

EAST COAST REGIONAL REVIEW BOARD MEETING  
ATTENDEES  
6 NOVEMBER 1991

Colonel Schopfel, AC/S, G-3 for Lieutenant General William M. Keys	CG, II MEF
Colonel Kent Steen, AC/S, G-4 for Major General Gene A. Deegan	CG, MCRD Parris Island
Colonel A. Finger, C/S for Major General F. X. Hamilton, Jr.	CG, MCLB Albany
Major General R. D. Hearney	CG, 2d MAW
Brigadier General Michael P. Downs	CG, MCB CLNC
Colonel P. Pace, C/S for Brigadier General Paul K. Van Riper	CG, 2d MarDiv
Brigadier General D. A. Richwine	CG, COMCABEAST
Brigadier General George H. Walls, Jr.	CG, 2d FSSG

From HQMC: Mr. Peter Murphy, Counsel to CMC

BGen J. C. Arick, Dir F&S, I&L

Mr. Robert Cali, Deputy Counsel, Office of  
Counsel for CMC

Maj Anne Rathmell, Assoc Counsel, CMC

Capt R. W. Sprague, Special Asst to Counsel  
to CMC

Mr. Richard Anderson, Realty Officer, LFL

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Enclosure (1)

AGENDA  
 EAST COAST REGIONAL REVIEW BOARD MEETING  
 WEDNESDAY 6 NOVEMBER 1991

- |           |  |  |
|-----------|--|--|
| 0900-0905 | Welcome Aboard   | BGen Downs<br>CG/Exec Dir<br>ECRRB, MCB CLNC                                 |
| 0905-1200 | INFORMATION TOPICS   | BRIEFER  |
| #1        | Global Air Cargo Ind<br>Complex  | COMCABEAST/<br>LtCol Randell <sup>ok</sup> <sub>(ok)</sub>                   |
| #2        | Airspace Issues Update<br>Cherry 1 and Core<br>Mil Op Areas (MOAs)<br>MAEWR/High Alt Bombing | COMCABEAST<br><br>LtCol Randell <sup>ok</sup> <sub>(ok)</sub><br>LtCol Davis |
| #3        | Smith Lake Reservoir Expan   | EACO/Col Lorenz  |
| #4        | Consistency Determinations<br>Under Coastal Zone Mgmt Act                                    | EACO/Col Lorenz  |
| #5        | Citizen Suits Under Clean<br>Water Act   | EACO/Maj Mercier   |
| #6        | Atlantic Intracoastal<br>Waterway Update   | Trng&Ops, MCB CLNC/<br>Mr. Miko  |
| #7        | Greater Sandy Run Land<br>Acquisition Update   | Trng&Ops, MCB CLNC/<br>Mr. Miko  |
| #8        | Environm Fees, Taxes Update  | EACO/Capt Thelin   |
| BREAK     |  |  |
| #9        | Installation Restoration<br>Program  | Environm Mgmt Dept,<br>MCB CLNC/Mr. Brynn Ashton                             |
| #10       | DOD and State Memorandum of<br>Agreement   | EACO/Maj Mercier   |
| #11       | Nat'l Environm Policy Act<br>(NEPA) Documentation for<br>Exercises                           | EACO/Capt Thelin   |
| #12       | Personal Liability<br>(Aberdeen Case)  | EACO/Col Lorenz  |
| #13       | Investment in Public<br>Relations  | JPAO/MCB CLNC<br>Info paper only   |
| #14       | Wetlands   | EACO/MCB CLNC<br>Info paper only   |
| #15       | Relations btwn Marine Corps<br>and State of NC   | EACO/MCB CLNC  |
| 1130-1300 | Lunch/Executive Session  |  |

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Subj: SUMMARY OF ECRRB MEETING OF 6 NOVEMBER 1991

- Encl: (1) Global Air Cargo Industrial Complex  
(2) Cherry 1 and Core MOAs Update  
(3) Mid-Atlantic Electronic Warfare Range (MAEWR) Update  
(4) High Altitude Bombing Update  
(5) Smith Lake Reservoir Expansion  
(6) Consistency Determinations Under Coastal Zone Mgmt Act  
(7) Citizen Suits Under Clean Water Act (NRDC v. Cheney)  
(8) Atlantic Intracoastal Waterway Update  
(9) Greater Sandy Run Land Acquisition  
(10) Environmental Fees, Taxes Update  
(11) Installation Restoration Program  
(12) DOD and State Memorandum of Agreement  
(13) National Environmental Policy Act (NEPA) Documentation for Exercises  
(14) Personal Liability (Aberdeen Case)  
(15) Investment in Public Relations  
(16) Wetlands  
(17) Relations Between Marine Corps and State of North Carolina

1. The subject meeting was called to order by Brigadier General Michael P. Downs, Board Executive Director, who welcomed Board Members and attendees. He expressed appreciation to the East Coast Regional Working Group for preparation/background work for this meeting, and particularly cited efforts of the Eastern Area Counsel Office (EACO). Information topics on the agenda were briefed as follows:

a. Global Air Cargo Industrial Complex, enclosure (1), (COMCABEAST), briefed by LtCol Randell.

- Negative impact of this complex for the military appears negligible, as such an airport will operate at night for the most part; military training flights are conducted in the daytime. However, it could negatively affect the military in any future pursuit of more training airspace. The state is eager to get the federal government interested in this project, perhaps in the "just in time" supply and shipment aspect, which eliminates the need to store parts/supplies until needed. (LtCol Randell)

- This operation would be supersonic air support. The "just in time" supply and shipment offering is really not in tune with military needs. Cherry Point functions well for our needs. I don't feel we will derive that much from this complex. (BGen Richwine)

- The North Carolina Governor's Military Advisory Committee meets later this month here at Camp Lejeune. We will surely be asked our position on this program. We need to put together a very general position statement to adopt/accept as ours. The

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state would like to involve us in supporting this project much the same as they asked for our support in the four-laning of Highway 24 to Morehead City. The air cargo complex would serve no military purpose, merely the promotion of industry and tourism for North Carolina. (BGen Downs)

- It is important we show support for economic development in North Carolina. If this complex happens to go in somewhere close to us, we need to be involved in order to preserve what we already have in place in terms of training structure. (BGen Richwine)

- Federal government commitment to the state in this endeavor is limited at best. They would like the federal government to come up with \$200 million. (LtCol Randell)

