

United States Senate

WASHINGTON, DC 20510
March 7, 2012

Daniel Levinson
Inspector General
Office of the Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, DC 20201

Dear Inspector General Levinson:

I write today with concerns regarding the Agency for Toxic Substances and Disease Registry (ATSDR) decision to redact information from one of ATSDR's recent reports on the Marine Corps Base Camp Lejeune water contamination. ATSDR is issuing a series of reports this year as part of the battery of studies the agency has been collecting data for since 1991. These statutorily mandated studies are the culmination of decades of diligent and tireless scientific investigation by ATSDR into the largest human exposure to toxins on record at a domestic Department of Defense (DoD) installation. The hundreds of thousands of veterans and their families who lived at Camp Lejeune are anticipating that the ATSDR reports will provide them with the information they need to become informed about the scope and severity of the water contamination and educate them on the possible association between their exposures and current and future health effects.

On January 27, 2012, I and five other Members of Congress sent a letter to the Director, Centers for Disease Control and Prevention (CDC) asking for an explanation of ATSDR's decision to redact specific information from ATSDR's Hadnot Point-Holcomb Boulevard Chapter "B" Report (hereinafter referred to as "Chapter B") after the USMC sent a letter to ATSDR on January 5, 2012, that cited internal Department of Navy instructions and a Freedom of Information Act exemption as justification for this specific redaction. Dr. Frieden responded to the Congressional letter on February 15, 2012, and indicated that neither ATSDR nor CDC General Counsels had reviewed the legal rationale for the USMC's January 5, 2012, request and instead relied on Environmental Protection Agency (EPA) guidance in determining that the information could be redacted. Dr. Frieden further justified his decision by stating the redactions would not dilute or diminish the scientific merit or accuracy of Chapter B.

Since the redactions were made in Chapter B and the report was released in January, one of the two researchers responsible for Chapter B has formally disagreed with the decision by ATSDR leadership to redact a portion of the report and sent a letter to the ATSDR Director stating that

the redactions removed specific data and information essential to the scientific process and conclusions within the report and “significantly compromises” the scientific value of the report (enclosed).

This issue is garnering significant attention in Congress and increasing in its urgency. Later this month, the Senate Judiciary Committee will hold a hearing to examine the issue of the Department of Defense (DoD) asserting various Freedom of Information Act (FOIA) exemptions to prevent public disclosure of what DoD refers to as “critical infrastructure/information” or CI/I. It is my understanding that the information redacted from Chapter B was not covered by the FOIA exemption cited by USMC, had not been formally identified by DoD as within CI/I, had already been available in the public domain for several years, and remains in the public domain on at least one government agency website and in reports published by government agencies.

I have the honor to serve as the Ranking Member of the Senate Veterans’ Affairs Committee and as a member of the Senate Health, Education, Labor, and Pensions Committee, which has jurisdiction over ATSDR and CDC. Moreover, I take seriously my oversight responsibility of ensuring the transparency and integrity of our nation’s public health programs and the agencies charged with investigating environmental exposure incidents and protecting the health of the American people, especially programs that have a direct impact on our nation’s veterans and their families. Consequently, I am deeply troubled by the lack of formal legal review conducted prior to ATSDR’s decision on redactions in Chapter B and I am concerned ATSDR may now be in the process of cooperating with DoD to redact information critical to public health from past, pending, and future Camp Lejeune reports. Therefore, I respectfully request that you investigate the prior and ongoing policies and practices at ATSDR and CDC with respect to the issues raised above. I further request that you examine the degree of formal and informal ATSDR and CDC communications with DoD, including Department of Navy and USMC representatives, regarding redactions of ATSDR reports on the Camp Lejeune water contamination in an effort to determine if the concerns I have raised have merit, and what, if any, actions should be taken by ATSDR and CDC to address these concerns.

Thank you in advance for your timely attention to this serious matter.

Sincerely,



Richard Burr
United States Senator

Enclosure: Letter from Robert E. Faye to Dr. Portier, ATSDR Director, dated February 19, 2012

Christopher J. Portier, Ph.D.
Director, NCEH/ATSDR
4770 Buford Highway, N.E
Building 106, Mail Stop F-61
Atlanta, Georgia 30341-3717

February 19, 2012

Dear Dr. Portier:

As the Hydrologist/Civil Engineer under contract to Eastern Research Group, Inc. (ERG), I am the sole author of ATSDR's Hadnot Point-Holcomb Boulevard Chapter B report, herein referred to as Chapter B. Oversight and review of Chapter B was provided by Mr. Morris L. Maslia, Project Officer for all of the ATSDR Camp Lejeune water-modeling activities. The purpose of my letter to you is to point out specific misleading statements in Dr. Frieden's letter of February 15, 2012, wherein he replies to the several Senators and Congressmen who questioned ATSDR's redaction of well coordinate data from the publicly released version of the Chapter B report.

I thought Dr. Frieden's letter was informative and generally to the point. However, several statements in Dr. Frieden's letter that comment on the scientific content of Chapter B are false and misleading. As the author of Chapter B, I consider it my ethical and professional responsibility to inform you of these misleading statements and I retain the hope that, at some future time, CDC/ATSDR will inform Congress of same.

