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SUBMITTED VIA EMAIL

Governor's Environmental Justice Advisory Council

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Lieutenant Grier Martin
Secretary, Department of Military and Veterans Affairs
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**Re: Comments in Response to Department of Military & Veteran Affairs'
Draft Environmental Justice Goals and Measurable Outcomes**

Dear Environmental Justice Advisory Council Members and Secretary Lieutenant General Gaskin:

On behalf of North Carolina NAACP, Emancipate NC, Down East Coal Ash Environmental and Social Justice Coalition, West End Revitalization Association, 7 Directions of Service, Danielle Koonce, Winyah Rivers Alliance, NC FIELD, Inc., Neighbors for Better Neighborhoods, Environmental Justice Community Action Network, North Carolina Conversation Network, NC Sierra Club, CleanAIRE NC, Toxic Free NC, The Lilies Project, North Carolina League of Conservation Voters, Duplin County Branch of NAACP, McDowell Local Food Advisory Council, UNC Environmental Justice Action Research Clinic, North Carolina Sustainable Business Council, Wake Forest Environmental Law and Policy Clinic, Dogwood Alliance, and Center for Biological Diversity, Southern Coalition for Social Justice and the Southern Environmental Law Center submit the following comments on the draft Environmental Justice Goals and Measurable Outcomes of the North Carolina Department of Military & Veterans Affairs. On October 24, 2023, Governor Roy Cooper signed Executive Order 292: Advancing Environmental Justice for North Carolina ("EO 292").¹ Section 7 of the order directed each cabinet agency to develop and submit to the Governor's Environmental Justice

¹ See Office of Governor Roy Cooper, Exec. Order No. 292, Advancing Environmental Justice for North Carolina (Oct. 24, 2023), <https://governor.nc.gov/executive-order-no-292/open>.

Advisory Council (“EJAC”) for public comment, at least three draft environmental justice goals and measurable outcomes.²

Below we address strengths of the proposed goals³ and some ways that we believe they could be improved to better serve environmental justice communities (“EJ communities”)⁴ in North Carolina, which we urge you to take into consideration. We have also provided alternate goals and measurable outcomes that we believe will better serve EJ communities, based on the existing statutory authority of the Department of Military & Veterans Affairs (“DMVA” or “Department”), that we urge you to consider.

EO 292 defines “environmental justice” as “the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, in agency policies and programming that affect human health, well-being, quality of life, and the environment, so that people: (i) are protected from disproportionate and adverse human health effects and environmental hazards, including: . . . the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment.”⁵ Using the EO 292 definitions for guidance, DMVA should develop environmental justice goals that operationalize this definition to mitigate disparate impacts from the legacy of racism and remedy the effects of environmental injustice in its work.

I. The Department’s draft goals should be revised to be more robust, recognizing that environmental justice touches all aspects of Department policies and programming that affect human health, well-being, quality of life, and the environment.

DMVA’s first draft goal should explicitly state the challenges in acquiring and using military data and should specify aspirational dates for acquiring and incorporating it into the Environmental Justice Mapping Tool (“EJ Mapping Tool”). Including military data in the EJ Mapping Tool, particularly if the data distinguishes between officers and enlisted ranks, will help identify especially vulnerable population centers even within EJ communities generally. This goal underscores the importance of a tool that can identify EJ communities so that the Department can overlay military data to focus interventions on veteran communities experiencing disparate adverse impacts due to environmental decisions. Even given certain limitations on this data, such as the fact that it can only

² *Id.* § 7.

³ See Dep’t of Military and Veterans Affairs, Draft Environmental Justice Goals (Feb. 23, 2024), <https://governor.nc.gov/dmva-environmental-justice-goals/download?attachment>.

⁴ As defined in EO 292, “‘Environmental Justice Communities’ or ‘EJ Communities’ means communities of color, low-income communities, or Indigenous communities that are experiencing, or are at risk of, disparate impacts as a result of the agency action under consideration.” Exec. Order No. 292 § 6.

⁵ Exec. Order No. 292 § 6(e).

track veterans who are availing themselves of government services or locations at the time of discharge, overlaying this information onto the other data included in the EJ Mapping Tool is likely to yield valuable insights.