The Executive Director tasked Colonel Lorenz, EACO, with preparing a position paper with input/review by Mr. Murphy, Counsel to the Commandant.

b. Cherry 1 and Core Military Operating Areas (MOAs), (COMCABEAST), enclosure (2), briefed by LtCol Randell. These restricted air space areas allow us to accomplish our training close to home and thus, save the taxpayer money. The MOAs do not exclude civilian air traffic but we agree to limit the number of flights per day and limit altitudes of flying. We have a little more protection in a MOA than outside any special use air space.

c. MAEWR/High Altitude Bombing, (COMCABEAST), enclosures (3) and (4), briefed by LtCol Davis. The Mid-Atlantic Electronic Warfare Range (MAEWR) has been operational for one year and is expanding with CINCLANFLT support. The requirement for proficiency in high altitude bombing became apparent during Desert Storm. Training could be accomplished through a joint approach within the Department of Defense. The matter is being pursued and following a meeting in May at Seymour Johnson AFB, a draft tentative operational requirement document is awaiting 9th Air Force approval.

- Now that Myrtle Beach is closing, there is concern that we work together with the Department of the Navy so that we don't lose our airspace. We will work with TACWINGSLANT to see what steps need to be taken to preserve that space. (BGen Richwine)

d. Smith Lake Reservoir Expansion (MCCDC), enclosure (5), briefed by Col Lorenz, EACO. Stafford County is considering MCCDC's position. Quantico is monitoring this closely and there will be further reports to the Board.

e. Consistency Determinations Under Coastal Zone Management Act (EACO), enclosure (6), briefed by Col Lorenz. Any federal activity that affects land or water use or natural resource of the coastal zone is required to be consistent to the maximum extent practicable with approved state management plans.

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Enclosure (3)

f. Citizen Suits Under Clean Water Act (EACO), enclosure (7), briefed by Maj Mercier. MCCDC and Cherry Point were targeted by the Natural Resources Defense Counsel (NRDC) for citizen suits. Quantico had 600 violations reported. A settlement was reached just days before going to court. These are lucrative suits for the interest groups.

- It will take \$15 million to upgrade the wastewater treatment system at Cherry Point, \$60-\$80 million for Camp Lejeune and \$100 million to upgrade at Camp Pendleton. We are being compelled to meet the new standards and the more stringent requirements. Our plants here are fifty years old. (BGen Downs)

g. Atlantic Intracoastal Waterway Update (Trng&Ops, CLNC), enclosure (8), briefed by Mr. Steve Miko.

h. Greater Sandy Run Land Acquisition (Trng&Ops, CLNC), enclosure (9), briefed by Mr. Steve Miko. At present all four Congressional committees have passed this MilCon project. We see it as a "go" once all the bills are signed. We may be able to begin using the land by October 1992.

- \$41 million in the budget is for purchase of a large portion of the land, relocation of families and movement of power lines, not just for the land purchase. It is in both the defense authorization and defense appropriation bills. Unless the President vetoes them, the project will be good to go. One major issue will be air space. We have a meeting on the Greater Sandy Run Land Acquisition coming up to deal with that. We also need air space for artillery training, not just for flying. We have worked long and hard on this project. (BGen Downs)

- We probably won't get the money apportioned till late December 1991. (BGen Arick)

- The GSRLA would be a good case study for Land Use classes. (BGen Downs)

i. Environmental Fees, Taxes Update (EACO), enclosure (10), briefed by Capt Thelin. Marine Corps installation must pay charges assessed by a variety of state administered federal environmental laws if they are "fees," but not if they are adjudged to be "taxes."

j. Installation Restoration Program (Environmental Mgmt, CLNC), enclosure (11), briefed by Mr. Brynn Ashton.

- LantDiv had requested \$26 million to clean up activities in this region; they got about \$10 million. We have only \$2.5 million for clean up here at Camp Lejeune in 1991.

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- I have heard concern expressed about the money being spent for all the studies being done on candidate sites for cleanup and none being spent to actually clean things up. Albany has signed a MOU with EPA and the State of Georgia which will expedite clean up. We should have two sites cleaned up by early 1993 that we never anticipated getting started until 1994. (Col Finger)

- After being part of the problem for so long, EPA has now become part of the solution. They have become involved in the "doing" and have reduced paperwork. After Albany's success, we need to know what happened and use that information with EPA. We are now cleaning up after the "past abusers" who did some things that were legal at the time. We need to be in compliance with the present rules. We work hard to train people but we still have things that are being done that could result in folks going to jail. We need constant attention as low as at the company level to environmental awareness. Don't throw anything out that could fall into the category of hazardous material. Ensure that we plan when we buy equipment and materials that they won't cause environmental problems down the road. This country is spending hundreds of millions of dollars to clean up. And this doesn't include private industry. (BGen Downs)

- Albany has cut down the clean up time from five years to two years. (BGen Arick)

k. DOD and State Memorandum of Agreement (EACO/MCCDC), enclosure (12), briefed by Maj Mercier.

l. National Environmental Policy Act (NEPA) Documentation for Exercises (EACO), enclosure (13), briefed by Capt Thelin.

m. Personal Liability (Aberdeen Case) (EACO), enclosure (14), briefed by Colonel Lorenz. Installation commanders have the ultimate responsibility for compliance with environmental requirements and therefore run the risk of becoming liable. There is a need for an awareness of this risk. Emphasize compliance, promote training at every level, try to ensure continuity of personnel, and seek help if resources are inadequate.

