms of the proposed license agreement. The corrections set forth in this letter resolve the issues raised by the UNC-CH asterisk. In my opinion, the asterisk should not be initialed, as proposed by UNC-CH.

b. While the terms of the proposed changes to Block 9 by UNC-CH are consistent with regulation, due to the other items requiring correction in the proposed license agreement, these items should not be corrected by initials, as proposed by UNC-CH. The license should be rewritten entirely.

c. The proposed license agreement is signed by the Assistant Chief of Staff, Facilities. Paragraph 7, reference (b), delegates licensing authority to the Commanding General. In paragraph 1003.1b(2) of reference (c), the Commanding General has authorized Assistant Chiefs of Staff to sign "routine official" correspondence "By direction." In my opinion, it is unlikely that a court reviewing the proposed license agreement would find it to be "routine." Accordingly, to ensure that the completed license agreement is legally enforceable, the Assistant Chief of Staff, Facilities, should obtain authorization in writing (by change to reference (c) or by letter) from the Commanding General to enter into such license agreements on behalf of the Commanding General.

d. A portion of General Provision 10f, on the back of the proposed license agreement, has been deleted by pen. There is no indication on the face of the document of who made the deletion or when. To eliminate ambiguity and ensure enforceability of the terms of the completed license agreement, the parties to

the agreement should sign (or initial) and date all such proposed changes to which they agree.

e. Delete paragraph 1a of Attachment B. It essentially restates paragraph 10a of the license agreement, except for the undefinable (and potentially unenforceable) term in attachment B, "[u]nless otherwise agreed."

f. Add to paragraph 2 of Attachment B after the terms "actual cost" the words "incident to the provision and use." The term "actual cost" potentially limits reimbursement.

g. Delete paragraph 3 of Attachment B. Modification of the completed license agreement should be achieved in the same manner as formation of the license agreement itself.

h. Delete paragraphs 4, 5, 6, and 7 of Attachment B. They add nothing to paragraphs 10d and 10g of the proposed license agreement.

i. Delete paragraph 8 of Attachment B. It is contrary to paragraph 5a(1) of reference (b).

j. Paragraph 9 of Attachment B uses the term "permanently abandon" all wells. To the extent that the term "permanently abandon" is a term of art meaning that the casing will be cut at ground level and filled with concrete, such should be set forth clearly in paragraph 9 of Attachment B.

k. Delete in paragraph 10 of Attachment B the words "of all persons" after the word "property." The deleted words potentially limit recovery.

l. This Office is not in possession of the applicable portions of 15 NCAC 2C (N.C. well construction standards), a copy of which is requested in order to complete review.

m. Delete paragraph 15 of Attachment B. It is contrary to paragraph 7c of reference (b), and paragraph 10b of the proposed license agreement.

n. Due to the problems incurred when the nongovernmental party changed the terms of the contract after the governmental representative signed it, the nongovernmental party should sign the proposed license agreement first, to preclude alterations such as those on enclosure (1) to reference (a).

3. In my opinion, a new proposed license agreement should be prepared pursuant to this letter and returned to this Office for review prior to sending it to UNC-CH.


A. P. TOKARZ

UNITED STATES MARINE CORPS
Marine Corps Base
Camp Lejeune; North Carolina 28542-5001

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APR 02 1987

MEMORANDUM FOR THE COMMANDING GENERAL
CHIEF OF STAFF *

Subj: REAL PROPERTY LICENSE AGREEMENT WITH UNC-CHAPEL HILL


Encl: (1) Proposed Agreement
(2) SJA ltr 5800 SJA41 dtd 12 Feb 87
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3. As we receive many such license agreements, request authorization by the Commanding General, enclosure (3); to sign such agreements that are routine in nature rather than having to forward each to the Commanding General for signature.

Very respectfully,


T. J. DALZELL
AC/S, Facilities



UNITED STATES MARINE CORPS
MARINE CORPS BASE
CAMP LEJEUNE, NORTH CAROLINA 28542-5001

11011
IN REPLY REFER TO:

5216

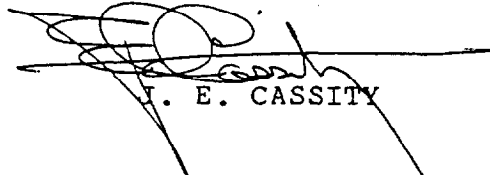
FAC

APR 06 1987

From: Commanding General, Marine Corps Base, Camp Lejeune
To: Assistant Chief of Staff, Facilities

Subj: AUTHORITY TO SIGN REAL PROPERTY LICENSE AGREEMENTS ON
BEHALF OF THE COMMANDING GENERAL

1. Authorization is granted to the Assistant Chief of Staff,
Facilities to sign the subject agreements on my behalf.



J. E. CASSITY

5216

FAC
APR 06 1987

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To: Assistant Chief of Staff, Facilities

Subj: AUTHORITY TO SIGN REAL PROPERTY LICENSE AGREEMENTS ON
BEHALF OF THE COMMANDING GENERAL

1. Authorization is granted to the Assistant Chief of Staff,
Facilities to sign the subject agreements on my behalf.

J. E. CASSITY

*(Alex has original
Mems to CG and
authorization ltr
in his files.)*

Writer: Mr. Alexander, EnvEngr, FAC, X3034
Typist: M. Ballentine, 31 Mar 1987

OFFICE OF THE STAFF JUDGE ADVOCATE
Marine Corps Base
Camp Lejeune, North Carolina 28542

T62501/A
File
6280/9

11011
SJA48
20 APR 1987

From: Staff Judge Advocate, Marine Corps Base, Camp Lejeune
To: Assistant Chief of Staff, Facilities, Marine Corps Base, Camp Lejeune

Subj: LEGAL REVIEW OF PROPOSED REAL PROPERTY LICENSE AGREEMENT,
UNC-CHAPEL HILL DATED 8 APRIL 1987

Ref: (a) SJA ltr 5800 SJA of 12Feb87

1. On 8 April 1987 Mr. Robert Alexander of your office requested my review of the subject agreement.
2. In my opinion, the subject agreement substantially incorporates those provisions specified in the reference. It is noted, however, that the deleted portion of General Provision 10(f) should be initialed by the parties pursuant to recommendation 2d of the reference.
3. Mr. Alexander reports that the subject agreement has been inadvertently executed and forwarded to UNC-CH for review and execution. Due to the possibility that UNC may attempt to change the terms after CLNC approval, I recommend that procedures be established to avoid forwarding contractual matters prior to obtaining the necessary legal review by the Staff Judge Advocate.

A. P. Tokarz
A. P. TOKARZ

