

07.01-07/07/95-01470

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Solid Waste Management



James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
William L. Meyer, Director

July 7, 1995

Commander, Atlantic Division
Naval Facilities Engineering Command
Code 1823-1

Attention: MCB Camp Lejeune, RPM
Ms. Linda Saksvig, P. E.
Norfolk, Virginia 23511-6287

Commanding General

Attention: AC/S, EMD/IRD
Marine Corps Base
PSC Box 20004
Camp Lejeune, NC 28542-0004

RE: Draft Point Paper from LANTDIV regarding NCDEHNR,
fax dated 7/5/95.

Dear Ms. Saksvig:

The referenced document has been received and reviewed by the North Carolina Superfund Section. Our comments are attached. Please call me at (919) 733-2801 if you have any questions about this.

Sincerely,

Patrick Watters

Patrick Watters
Environmental Engineer
Superfund Section

Attachment

cc: Gena Townsend, US EPA Region IV
Neal Paul, MCB Camp Lejeune

Comments on the Draft Point Paper

GENERAL:

We have a meaningful regulatory/procedural issue that needs to be addressed however the point paper reads like a blanket indictment of DEHNR's alleged inadequacies without any acknowledgement of our willingness to work as part of the team or of our contributions to this project. Also, each facet of the Lejeune team (including DEM) has their own unique set of constraints and limitations and it is important that these be recognized. Lastly, I am afraid that much of the point paper as written will be interpreted as being nothing more than a responsible party complaining about what the State is making them do.

SPECIFICS:

I feel that the real issue of compliance with CERCLA and the FFA has not been acknowledged. The response to the issue as presented in the paper will be that the State has indeed assigned a single project manager to represent the State of NC and that the Superfund Section has been defined as the lead State agency. The approach of this paper puts the emphasis and burden of proof squarely on myself and Jack Butler because it reads like both the project manager and the NC Superfund Section are both dreadfully ineffective. I feel the following points need to be considered in the preparation of the point paper with regard to the issues of concern.

- This is a project controlled by CERCLA and the FFA. The requirements of CERCLA and the FFA relevant to ARARs and the document review schedules have not been fully recognized and understood which has caused complications in finalizing the remedy selections for the Camp Lejeune NPL site.
- This is not a problem caused by an individual, position or faction of State government. This is a regulatory and procedural matter. All State agencies perform their functions as they see it within the context of the NC environmental regulations and within their organizational constraints.

The point paper reads as if the State is a total impediment to the Superfund process. This is quite a departure from the 12/20/94 letter from General Livingston thanking DEHNR for the support of the Installation Restoration Program. From a partnering perspective, this point paper contradicts the Tier II assessments that everything is running smoothly with the Lejeune team. Lastly, it does not make sense how we can sign four Records of Decision in one year and receive the environmental cleanup award from the Department of the Navy if the State is such an impediment to the IR process.

I disagree that we have expended "considerable effort" to educate the commentor (i.e. DEM). We send them the documents with an overlapping, compressed review schedule that is at times difficult for someone solely dedicated to the Lejeune project (like myself) to meet. The only time we exert any extra effort is when we have to react to comments that are received late in the process and/or outside the context of CERCLA which should be the focus of this point paper.

The comment on the requirement for the carbon filters is to me an irrelevant issue. Camp Lejeune was not singled out with regard to this requirement. This is a technical "professional judgement" type issue that may seem to some to be unnecessary but the State feels to be a prudent precautionary measure that I think is appropriate.

The next to the last paragraph on the second page indicates that "Mismanagement by any of the individuals on the team creates waste and delays in reaching cleanup." Combine this with the stated issue that the State has not assigned a project manager places greater emphasis on the individual as the problem rather than acknowledging the larger scope issue that CERCLA and the FFA are not being followed.

ALTERNATE PROPOSAL

I would like to propose an alternate approach and format for this point paper that I think will have a better chance of solving these issues. My approach would be to present this issue (via Tier II, I suppose) to the Division of Solid Waste Management and the Division of Environmental Management at a high enough organizational level to effect some meaningful change.

Start off with some background statements on the Base and on the team that has been assembled to address the Camp Lejeune NPL Site. Also, it would be beneficial if the MCB-CL and the DoN indicated that they acknowledge and want to comply with the substantive aspects of the NC Environmental regulations within the context of CERCLA for Camp Lejeune. A suggested format is as follows:

MCB-CL was placed on the NPL in 1989 and an FFA was established between the State, the DoN and the EPA in 1991 to coordinate the activities of the various agencies and organizations involved. For the most part, we have been able to achieve considerable success with this approach as evidenced by the DoN environmental award, the number of signed RODs and the Tier II acknowledgments. We have however, reached a situation that requires clarification with regard to applying NC State regulations as ARARs within the context of CERCLA and the timeliness of State agency comments.

We acknowledge and want to comply with the substantive aspects of the NC regulations, however, we believe that at times, we are incorrectly required to address administrative aspects of these regulations (i.e. Corrective Action Plans, regulatory variances, etc.). This appears to be a difficult situation for the NC Superfund Section and the designated project manager to address due to the organizational structure and the need to cross Divisional lines. It is to this end that we need the help of Tier II. It is suggested that a meeting be held with the appropriate upper echelon of the Division of Solid Waste Management and the Division of Environmental Management to help acknowledge and communicate to their respective organizations the context of ARARs as provided for under CERCLA and the distinction between an administrative versus substantive requirement.

[Section to briefly describe the impact of having to address these administrative requirements (time, \$, etc.)]

The other issue concerns the issuance of comments in a timely manner from Superfund's sister agencies under DEM. Most of the time these comments are received past the designated review times as provided for in the FFA which has created last minute problems that should have been identified earlier. We are not looking to side step these agencies. We value their input however we need to find mechanisms to get their concerns on the table quicker so that we can address them. We do recognize that these other State agencies do not have the resources to dedicate personnel to the Camp Lejeune project. This issue as with the CERCLA issue also involves crossing organizational lines within DEHNR which is difficult for the Superfund Section to control or change which is why we are addressing this for the consideration of Tier II.

We feel that this timeliness issue can be resolved with some restructuring of the comment process. The Superfund Section should be able to get comments directly from the regional offices without having to go through the DEM Central office in Raleigh as is the case now. Also, extra meetings and presentations should be incorporated into the process to help assure that concerns are presented early and that last minute fire drills can be avoided.