- As commanders, we are responsible for meting out justice. We defend and try individuals accused of heinous crimes. Why do we not defend commanders when we defend the common criminal? (BGen Richwine)

- Why can't we provide defense for commanders and civilian workers when we can defend criminals? (BGen Downs)

- For state criminal prosecution, the federal government would provide or reimburse legal costs. (Mr. Peter Murphy)

- The Department of Justice policy would defend federal government personnel. (BGen Richwine)

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Enclosure (3)

- Cases were brought against people who had reason to know things were going on in their organizations and just chose to ignore it. I don't think that we as installation commanders need to go around being greatly concerned about being personally prosecuted. (BGen Downs)

- Camp Lejeune is a model for the preservation of the red-cockaded woodpecker. We have an abundance of this endangered species at Camp Lejeune. We have learned to live with the regulations and to cooperate with the environmental rules during our training. We used to have hundreds of violations and that has been reduced to less than ten. Marines who train here know the requirements and we abide by the rules. (BGen Downs)

- North Island Air Station is being prosecuted for environmental violations. DON had zero prosecutions and that is now up to three. (Mr. Peter Murphy)

- To cite the Exxon case: They received a penalty of a billion dollars. (BGen Downs)

- It almost appears that prosecutors are trying to find somebody in uniform to make an example of. There are more statistics each time this issue is presented of individuals being prosecuted for violations. (Mr. Murphy)

n. Investment in Public Relations, enclosure (15), not briefed; cited as information only.

o. Wetlands, enclosure (16), not briefed; cited as information only.

p. Relations Between Marine Corps and the State of North Carolina, (EACO), enclosure (17), not briefed; cited as information. The following comments were made:

- There will be a meeting in early December at which BGen Downs, in his capacity as Executive Director of the East Coast Regional Review Board, will meet with representatives from state government to improve communications. Our relationship with the state is a good one; we are communicating well. Certain elements within the state are not getting the answers they would like to hear. Everything involves so much paperwork. We do what we are legally required to do, but the state wants us to do more. (Colonel Lorenz)

- The state expresses frustration that they do not know who to deal with. We have the same concerns. We deal with elements of the state and have made good agreements and then somebody else in the state refuses to permit it. They look at it from a different angle. Our effort is directed at getting the interaction back to the working level. We need to decide what are the real issues and we will respond to the **OLW** that we have the

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Enclosure (3)

resources to do so. We will have interservice representation. This becomes a political issue. We want to keep this out of Washington. (BGen Downs)

- We have had several queries about joint use of the airfield at Cherry Point. I have told them I don't see it as beneficial to Cherry Point. (BGen Richwine)

2. The Executive Director adjourned the meeting at 1130.

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INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: GLOBAL AIR CARGO INDUSTRIAL COMPLEX

Background. In the 1991 Legislative Session, Governor Jim Martin made a presentation promoting the creation of a massive air cargo manufacturing complex in North Carolina whose purpose would be to serve as a "just-in-time" supply and shipment base for a variety of industrial manufacturers. Governor Martin's presentation envisioned a large industrial park centered around a massive airfield capable of moving cargo aircraft. The planes would ship in raw materials and export finished products to worldwide markets. The facility could create 30,000 jobs directly and 75,000 jobs indirectly through a trickle-down effect.

The site concept proposes an airport/industrial facility containing two 13,000 runways and two taxiways paralleling each runway. About 17,000 acres would be needed for the site. Large manufacturing plants would be anchored at either side and along each of the four taxiways. State economic developers are already courting several manufacturing firms including computer manufacturers, foreign car makers, and pharmaceutical companies.

Discussion. Representatives from the military air community have not been involved in the planning stages. The potential impacts for the military in eastern NC include: movement, loss or restriction of existing low level training routes, restricted areas and MOAs; impediment to obtaining additional future air-space needed for training.

Current Status. A feasibility study was commissioned by the Global Transpark Authority (created and funded \$6.5 million by the General Assembly in July 1991) and the results should be publicized by December. After it is justified that such a complex is feasible in this state, a site selection study will follow. Because of the locational needs of such a complex, it will be necessary to locate the facility within three hours of all NC's major metropolitan areas, but within an hour of one metropolitan area, and very near an interstate. Forty NC counties are already organizing individual efforts to attract the facility. Regions actively pursuing the park include Wayne County (home of Seymour Johnson AFB), the I-40 corridor, southeastern NC and northeastern SC and the Greensboro Triad. Eastern North Carolina has not formally organized an effort to attract the complex.

Prepared by: LtCol John Randell  
Community Plans and Liaison Officer  
MCAS Cherry Point, NC

**CLW**

Enclosure (1)

0000002126

INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: CHERRY 1 AND CORE MILITARY OPERATING AREAS

Background. The Supplemental Draft EIS, with a detailed Cumulative Effects Analysis (CAE), was approved by HQMC in March 1991. National, State and local agencies were afforded one more opportunity to respond to the document.

Discussion. All comments were received by mid-July. EACO is presently consolidating responses to these comments for inclusion in the Final Supplemental EIS. This should be completed by the end of this year at which time the document will be forwarded to HQMC for approval. Thereafter, the FAA will make a Record of Decision (ROD). This will complete an eight year process for approval of the MOA's.

Current Status. At EACO for final consolidation prior to forwarding to HQMC.

Prepared by: Colonel W. E. Bartels, Jr.  
Director of Operations  
MCAS Cherry Point, NC

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Enclosure (2)

INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: MID-ATLANTIC ELECTRONIC WARFARE RANGE (MAEWR)

Background. The MAEWR has been operational for one year.

Discussion. In its one year existence, the MAEWR's potential is just being tapped. In concert with the Bombing Targets (BT-9 and BT-11) and Tactical Aircrew Combat Training System (TACTS), the facilities in R-5306A have already proven their worth in Desert Storm. Additionally, CINCLANTFLT has just recommended surface to surface threat emitters be established in the Cherry Point/Lejeune complex. With the requirement for the fleet to cut costs (i.e., underway time), we can now expect 3-4 FLEETEX's per year (heretofore done in Puerto Rican Operating Area). Expanded surface to surface capability will afford realistic opposed amphibious assault scenarios in the Onslow area. Additionally, we will have the potential (in 3-4 years) to tie TACTS capabilities to surface platforms (i.e., LAV's, tanks, as well as ships). The follow-on to that is the inclusion of MILES into TACTS. The potential of our complex is unlimited.

Current Status. Operational and expanding with CINCLANTFLT support.

Prepared by: Colonel W. E. Bartels, Jr.  
Director of Operations  
MCAS Cherry Point, NC

CLW

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INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: HIGH ALTITUDE BOMBING

Background. After Desert Storm, the requirement for proficiency in high altitude bombing (above 25,000) became apparent. With the recognition that the facilities at Dare County (Navy and Air Force) and R-5306A have the potential to provide this training, a joint approach was adopted to pursue this matter. We are doing it first within DOD before presenting it to the State of North Carolina.

Discussion. In discussions in April 1991, officials from Cherry Point, NAS Oceana and TACWINGSLANT met to establish a tentative operational requirement (TOR) within DON. In May, we all met at Seymour Johnson AFB with representatives from the Air Force's 4th Wing and 9th Air Force Headquarters.