The Department's remaining proposed goals, while certainly worth pursuing, can be more robust. Ensuring that Veteran Outreach events take place in EJ communities and evaluating veteran-to-Veterans Services Organizations ("VSO") ratios within EJ communities to assess whether Veterans Services Offices adequately serve EJ communities should be a part of day-to-day operations.⁶ Moreover, a deadline and metrics for measuring satisfactory veteran-to-VSO ratios in EJ communities should be included as part of the third draft goals.

However, the DMVA should consider that its mission brings it into close contact with some of the most vulnerable residents, who often live in EJ communities, who are, in fact, made more vulnerable by the effects of conditions related to their service. For example, Vietnam War veterans exposed to agent orange and Gulf War veterans exposed to a variety of chemicals on the battlefield and from burn pits may have compromised respiratory and immune systems and be even more susceptible than others the effects of chronic exposure to air pollution. We, therefore, urge the DMVA to consider implementing the goals discussed below.

II. The Department should develop its environmental justice goals deliberately to mitigate disparate impacts from the legacy of racism and other structural and systemic barriers against communities of color, low-income communities, or Indigenous communities.

There are many North Carolinians who served their country but who were dishonorably discharged for behaviors that may reflect their exposure to environmental harms or be a result of explicit or implicit racial bias. For these veterans, there are only four months remaining to obtain a change in discharge status to avail themselves of benefits under the Camp Lejeune Justice Act so that they can access the necessary medical care to address the impacts of those exposures. The DMVA should prioritize assisting these servicemembers with their change in status and should act to otherwise fill the gap left by the absence of federal services for these veterans. Doing so would benefit both the individual service members and their communities—many of which are EJ communities—as a whole.

⁶ *Veterans Service Organizations (VSOs): Frequently Asked Questions*, CONGRESSIONAL RESEARCH SERVICE (updated Feb. 6, 2024), <https://crsreports.congress.gov/product/pdf/R/R46412> ("Veterans Service Organizations (VSOs) offer a range of services for veterans, servicemembers, dependents, and survivors. Some VSOs may provide programming for veterans in their communities, such as job fairs; others may organize events to raise money for a subset of veterans, such as housing for homeless veterans.").

A. *The Department should evaluate its capabilities to assist veterans who have received other than honorable discharges, given the disparate impact of these discharges on service members of color.*

The Department should evaluate its capabilities to assist all veterans, including those who were discharged under other than honorable circumstances, given the history of racial and socioeconomic biases leading to a disproportionate percentage of veterans who are part of EJ communities having received such discharges, and consider the enormous individual, community, and social harms that result from depriving those service members of access to health care, mental health services, and housing assistance, which are federally restricted exclusively to those who received honorable discharges.

Studies show that service members of color have disproportionately received less than honorable discharges from service. During the Korean and Vietnam wars, the racism of these discharges was overt: the UNC Veterans Law Clinic describes having seen records of Black enlisted soldiers who were dishonorably discharged for being “uppity” with white superior officers. These servicemembers—who may suffer from post-traumatic stress disorder (“PTSD”), health effects from exposure to Agent Orange, and compromised employment prospects from their discharge status—are not entitled to federal Veterans Affairs (“VA”) benefits and services.

The modern iteration of this systemic problem is no less troubling. Men and women who served in conflicts in Afghanistan or the Middle East may have physical brain damage from being within blast radii, suffer PTSD and other mental health difficulties resulting from their service, be battling cancer or other illnesses from burn pits and other airborne hazards, and/or be coping with harm from toxic embedded fragments.⁷ Domestic service can also cause permanent damage, as evidenced by the contaminated water that harmed as many as one million enlisted individuals and their families at Camp Lejeune.⁸ These physical and emotional traumas can result in a range of behavioral outcomes, some of which, like the anger outbursts associated with PTSD,⁹ result in other than honorable discharges, thereby then depriving these individuals of essential treatment for conditions that directly result from their wartime service.

⁷ See, e.g., *Environmental Health Registry Evaluation for Veterans*, U.S. DEP’T OF VETERAN AFFAIRS, <https://www.publichealth.va.gov/exposures/benefits/registry-evaluation.asp> (last visited Apr. 22, 2024) (listing various health registries dependent on time period enlisted).