The second sentence of paragraph 4 (page 1) of Dr. Frieden's letter states that "*We (ATSDR) made the limited redactions to the document (Chapter B) because the longitude and latitude coordinates of active drinking water infrastructure was scientifically unnecessary for the purpose of the document*".

This sentence is patently false on its face and, from a scientific point-of-view, borders on the inane and silly. The quoted statement also implies that an unprofessional or unethical endeavor was somehow in effect during the writing of Chapter B. Why would well coordinate data be included in the Chapter B report if not to support and document the scientific results and interpretations published therein?

Because well coordinate (control point) data were redacted from tables used to construct most of the top and thickness maps published in Chapter B, any attempt to reproduce the published maps using just the publicly released data would result in failure. Such failures would be increasingly pronounced with increasing depth of occurrence of the particular geohydrologic unit. For example, consider the map and related control point data for the Upper Castle Hayne aquifer-River Bend unit, a major water-bearing unit for supply wells in the study area (Figure B17, Table B15). Fully **33 percent** of the control points used to create Figure B17 were redacted from the publicly released version of Chapter B. Such deletions could not help but to change the published interpretations of the surface and

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thickness of this unit. Similar changes for similar reasons would accrue to the published results for the Middle Castle Hayne aquifer (Figure B25, Table B19), perhaps the most significant water-bearing unit for supply wells, where almost **50 percent** of the useful control point data were redacted. Redactions amounting to **33 percent** and **50 percent** of useful data are **NOT** the “*limited redactions*”, as stated in Dr. Frieden’s letter to Congress.

As you know, the geohydrologic unit control point data published in Chapter B were directly transferred, to the geohydrologic framework established for all Hadnot Point-Holcomb Boulevard groundwater-flow models. Thus, the redaction of well coordinate data from the publicly released version of Chapter B also significantly compromises any effort to reproduce the geohydrologic framework assigned to the project groundwater-flow models. These redaction issues, in my opinion, now call into question the reproducibility and scientific integrity of: (1) my analyses, (2) the Chapter B report in its entirety and (3) subsequent water-modeling reports for the Camp Lejeune historical reconstruction analyses.

In response to question #4 from the Congressmen and Senators (page 2?), Dr. Frieden’s letter states that “*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 (Chapter B) and that the redactions would not diminish its scientific integrity.*”

This statement is false and egregiously disingenuous, as I interpret it, or perhaps just poorly worded. Regardless, the uninformed reader is left with the impression that redactions of well coordinate (control point) data from Chapter B were a recommendation of the peer review process. As the author of Chapter B, I read and responded to **all** of the several peer review summaries regarding Chapter B, including those from Camp Lejeune and U.S. Navy personnel, and no peer reviewer ever recommended or even suggested that well coordinate data be redacted from the Chapter B report. (The ATSDR Project Officer, Mr. Morris Maslia, and the NCEH/ATSDR Deputy Director, Dr. Tom Sinks also reviewed all of the peer review summaries and my response to same in their entirety.)

In addition, the quote from Dr. Frieden’s letter states that “*all involved ATSDR staff*” agreed with or supported a decision to redact well coordinate data from Chapter B. Although the verbiage “ATSDR Staff” is somewhat ambiguous and I am just the author of Chapter B and not an employee of ATSDR, I want to state for the record herein that, as a matter of professional ethics and common sense, I did and do totally disagree with ATSDR’s policy decision to redact data. Furthermore, I believe that Mr. Morris Maslia, ATSDR’s Camp Lejeune Project Officer, forcefully expressed this same opinion to you and other ATSDR policy makers.

Dr. Portier, I believe my comments in the previous paragraphs substantially contradict the parts of the quoted statement regarding scientific necessity and the notion that redactions would not “*diminish*” the scientific integrity of the Chapter B report. In summary, I

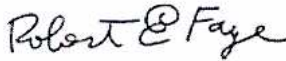
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strongly suggest that the redactions of well coordinate data, as evidenced in the publicly released version of Chapter B, do indeed **substantially compromise the technical and scientific integrity of Chapter B, and possibly, by extension, the results of the forthcoming water-model simulations.**

In passing, I note that well coordinate locations in Dr. Frieden's letter are consistently referred to in terms of latitude and longitude. Please note, that **ALL** well coordinate data in Chapter B are stated in North Carolina State Plane Coordinates, North American Datum of 1983. Even a casual reader of Chapter B would have realized that State Plane coordinates were the locators of choice. I am sure that if I or ATSDR's Camp Lejeune Project Officer had been given an opportunity to review the final draft of Dr. Frieden's letter for content and accuracy, this error would have been pointed out.

I hope these comments are helpful.

Sincerely,



Digitally signed by Robert Faye
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Date: 2012.02.19 20:27:22 -05'00'

Robert E. Faye P.E. MSCE

copy to:

Dr. Thomas Frieden, Director, CDC
Mr. Morris L. Maslia, P.E., DEE, ATSDR Project Officer