A draft DOD TOR was agreed upon at Seymour Johnson. The agreement has been staffed through the Navy and Marine Corps and is presently under review at 9th Air Force Headquarters, Shaw AFB, SC. The sensitivity of the issue with NC revolves around the Military Operating Areas (MOA's) and their operational requirement for low level flying. The MOA approval process is in the last months of an eight year evolution. This lengthy process was due, in part, to poor articulation to the State at the outset of the operational requirement. We are trying to prevent a recurrence of this lengthy process by first, establishing the OR (at DOD level once the Air Force finishes staffing) and second, by bringing the State into the process as we determine which facility (Dare County and/or Cherry Point) satisfies the requirement.

Current Status. Awaiting 9th Air Force approval.

Prepared by: Colonel W. E. Bartels, Jr.  
Director of Operations  
MCAS Cherry Point, NC

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INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: SMITH LAKE RESERVOIR EXPANSION

Background

- Midpoint of Aquia Creek marks approximately half the length of Marine Corps Base Quantico's southern boundary with Stafford County.
- 19 May 1966: Navy granted Stafford County 50 year reservoir easement for flooding portions of Marine Corps Combat Development Command (MCCDC) property in Aquia Creek watershed.
- Stafford County construction of Aquia Dam resulted in Smith Lake.
- Lake mostly on MCCDC. Dam/water treatment facility is in Stafford County.
- December 1988: Stafford County requested MCCDC to amend existing easement for dual purpose project:
  - To satisfy state/federal regulations for probable maximum flood: Improve dam/spillway
  - To accommodate future water demand from rapid growth in the north Stafford area: Double safe reservoir yield/increase water elevation 20 feet
- Proposal will flood an additional 70 to 100 acres of MCCDC land.
- Terrain is rugged/steep. Impact to military training is minimal.
- April 1989: Deputy Commander for Support, MCCDC denied Stafford request citing cumulative encroachment impacts and alternative County resources.
- Stafford County investigated ways to advance their goals under terms of existing easement. MCCDC held firm: Easement must be amended.
- May 1991: Stafford County cited watershed protection measures arising from increased fiscal commitment to Smith Lake may benefit MCCDC. Requested MCCDC to define conditions required for MCCDC support.
- MCCDC Encroachment policy dictates: Proposals to utilize MCCDC land for non-military purposes, not otherwise interfering with mission continuity, must mitigate negative cumulative encroachment effects by providing demonstrable benefits to the installation.

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0000002130 Enclosure (5)

Subj: SMITH LAKE RESERVOIR EXPANSION

- Proposal still accommodates growth in noise intensive area. MCCDC must have additional safeguards that development remains compatible with MCCDC current and projected mission objectives.
- Favorable water/sewer rate agreements will benefit MCCDC through acquisition of alternate resources and reduced fiscal expenditures.

Current Status:

- May 1991: Quid Pro Quo for MCCDC defined to Stafford County:
  - Pre-conditioned requirements:
    - County implemented land use compatibility standards for noise impacted areas adjacent to MCCDC.
  - Conditioned requirements:
    - MCCDC preferred-customer status, favorable rate, potable water and sewage treatment agreements.
    - County provide environmental documentation in accordance with federal law, DON and USMC policy.
- September 1991: County is considering MCCDC position

Lessons Learned:

- Win/Win scenarios require that both parties:
  - Desire to negotiate.
  - Recognize and respect each other's goals/objectives.
  - Seek and accept the best attainable compromise for both sides.

Prepared by: K. J. Oliver  
Community Planning Liaison Officer  
Marine Corps Combat Development Command, Quantico, VA

**CLW**

**0000002131**

Information Paper

East Coast Regional Review Board  
6 November 1991

Subj: CONSISTENCY DETERMINATIONS UNDER THE COASTAL ZONE MANAGEMENT  
ACT

Background. The Coastal Zone Management Act (CZMA) requires that federal activities that affect any land or water use or natural resource of the coastal zone be consistent to the maximum extent practicable with approved state management plans. The "coastal zone" consists of coastal waters and adjacent shorelands. Federal property is excluded from the coastal zone, but federal activities outside the coastal zone may produce impacts in the coastal zone.

In December of 1989 the North Carolina Coastal Resources Commission, under the apparent authority of the CZMA, adopted rules that would severely restrict military flight activity. Strict noise limits and minimum flight altitudes were set. The Department of the Navy informed the State that these proposed rules were federally preempted and unenforceable. The State has yet to submit these rules to the U.S. Department of Commerce (DoC) for approval, and military flight activity has been unaffected.

Despite the disagreement over the scope of the CZMA, substantial progress has been made over the past year in the procedural aspects of compliance with the CZMA. North Carolina requested mediation by the DoC when a dispute arose with the Marine Corps over the content of the "consistency determination" (CD) for the Mid-Atlantic Electronic Warfare Range. Mediation was recently concluded after the Marine Corps agreed to submit a clarification of the original CD using a format approved by the State.

Discussion. Along with the budget resolution last fall, Congress reauthorized the CZMA. The new act expanded its applicability to our activities in several subtle but important ways. Sec. 304 (5) continues to exclude federal lands from the definition of coastal zone. However, the test for an activity was expanded from the previous "directly affecting the coastal zone" to the current "affects any land or water use or natural resource of the coastal zone." (Emphasis added) These changes were made in an effort to give the coastal states greater control over offshore drilling, but they apply to military activities as well. We may no longer be able to avoid preparing a CD for all military activities which occur in or above the coastal zone.

Current Status. The Eastern Area Counsel Office continues to monitor all new projects and training proposals to determine how they are affected by the CZMA. The object is to comply with the law without providing unnecessary review (or control) to the state.

Prepared by: Colonel F.M. Lorenz **CLW**  
Eastern Area Counsel Office (Oct 91)

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Enclosure (6)

Information Paper

East Coast Regional Review Board  
6 November 1991

Subj: CITIZEN SUITS UNDER THE CLEAN WATER ACT

Encl: (1) Ex Dir, ECRRB ltr EACO 902030.N04 of 13 Nov 90  
(2) CMC ltr 6280 LFL/U-143 of 12 Jun 91

Background. Marine Corps installations are potential targets for lawsuits filed under the Clean Water Act by citizens and environmental groups. Two east coast regional commands have already been targeted for enforcement action.

