



Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

February 15, 2012

The Honorable Richard Burr
United States Senate
Washington, D.C. 20510

Dear Senator Burr:

Thank you for your letter regarding the Agency for Toxic Substances and Disease Registry's (ATSDR) investigations at United States Marine Corps Base Camp Lejeune (Camp Lejeune). Your ongoing support of our Camp Lejeune investigations has allowed us to move forward in a scientifically comprehensive and valid manner. I have addressed your concerns below, and enclosed answers to your specific questions.

Please be assured that we are fully committed to maintaining an open and transparent process in our work at Camp Lejeune. ATSDR has developed feasibility assessments, study protocols, and study reports for its investigations and water modeling of Camp Lejeune volatile organic compound contamination in drinking water. ATSDR has subjected these plans and reports to review by experts outside the agency and the affected public using expert panels, peer review, and a Community Assistance Panel (CAP). The CAP sessions are open to the public and are live streamed on the internet. The ATSDR website hosts detailed information, meeting notes, and Camp Lejeune reports. We have not altered our efforts to ensure transparency and openness, and will not do so. If the United States Marine Corps (USMC) attempts to compromise our work or its transparency, we will invoke the dispute clause included in our memorandum of understanding with the Department of Navy (DON).

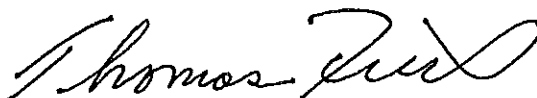
As you mentioned, on January 5, 2012, ATSDR received a letter from the USMC/DON raising installation security concerns at Camp Lejeune if certain information was published. The letter asked that we "*Review new information carefully to avoid releasing location information for active potable water wells, raw or treated potable water lines, water treatment plants with water storage tanks which may not be released to the public in coordinate, map, or other form.*" On January 19, 2012, ATSDR released a report titled *Chapter B: Geohydrologic Framework of the Brewster Boulevard and Castle Hayne Aquifer Systems and the Terawa Terrace Aquifer*. In keeping with the USMC request, ATSDR redacted longitude and latitude coordinates of active drinking water infrastructure from the report.

The security of military personnel and installations is a serious matter. ATSDR does not have the expertise to evaluate installation security at Camp Lejeune and cannot agree or disagree with the USMC that locations of active installation water system infrastructure are a national security concern. We made the limited redactions to the document because including the longitude and latitude coordinates of active drinking water infrastructure was scientifically unnecessary for the

purpose of the document. The redactions are consistent with a U.S. Environmental Protection Agency (EPA) position related to security risks of active public drinking water infrastructure.¹ EPA has concluded that it is prudent to restrict from public dissemination the latitude and longitude coordinates of well intakes, source water areas, and source water assessment program data. Redacting the document allowed us to balance the USMC base security concerns with our public health mission and resulted in the release of Chapter “B” within days of receiving the USMC letter from Major General Kessler. Since the redactions in the report were not made in response to a Freedom of Information Act request, ATSDR did not review in detail the legal basis for the USMC claims of force protection vulnerabilities. ATSDR has recently received a Freedom of Information Act (FOIA) request for the Chapter “B” information. Prior to making a final determination regarding redacting the longitude and latitude coordinates in accordance with the FOIA, ATSDR will consult with USMC/DON and review in detail the legal basis for USMC’s claims of force protection vulnerabilities, pursuant to FOIA and Department of Health and Human Services regulations.

We greatly appreciate your leadership and assistance with the ATSDR Camp Lejeune investigations and are committed to completing these investigations in an open, timely, and transparent manner using the best science available to us. If you have any additional questions about the Camp Lejeune investigations, please feel free to contact Dr. Richard Weston in the Centers for Disease Control and Prevention’s (CDC) Washington office at rtw8@cdc.gov or (202) 245-0600. The cosigners of your letter will also receive this response.

Sincerely,



Thomas R. Frieden, M.D., M.P.H.
Director, CDC, and
Administrator, ATSDR

Enclosure

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February 15, 2012

The Honorable Bill Nelson
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

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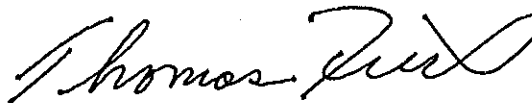
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February 15, 2012

The Honorable Brad Miller
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Miller:

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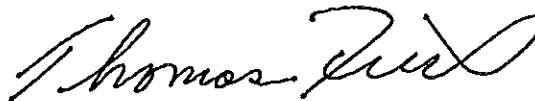
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The Honorable John Dingell
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Dingell:

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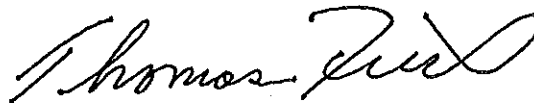
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The Honorable Marco Rubio
United States Senate
Washington, D.C. 20510

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The Honorable Kay Hagan
United States Senate
Washington, D.C. 20510

Dear Senator Hagan:

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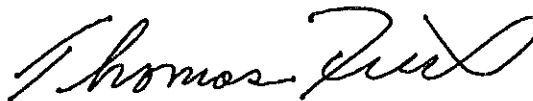
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CC:

