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State of North Carolina  
Department of Environment, Health, and Natural Resources  
Division of Solid Waste Management  
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor  
William W. Cobey, Jr., Secretary

5 December 1989

William L. Meyer  
Director

Mr. P. A. Rakowski, P.E.  
Head, Environmental Programs Branch  
Environmental Quality Division  
Department of the Navy  
Naval Facilities Engineering Command  
Norfolk, VA 23511-6287

Dear Mr. Rakowski:

In response to your proposals regarding the three outstanding issues for the Camp LeJeune Marine Corp Base, we accept your proposals. It is our understanding that the following positions are acceptable:

- a. The Party to the Interagency Agreement will be the Department of Environment, Health, and Natural Resources. The Assistant Secretary for Environment Protection signs the Agreement for the Department.
- b. The Force Majeure Section of the DOD model with the phrase "solely for the purposes of this Agreement," to the beginning of the Section as you recommend, is acceptable.
- c. The Reimbursement of State Expenses as proposed by the Navy (dated 8 November 1989) and enclosed within is acceptable.

We appreciate your cooperation and diligence in pursuing the Agreement and the remedial action.

Sincerely,

Handwritten signature of William L. Meyer in cursive script.  
William L. Meyer

WLM/LC/acr

Enclosure

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XXXVI. RECOVERY OF USEPA AND STATE EXPENSES

A. Reimbursement of USEPA's Expenses

The Parties agree to amend this section at a later date in accordance with subsequent resolution of the national issue of DOD-USEPA cost reimbursement.

B. Reimbursement of North Carolina's Expenses

1. The Marine Corps agrees to request funding from DOD and to reimburse DEHNR for the costs related to the implementation of this Agreement as provided in this Section. The Marine Corps agrees to advise DEHNR of the status of such funding as soon as the appropriations are enacted. Program allocations are made by DOD to the Marine Corps and the Navy.

a. The amount of reimbursable costs payable under this Agreement shall not exceed seventy-five thousand dollars (\$75,000) for federal fiscal year 1990 and shall not exceed seventy-five thousand dollars (\$75,000) for federal fiscal year 1991.

b. Prior to the end of the second year, the amount of reimbursable costs for the subsequent years shall be

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renegotiated in accordance with any then existing agreement on the subject between DOD and the State of North Carolina.

c. If no such agreement has been reached between DOD and the State, the Marine Corps and DEHNR agree to negotiate in good faith an annual cap for future reimbursable costs. If the Marine Corps and DEHNR are unable to agree to the amount of the annual cap after such negotiations, they shall refer the issue to resolution in accordance with subparagraph 7 of this Section.

d. If the Marine Corps and DEHNR are unable to resolve the issues in dispute through subparagraph 7 of this Section, DEHNR may withdraw as a Party to this Agreement by providing written notice of its withdrawal to each of the remaining Parties. Such withdrawal by DEHNR shall terminate all of the rights and obligations the State or DEHNR may have under this Agreement; provided, however, that any actions taken under or pursuant to this Agreement by DEHNR prior to its withdrawal shall continue to have full force and effect as if DEHNR were still a Party to this Agreement.

e. Nothing in this Agreement constitutes a waiver of claims by DEHNR for costs expended but not reimbursed under this Agreement.

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2. Implementation Activities:

a. Reimbursable costs shall consist only of actual expenditures required to be made and actually made by DEHNR to fulfill its participation under this Agreement.

b. All reimbursable costs are subject to Section XXXI (Funding) of this Agreement. Reimbursable costs must be reasonable; they shall not include payment for any activity for which DEHNR receives payment or reimbursement from another agency of the United States Government; they shall not include payment for anything violative of federal or State statutes or regulations; and, they must be allocable to the implementations activities provided in accordance with subparagraph 2.a. above.

c. Travel expenses shall not exceed those expenses allowed by the State for reimbursement of travel expenses.

3. Invoice Submittal:

a. Within thirty (30) days after the effective date of this Agreement DEHNR will submit an invoice for costs incurred by DEHNR for carrying out activities of the type

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contemplated by this Agreement for the first quarter of federal fiscal year 1990.

b. Thereafter, within forty-five (45) days after the end of each quarter of the federal fiscal year, DEHNR shall submit to the Marine Corps an invoice for all reimbursable costs incurred during the previous quarter by DEHNR related to subparagraph 2 above.

4. Payment: The Marine Corps shall pay any invoices submitted pursuant to subparagraphs 3.a. and 3.b. above within sixty (60) days of receipt, except for any portion of the invoice that is disputed in accordance with the procedures in subparagraph 7 below. The Marine Corps reserves the right to dispute amounts claimed in said invoices.

5. DEHNR shall maintain adequate accounting records sufficient to identify all expenses related to this Agreement. DEHNR agrees to maintain these financial records for a period of five (5) years from the termination date of this Agreement. DEHNR agrees to provide the Marine Corps or its designated representative reasonable access to all financial records for the purpose of audit for a period ending five (5) years from the termination date of this Agreement.

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6. The Marine Corps and DEHNR recognize that a necessity for effectuating sufficient funding for this Agreement is that DEHNR provides timely and accurate estimates of reimbursable costs. Within thirty (30) days of the effective date of this Agreement, DEHNR shall provide the Marine Corps with cost estimates for all anticipated reimbursable expenses to be incurred for the remainder of the current federal fiscal year, 1990. Within ninety (90) days of the effective date of this Agreement, DEHNR shall provide the Marine Corps with cost estimates for all anticipated reimbursable expenses to be incurred during federal fiscal year 1991. DEHNR shall expeditiously notify the Marine Corps if it becomes aware that the cost estimates provided under this subparagraph are no longer substantially accurate and provide in their place new cost estimates.

7. In lieu of Section XI (Resolution of Disputes) of this Agreement, any disputes between the Marine Corps and DEHNR regarding the application of this Section or any matter controlled by said Section XXXVI, including but not limited to allowable expenses and caps of expenses under subparagraph 1.3. above shall be resolved in accordance with this subparagraph.

a. The Marine Corps and DEHNR Project Managers shall be the primary points of contact to coordinate resolution

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of disputes under this subparagraph.

b. If the Marine Corps or DEHNR Project Managers are unable to resolve a dispute, the matter shall be referred to the DRC representatives (as provided for in Section XI (Resolution of Disputes) of this Agreement) for the Marine Corps and DEHNR as soon as practicable, but in any event within forty (40) days of receipt of the invoice.

c. Should the DRC representatives be unable to resolve the dispute within ten (10) days, the matter shall be elevated to the SEC representatives (as provided for in Section XI (Resolution of Disputes) of this Agreement) for the Marine Corps and DEHNR who will render their written report on the results of their efforts to resolve the dispute in ten (10) working days.

d. It is the intention of the Marine Corps and DEHNR that all disputes shall be resolved strictly in accordance with this paragraph; however, the use of informal resolution, including use of mediation and arbitration techniques is encouraged. In the event the representatives designated in subparagraph 7.c. above are unable to resolve the dispute, DEHNR retains all of its legal and equitable remedies to recover its costs.