Discussion. The Clean Water Act is the federal statute designed to maintain and improve the quality of the nation's waters. It prohibits any discharge into waters of the United States without a permit. This permitting program, called the National Pollution Discharge Elimination System or NPDES, is generally administered by the states under authority granted by the Environmental Protection Agency.

The Clean Water Act contains a provision that allows citizens or environmental groups to file a lawsuit against any person or organization, including the United States, for violating the terms of the NPDES permit. The proof needed to pursue these citizens suits is contained in documents filed with the state and readily available to the general public. If a violation can be shown, strict liability applies. Civil penalties of up to \$25,000 per day are authorized. The prevailing party is also entitled to recover attorney fees and the cost of experts used in preparing and presenting the case.

This topic was briefed before the Fall 1990 meeting of the East Coast Regional Review Board. Enclosure (1) forwarded the concerns of the Board members to Headquarters Marine Corps. Enclosure (2) contains Headquarters' response.

Current Status. MCCDC, Quantico, and MCAS, Cherry Point, have both been targeted for citizen suits by the Natural Resources Defense Counsel (NRDC), a national environmental organization. In the case of Quantico, a lawsuit was actually filed. Settlement was reached just days before the case was scheduled to go to court.

NRDC issued a notice in September of 1990 that it intended to sue the Air Station at Cherry Point. Since that time, the Air Station has responded to a number of requests for information submitted by the NRDC. Thus far, the ongoing communication has precluded the filing of a suit.

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Prepared by: Major D. B. Mercier  
Eastern Area Counsel Office (Oct 91)

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Enclosure (7)



INFORMATION PAPER

East Coast Regional Review Board  
6 November 1991

Subj: NRDC V. CHENEY, CIVIL ACTION NO. 90-1014-A (E.D. VA.)

Background:

- Natural Resources Defense Council (NRDC) filed Citizen Suit against DOD, DON and USMC for violations of Clean Water Act.
- Alleged Marine Corps Combat Development Command (MCCDC) violated National Pollutant Discharge Elimination Systems (NPDES) 591 times between August 1984 - July 1990.
- Relief sought by NRDC included:
  - Injunction against further pollution.
  - Civil penalties of \$25,000 per day for each day a parameter was violated.
  - Award of attorney fees and associated costs.
- NRDC's action was first in a series of NRDC suits against Naval and Marine Corps installations.

Discussion:

- Pivotal legal issue was extent to which federal installation is liable to pay civil penalties in Citizen Suits.
  - At risk was \$20M ++
- NRDC postured for "penalty" payment (or environmental mitigation payment.)
- Department of Justice (DoJ) attorneys did not support litigation of civil penalties issue.
- DoJ proposed compromise whereby parties would agree to be bound by the decision reached in another Clean Water Act pending decision in the Ninth Circuit.
  - DoJ recommended a "cap" to limit affect of adverse decision.
- Settlement:
  - Hire compliance consultant to do long/short-term study
  - Hire Environmental Compliance Coordinator.

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Enclosure (7)

## Information Paper

East Coast Regional Review Board  
06 November 1991

Subj: ENVIRONMENTAL FEES AND TAXES

Background. Marine Corps installations are assessed charges under a variety of State administered Federal environmental laws (Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, etc.). Federal agencies must pay such charges if they are "fees", but not if they are "taxes". The East Coast Regional Review Board has tasked the Eastern Area Counsel Office with analyzing and coordinating responses to the assessments received by East Coast Marine Corps installations.

Discussion. EACO continues to analyze and coordinate responses to suspect charges on a case by case basis. This approach has resulted in the resolution of a suspect charge associated with Underground Storage Tanks in North Carolina. Communication with the State led to the State taking the position that this charge is voluntary for federal facilities. EACO has recommended nonparticipation in this program.

Other charges analyzed include: North Carolina Hazardous Waste permit fees (legitimate fees), North Carolina Sedimentation Pollution Control fees (the State has provided a "fact sheet" which answers some, but not all, of our concerns), and South Carolina's Hazardous Waste Contingency Fund Fee (continue to advise MCAS Beaufort not to pay).

The Clean Air Act Amendments of 1990 required states to develop and operate new permit and permit fee programs. North Carolina has passed an Act to meet the requirements of the 1990 Amendments. This Act establishes annual assessments for air pollution permit holders and became effective on 04 July 1991. The fees, which are based on tons of emissions per year, range from \$2,000 to \$6,000 during the first year of the program. These fees increase dramatically in the second year of the program, ranging from \$2,500 to \$100,000 per year. Camp Lejeune will be facing a fee of \$25,000 next year. These fees will increase in the future. There is no question that these are legitimate fees payable by federal facilities.

Current Status. The current Marine Corps position is to examine all environmental charges to ensure that installations pay only legitimate fees and not impermissible state taxes. The Department of Defense is contemplating establishing a policy similar to that followed by the Air Force of presuming that all environmental charges are valid and payable unless they are clearly impermissible state taxes.

Prepared by: Captain R. W. Thelin  
Eastern Area Counsel Office (Nov 91)

**CLW**

Enclosure (10)

0000002135

Information Paper

East Coast Regional Review Board  
6 November 1991

Subj: DEPARTMENT OF DEFENSE AND STATE MEMORANDUM OF AGREEMENT

Background. In support of his obligation to clean up closed or abandoned hazardous waste sites aboard military installations, the Secretary of Defense has entered into agreements with a number of states. Often, the existence of these agreements are not known by the installations concerned until after the fact.

Discussion. The Defense Environmental Restoration Program was created as part of the federal statutory provisions that address hazardous waste cleanup. Under that program, the Secretary of Defense is directed to carry out environmental restoration at facilities under his jurisdiction. DoD is required to provide the opportunity for involvement by appropriate state authorities in several aspects of the program. To that end, in early 1989 DoD and a state working group developed model language for a Department of Defense and State Memorandum of Agreement (DSMOA).

The purpose of a DSMOA is to expedite the cleanup of DoD installations within a state and to ensure compliance with applicable state laws and regulations. While the DSMOA is a broad agreement of commitment between DoD and the State, it does not obligate nor commit funds. Funding is made available through a separate cooperative agreement executed between DoD and the state. These cooperative agreements do not involve individual installations, but rather cover all DoD installations within the state.

Available documentation reflects that DoD coordinated the original DSMOA proposal with the various services at the Assistant Secretary level. Contact with Headquarters Marine Corps has uncovered no active involvement in that process by Marine Corps officials. Individual installations may be contacted during the development of cooperative agreements.