Christopher Portier, Director NCEH/ATSDR

CDC ID Doc.ES 2195280, Burr et al

Prepared by Dr. Thomas Sinks, Deputy Director, NCEH/ATSDR, 770-488-0604

Contact Person: Sascha Chaney, 770-488-0604

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ATSDR Chapter "B" – Responses to Questions posed to Dr. Thomas Frieden

1. *When did General Counsel from ATSDR or the Centers for Disease Control (CDC) receive the January 5, 2012 letter from the USMC and when was the USMC notified that ATSDR had found the legal basis for the USMC's request to be legally valid? On what grounds of legal determination and justification was the request found to be valid? Did ATSDR staff provide any assurances to USMC that the USMC's concerns stated in the letter would be agreed to, prior to ATSDR's receipt of the letter?*

The CDC/ATSDR Office of General Counsel received a copy of the letter on January 5, 2012. Although we were aware of USMC's concerns prior to receiving this letter, we did not provide assurances to DON that we would agree to the USMC concerns before January 5, 2012.

The DON and CDC/ATSDR Offices of General Counsel initially discussed the issue of sensitive installation drinking water infrastructure during the summer of 2010. At that time, we did not identify a legal basis for defining the type or extent of information required to be released or withheld in an ATSDR document and the issue was referred back to appropriate program officials for further review. DON first defined the information they considered sensitive during a video conference call with ATSDR on December 9, 2011. We responded by e-mail stating *"While we are evaluating [your] concerns, we will not alter our reports until we receive specific requests we can act upon in writing."*

We take the security of military personnel and installations very seriously. ATSDR does not have the expertise to evaluate installation security at Camp Lejeune and we are not in a position to agree or disagree with the USMC that locations of active installation water system infrastructure are a national security concern. We made the limited redactions to the document because including the longitude and latitude coordinates of active drinking water infrastructure was scientifically unnecessary for the purpose of the document. We have not made a determination that USMC's request is legally valid.

2. *Did ATSDR or CDC counsel confer with their counterparts in the USMC, Department of Navy, or Department of Defense before validating the letter's legal justifications under Department of Defense internal instructions and FOIA Exemption 9 and, if so, was there any discussion of the ramifications and implications of redacting information not previously found to be "critical infrastructure" or "sensitive information" under the law?*

CDC/ATSDR counsel did not confer with USMC, DON, or DOD counterparts about the letter before we released the redacted version of Chapter "B." We follow FOIA procedures when releasing information requested by the public under FOIA. The release of this report, however, was not in response to a FOIA request, but part of ATSDR's public health work at the site. We are continuing to work with DON to address issues of disclosure of information that may impact installation security while preserving the integrity and transparency of our activities. ATSDR has recently received a FOIA request for the Chapter "B" report, including the redacted drinking water infrastructure information, i.e., the well longitude and

latitude coordinates. Prior to making a final determination regarding redacting the longitude and latitude coordinates in accordance with the FOIA, ATSDR will consult with USMC/DON and review in detail the legal basis for USMC's claims of force protection vulnerabilities, pursuant to FOIA and Department of Health and Human Services regulations.

- 3. Are there codified procedures, besides interagency Memorandum of Understanding, that have been used by ATSDR and/or CDC for past ATSDR studies containing unclassified, but potentially sensitive information, to determine if that information should or should not be withheld from the public? If so, please provide a copy of those procedures and advise us if they were applied and followed in this case? If they were not applied and followed, would those procedures apply in this case and why or why not?*

We are not aware of any codified procedures specific to ATSDR studies. Our memorandum of understanding with DON includes a dispute clause, which we will not hesitate to invoke if we feel that USMC is attempting to compromise our work or its transparency. We are committed to our public health mission and have not altered our efforts to ensure transparency and openness, nor will we do so.

- 4. What determination has been made by ATSDR or CDC that withholding the information redacted by Chapter "B" will not render the report invalid by peer reviewers and on what was that determination made?*

ATSDR documents go through an internal and external peer review process before they are released to the public. Peer reviewers analyzed an unredacted draft of Chapter "B," which was the basis for the review comments they provided to ATSDR. Following the peer review and subsequent suggested redaction, all involved ATSDR staff agreed that including detailed geographic locations of active drinking water infrastructure was not scientifically necessary for the purpose of this document and that the redactions would not diminish its scientific integrity.

- 5. In addition to peer review, did your agency also consider potential longer term ramifications from this most recent decision to redact information, to the extent it may encourage future requests from the Department of Defense to redact information in the public's interest by invoking national security concerns or adversely affect future FOIA requests from the public?*

Using the 2005 EPA memorandum as a guide, we are developing a policy on managing and accessing sensitive drinking water related information to ensure a long-term resolution of this issue. We are committed to following FOIA procedures and will invoke the dispute resolution in our memorandum of understanding with DON if we disagree on an issue, including national security concerns. Please be assured that the issue of base security does not affect how we conduct our work to determine human health risks from exposures to historic contaminated drinking water at Camp Lejeune.