Reimbursement funds to the state do not come from the installation's accounts. Requests for reimbursement are forwarded to DoD, and are paid out of the Defense Environmental Restoration Account (DERA).

Current Status. Virginia and South Carolina have each executed a DSMOA and a cooperative agreement. North Carolina has executed a DSMOA, and its cooperative agreement is presently under review. Georgia has executed a DSMOA, but has not yet entered into a cooperative agreement.

Prepared by: Major D. B. Mercier  
Eastern Area Counsel Office (Oct 91)

**CLW**

Enclosure (12)

0000002137

Information Paper

East Coast Regional Review Board  
06 November 1991

Subj: NEPA DOCUMENTATION FOR EXERCISES

Background. The National Environmental Policy Act, NEPA, requires a Federal agency to consider the environmental consequences of its proposed projects *before* deciding on a final course of action. NEPA requires the preparation of environmental documentation for all proposals for major Federal actions significantly affecting the quality of the human environment.

Discussion. There are two basic types of environmental documents; the Environmental Assessment (EA), and the Environmental Impact Statement (EIS). An EA is prepared when it is unknown beforehand whether or not the proposed action will significantly affect the human environment. These documents are usually 10-15 pages in length, and result in either a Finding of No Significant Impact (FONSI), or the conclusion that an EIS must be prepared. An EIS provides a detailed and full discussion of significant environmental impacts, alternatives to the proposed action, and plans to minimize or avoid adverse impacts.

EISs are normally prepared for actions such as the GSRA land acquisition, or the establishment of the Cherry I and Core MOAs. EAs are typically prepared for exercises like SOLID SHIELD, SOLAR FLARE, and OCEAN VENTURE. EAs are also required for smaller exercises under certain conditions. Such conditions include (but are not limited to): training exercises occurring on or over nonmilitary property; actions that would impact the quality or quantity of wetlands; training exercises on military property which are not categorically excluded and whose impacts are unknown or likely to be adverse; or any action for which the environmental effect is controversial.

Environmental consideration and documentation, if done correctly, is not always difficult, but does take time. Units planning actions that will require an EA should allot 2-3 months for preparation and approval. Noncompliance could result in further delays, increased costs, and bad public relations should someone challenge noncomplying Marine Corps actions.

Current Status. EACO has prepared a standard EA format. It lists subject headings and explains what type of information belongs in each section. Camp Lejeune's Environmental Impact Working Group has been provided with this standard EA format and has used it for two proposed off-base exercises. This standard format should make EA preparation and review easier and faster.

Prepared by: Captain R. W. Thelin  
Eastern Area Counsel Office (Nov 91)

**CLW**

Enclosure (13)

0000002138

Information Paper

East Coast Regional Review Board  
6 November 1991

Subj: PERSONAL LIABILITY FOR ENVIRONMENTAL VIOLATIONS

Encl: (1) Penalties for Violation of Federal Environmental Laws

Background. Commanders have the ultimate responsibility for ensuring environmental compliance within their organization. Several civil and criminal penalties are associated with improper environmental management. The "Aberdeen Case" highlights the consequences of a failure of environmental leadership.

Discussion. In the Aberdeen case, three senior (SES Level IV, GS-15, and GS-14) civil service managers, all chemical engineers at the Army's Aberdeen Proving Ground, were convicted of several counts of illegally storing, treating, or dumping hazardous wastes used in making chemical weapons. The guilty verdict was upheld on appeal. This case marked the first time criminal liability was imposed upon federal employees for intentional violations of environmental laws. The Aberdeen case is also significant in that it demonstrates that project managers and commanders can be held accountable for intentional criminal conduct while carrying out their official duties.

Penalties for criminal conduct can include imprisonment, steep fines, and the stigma of a criminal conviction. Under new federal sentencing guidelines the "Aberdeen Three" would each have to serve at least 10 months of confinement. In federal criminal cases, defendants who are federal employees must pay their own legal expenses (estimated in the Aberdeen case to be approximately \$25,000 for each defendant), even if they are found innocent. Personal liability insurance generally does not cover defense costs in a criminal case. The enclosure indicates the maximum penalties that can be imposed for civil (negligent) and criminal (willful, knowing) violations.

Current Status. A civilian employee at MCLB, Barstow was recently indicted by the State of California for improperly transporting hazardous waste on a public highway. A grand jury is currently hearing evidence concerning apparently intentional violations of endangered species laws at Fort Benning, Georgia. A civilian employee at NAS Adak has been indicted by a federal grand jury for Clean Water Act violations.

How to avoid liability. The four keys are: (1) COMMAND EMPHASIS on COMPLIANCE, (2) TRAINING at every level, (3) CONTINUITY for personnel working in these areas, and (4) SEEK HELP if resources are inadequate.

Prepared by: Major R. G. Conway, Jr.  
Eastern Area Counsel Office (Oct 91)

**CLW**

Enclosure (14)

0000002139

INFORMATION PAPER  
East Coast Regional Review Board  
6 November 1991

Subj: INVESTMENT IN PUBLIC RELATIONS

1. Background. Military installations are no longer isolated from major population centers. Over time, small communities that exist in close proximity to military installations have grown dramatically, usually because of the economic power generated by the particular installation, and today are larger and more complex. There is an attendant amount of public scrutiny that goes along with the "growth outside the gate," and for a very simple reason. People feel strongly that they have a right to know what takes place aboard military installations that might directly or indirectly affect their lives.

2. Discussion. Public scrutiny of activities aboard Marine Corps installations most often takes the form of news media coverage. For instance, Camp Lejeune is one of the major news generating activities within the general viewing area of three television stations, the circulation area of two newspapers, and the broadcast area of five radio stations. Controlling the news is impossible, but a great deal can be done to influence the overall approach taken by the news media, as well as the general attitude of the public toward a particular installation.

Of primary importance is the ability of the commander to see his/her installation as but one part of the overall community. By doing so, the commander will have taken the first step in making public relations pay dividends. The next step is a willingness to interact regularly with the communities outside the gate. This includes participation in community events, offering to help with community projects, speaking to local civic groups, etc.; all the common sense things a good neighbor does.

The most important step in conducting a successful public relations campaign is the willingness to share information. It has been said many times that information is power, and nothing could be more accurate. By taking a proactive, informative approach toward issues, commanders can build a bond of trust with the community outside the gate, and greatly alleviate some of the tension commonly residing there. This is where the public affairs officer can be of great assistance.

Allow the public affairs officer to deal openly with reporters. Let him/her provide rapid responses with the greatest amount of information. Dealing with the media in this manner will have an exponential affect on public opinion. Local citizens will see that issues are dealt with quickly and openly, and they will naturally develop a feeling of trust where the Marine Corps is concerned.

By taking an aggressive, proactive approach toward information, the commander will greatly enhance the image of the Marine Corps in the public's eye, and will most likely find the local community to be a committed supporter, rather than a suspicious neighbor.

**CLW**

Prepared by: Major J.C. Farrar, USMC

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## Information Paper

East Coast Regional Review Board  
06 November 1991

Subj: WETLANDS

Background. One of the hottest issues in the environmental arena today concerns the use or preservation of wetlands. Wetlands are regulated under the Clean Water Act. The federal definition of "wetland" was expanded in 1989 with the publication of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands. Proposed modifications to both the Manual and the definition of "wetland" will reduce the amount of wetlands subject to regulation. Under anyone's definition, the East Coast, particularly Camp Lejeune, contains large amounts of wetlands.

Discussion. Wetlands are important for a variety of reasons. From a scientific standpoint, wetlands: (1) are home for wildlife, including many commercial species of fish, (2) regulate flood waters, and (3) filter out pollutants. From a legal standpoint, wetlands are considered "waters of the United States" under the Clean Water Act. As such, a permit from the Corps of Engineers is required in order to fill wetlands. From a policy standpoint, both the Department of the Navy and the President have "no net loss" policies. These require installations that fill wetlands to mitigate that loss by creating or enhancing an equal or greater amount of wetland acreage elsewhere.

In addition to permit requirements and general guidance to stay out of wetlands whenever possible, involvement with wetlands has other ramifications as well. Chief among these is the need for environmental documentation under the National Environmental Policy Act, NEPA. Marine Corps Order P11000.8B requires the preparation of an Environmental Assessment (EA) for major federal actions that would impact the quantity or quality of wetlands. This could include major training exercises, even those occurring totally within federal boundaries. Moreover, the use of categorical exclusions to avoid preparation of an EA is not permitted if the proposed action would adversely affect a site that includes wetlands. For an installation like Camp Lejeune, this could result in EAs for most training operations.

Current Status. Regardless of a likely reduction in the amount of regulated wetlands in the near future, wetlands will remain a major consideration in Marine Corps actions on the East Coast. The President's and the Navy's "no net loss" policies will continue. Wetland avoidance and mitigation for unavoidable wetland destruction must be a part of the planning process.

Prepared by: Captain R. W. Thelin  
Eastern Area Counsel Office (Nov 91)

**CLW**  
Enclosure (16)

0000002141

Information Paper

East Coast Regional Review Board  
6 November 1991

Subj: RELATIONS BETWEEN THE MARINE CORPS AND THE STATE OF NORTH  
CAROLINA

Encl: (1) Briefing paper (absent enclosures)

Background. The State of North Carolina has been making direct contact with the Department of Defense for more than a year with complaints about the lack of communication between the State and the military. The State has argued that Department of the Navy activities, particularly Camp Lejeune and Cherry Point, were not responsive to State concerns on environmental matters. In response, an initiative from DoD suggested the formation of a group or committee to improve communications with the State. Ms. Jacqueline Schafer, Assistant Secretary of the Navy (Installations and Environment) (ASN (I&E)) recently met with State representatives to discuss their concerns.

Discussion. The enclosure is a briefing paper prepared for the ASN (I&E) that describes the history and present status of communication between the Marine Corps and the State of North Carolina as it concerns environmental matters.

Current Status. On 22 Oct 1991, the ASN (I&E) attended a meeting hosted by BGen Richwine at MCAS Cherry Point. Present were two representatives from the North Carolina Department of Environment, Health, and Natural Resources, Assistant Secretary for Environmental Protection, Edythe McKinney, and Assistant Secretary for Administration, Mike Wilkenson. BGen Downs was present both in his capacity as CG, Marine Corps Base, Camp Lejeune, and as Executive Director, East Coast Regional Review Board. As a result of this meeting, the ASN (I&E) will be initiating a proposal for a meeting between the State and the Marine Corps, in an effort to improve communications between the parties. BGen Downs will take the lead on behalf of the Marine Corps, and will coordinate appropriate representation with the other services within DoD. BGen Downs will be supported by the Working Group of the East Coast Regional Review Board, and the Eastern Area Counsel Office. The first meeting will likely occur in early December.

Prepared by: Colonel F. M. LORENZ  
Eastern Area Counsel Office (Oct 91)

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Enclosure (17)



## BRIEFING PAPER

Subj: RELATIONS BETWEEN THE MARINE CORPS AND THE STATE OF NORTH CAROLINA

1. Representatives of the State of North Carolina contacted the Department of Defense more than one year ago with complaints about the level of communication between the State and military activities. These representatives argued that Department of the Navy activities were not responsive to State concerns about environmental matters. A recent initiative from DoD suggests the formation of a group or committee to improve communications with the State.

2. BACKGROUND. When the initial complaints from the State were heard, relations with military activities were at a low ebb. There was substantial controversy over the Mid-Atlantic Electronic Warfare Range (MAEWR), and at one point the state "ordered" the Marine Corps to cease construction activities. There was a major disagreement over the application of the federal Coastal Zone Management Act and how the Marine Corps would certify "consistency" under the Act. State agencies argued for the inclusion of a "cumulative effects" analysis for all major new projects as part of the environmental documentation.

### 3. CURRENT STATUS

a. Communications with the State of North Carolina have improved substantially since the initial complaints to DoD. This has been true at every level, from the installation commanders to their environmental staff. Outstanding legal issues have been addressed and many have been resolved. The following summary describes the accomplishments over the past year.

(1) Governor's Advisory Commission on Military Affairs. This commission was re-established by executive order of the governor on 11 September 1991. Included in its duties are "to provide a forum for the discussion of issues concerning major military installations in the State" and to "[f]ormulate goals and objectives which enhance cooperation and understanding between the military components, the communities, our congressional delegation, the general public, and State, federal, and local governments." The Secretary of the State Department of Environment, Health, and Natural Resources, and the Commanders of Ft. Bragg, Camp Lejeune, and Cherry Point are permanent members. See Enclosure (1).

(2) East Coast Regional Review Board. This Board was established by Marine Corps Order 11011.22A and is composed of General Officers and Commanders of all East Coast Marine Corps installations. It meets twice a year and monitors environmental and encroachment matters impacting Marine Corps activities. In October 1990 a Working Group was formed to support the Board,

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Subj: RELATIONS BETWEEN THE MARINE CORPS AND THE STATE OF NORTH CAROLINA

with the goal of coordinating the efforts of Marine Corps installations and establishing consistent policies in dealing with state and Federal agencies. The Commanding General of Marine Corps Base Camp Lejeune is the Executive Director of the East Coast Regional Review Board. The Charter of the Working Group is provided as Enclosure (2).

(3) Eastern Area Counsel Office (EACO). This office is the newest field office of the General Counsel of the Navy, under the operational control of the Counsel for the Commandant. Established by Marine Corps Order 5800.12, EACO provides regional legal support in land use and environmental law to Marine Corps commanders in North and South Carolina. In February 1990, EACO was designated by the Commanding General, FMELant as a clearinghouse and coordination point for legal challenges to operational training in North Carolina. Lawyers from EACO began a direct dialogue with lawyers from the North Carolina Department of Justice on matters of mutual concern. EACO personnel regularly attend meetings of the North Carolina Coastal Resource Commission. In August of 1991 the annual conference for military attorneys sponsored by the North Carolina Attorney General included for the first time a session on environmental issues. This was accomplished at the request of Counsel, EACO.

(4) Examples of Staff Coordination at Marine Corps Base Camp Lejeune.

(a) Staff personnel from various departments at Camp Lejeune, including Environmental Management, Facilities, and Training and Operations, have regular contact with a variety of State agencies. This is particularly true with the various Divisions of the State Department of Environment, Health, and Natural Resources.

(b) Base personnel, and in particular Environmental Management personnel, have developed contacts with State personnel in local (Wilmington, Morehead City, Greenville) offices of the Divisions of Coastal Management, Environmental Management, Land Resources, Marine Fisheries, Water Resources, and Solid Waste Management. Issues dealt with at the staff level include permit application and issuance (wastewater, air, solid and hazardous waste), erosion control plans, consistency determinations, groundwater, and wildlife projects.

(c) For many years there has been a cooperative relationship between Camp Lejeune personnel and State Division of Wildlife Resources personnel on wildlife matters. This includes cooperation on hunting regulations, biological data, and endangered species information. Staff personnel also routinely contact Division of Coastal Management personnel with regard to water quality certifications under the Clean Water Act. **CLW**

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There is regular communication regarding the implementation of a Natural Heritage Survey of Camp Lejeune by State personnel to identify rare or threatened species/habitat aboard the Base. Finally, there is routine contact between staff personnel and the State Historical Preservation Officer regarding archaeologically significant sites on Base.

(d) The Governor appointed Mr. Julian Wooten, Assistant Chief of Staff, Environmental Management, as a member of the Marine Science Council. By action of the legislature, that council will dissolve effective 30 September 1991, but contact on matters of mutual concern continues.

(e) Camp Lejeune staff personnel have found that making informal contacts with the local level officials, and officials in Raleigh when needed, have been very beneficial in getting projects completed efficiently and effectively.

(5) Examples of Staff Coordination at Marine Corps Air Station Cherry Point.

(a) Air Station representatives routinely exchange information with personnel from the Department of Environment, Health, and Natural Resources in obtaining permits for new or expanded activities and facilities.

(b) Cherry Point personnel have coordinated with the Division of Coastal Management in deciding whether proposed activities are consistent with local and state plans and policies for coastal zone management.

(c) Marine Corps representatives have become involved in the activities of appointed boards, such as the Coastal Resources Commission and Environmental Management Commission, to assess the impacts of new state policy on federal activities.

(d) The Governor's administration has several projects in which the Marine Corps has communicated with the Department of Economic and Community Development. These include the planning and development of the proposed Global Air Cargo Complex, offshore drilling activities, and expansion of activities at the Morehead City and Wilmington ports.

(e) Cherry Point Natural Resources and Environmental Affairs Department communicates regularly with state government hazardous waste and groundwater specialists on remediation of existing hazardous material sites. Following a meeting earlier this year, state authorities acknowledged that they had mistakenly assessed a civil penalty of over \$175,000.00 against the Air Station for alleged RCRA violations. The **CLW**

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Subj: RELATIONS BETWEEN THE MARINE CORPS AND THE STATE OF NORTH CAROLINA

which had apparently misplaced documentation submitted by the Air Station, withdrew the penalty and issued an apology.

(f) Cherry Point sponsors a noise complaint program that provides a toll free telephone number for anyone wishing to file a complaint. Each report is reviewed, and each caller receives a personal telephone response from a Marine Corps representative.

(g) Marine Corps representatives deal with the State Department of Economic and Community Development (Business and Industry Development Section) in an effort to support small business development and improve employee placement both on and off base.

b. Most of the complaints from the State of North Carolina over the past two years have been over matters that are essentially legal issues. The State contends that military activities need to comply with various State and Federal requirements in two general areas:

(1) National Environmental Policy Act (NEPA). Several major new projects are under development in Eastern North Carolina by the Department of the Navy. These include the MAEWR, Cherry and Core MOAs, and the Greater Sandy Run Area (GSRA) land acquisition. The State argued that the Department of the Navy had to conduct a "cumulative effects analysis" (CEA) which covered all new and existing projects in the eastern part of the State. After some delay, the Department of the Navy decided more than two years ago to conduct a CEA for the MAEWR, Cherry and Core MOAs, and the GSRA. Very few CEAs for military activities have ever been written and the methodology and content had to be developed without clear precedent. After more than a year of preparation, receipt of comments and delivery to the State, they have gone on record objecting to the adequacy of the CEA. The Department of the Navy has taken the position that these documents are legally sufficient, and we have refused to redraft the CEA and delay these important projects further. This controversy seems to lie at the heart of many of the State's concerns about a lack of communication with military activities.

(2) Coastal Zone Management Act (CZMA). This federal law requires that military activities in the coastal zone be "consistent to the maximum extent practicable" with federally approved state management plans. The State of North Carolina has interpreted this to mean that the State can control certain military activities in North Carolina. For example, in December of 1989 the North Carolina Coastal Resources Commission adopted rules that would severely restrict military flight activity. Strict noise limits and minimum flight altitudes were set. The

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