⁸ *Camp Lejeune*, CENTER FOR DISEASE CONTROL AND PREVENTION, <https://www.atsdr.cdc.gov/sites/lejeune/index.html> (last visited Apr. 22, 2024).

⁹ See AMERICAN PSYCHIATRIC ASSOCIATION, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 272* (5th ed.2013) (listing “[i]rritable behavior and angry outbursts (with little or no provocation) typically expressed as verbal or physical aggression toward people or objects” and “[r]eckless or destructive behavior” as diagnostic criteria).

These veterans are not only among the most vulnerable of our society, but also the ones who have sacrificed the most to sustain it. It invites a crisis of conscience to examine the structures that deprive these veterans of access to services such as housing assistance, veterans' homes, mental and physical health care, and recompense for devastating health conditions resulting from their service. The Department offers these services to honorably discharged veterans, who are also afforded similar federal benefits.

Many of these vulnerable veterans are members of EJ communities. They are very often people of color, a fact related directly or indirectly to their discharge through overt or implicit bias.¹⁰ They are also frequently low-income, since their other than honorable discharge status—even if the discharge was not for an act considered criminal in civilian society—inhibits their ability to be hired for desirable jobs. Black veterans in North Carolina suffer from homelessness at disproportionate rates, which exposes them to greater harm from environmental toxins and extreme weather events.¹¹ They lack basic benefits, both because they are locked out by federal VA requirements and because of their employment status.

For example, a late 1960s program, “Project 100,000,” lowered the mental and physical health standards for admittance into the Armed Services, promising wealth and prosperity for those who enlisted through the program.¹² This program disproportionately targeted Black and low-income populations for enlistment as “New Standards Men” in the program—40% of New Standards Men were Black, and 70% came from low-income backgrounds.¹³ One-third of enlistees (approximately 360,000) were discharged for absenteeism or disciplinary offenses, including 80,000 who received Dishonorable, Bad Conduct, or Undesirable Discharges.¹⁴ These discharges, coupled with the mental and physical toll associated with service,¹⁵ hindered veterans who should instead be uplifted for their service to our country.

¹⁰ TURNED AWAY: HOW VA UNLAWFULLY DENIES HEALTH CARE TO VETERANS WITH BAD PAPER DISCHARGES, OUTVETS 9 (2020), <https://legalservicescenter.org/wp-content/uploads/Turn-Away-Report.pdf>.

¹¹ See TERRY ALLEBAUGH & JENNIFER BIESS, STATUS OF VETERAN HOMELESSNESS IN NORTH CAROLINA (June 2016), <https://files.nc.gov/ncdmva/documents/files/homeless%20vet%20report.pdf>.

¹² Lisa Hsaio, *Project 100,000: The Great Society's Answer to Military Manpower Needs in Vietnam*, 1 VIETNAM GENERATION 14, 14 (1989), <https://digitalcommons.lasalle.edu/cgi/viewcontent.cgi?article=1014&context=vietnamgeneration#:~:text=Of%20these%2C%2080%2C000%20of%20them,serving%20their%20first%20eighteen%20months36..>

¹³ *Id.* at 16-17.

¹⁴ *Id.*

¹⁵ *Id.*; see also Robert Rosenheck et al., *The Unseen Wounds of War*, YALE MEDICINE MAGAZINE (2005), [https://medicine.yale.edu/news/yale-medicine-magazine/article/the-unseen-wounds-of-war/#:~:text=He%20already%20knew%20from%20his,in%20Vietnam%20would%20experience%20PTSD.\(estimating that nearly one-third of Vietnam veterans suffer from PTSD\).](https://medicine.yale.edu/news/yale-medicine-magazine/article/the-unseen-wounds-of-war/#:~:text=He%20already%20knew%20from%20his,in%20Vietnam%20would%20experience%20PTSD.(estimating%20that%20nearly%20one-third%20of%20Vietnam%20veterans%20suffer%20from%20PTSD).)

DMVA has a unique opportunity to focus its service on filling the gap created by the lack of federal services. It is in the best interests of veterans and the communities in which they reside to ensure adequate housing and physical and mental health care. The State of Connecticut, in response to a study by the Yale Veterans' Clinic, expanded its veteran services to cover those with other than honorable discharges.¹⁶ Given North Carolina's high proportion of active and retired military personnel, the DMVA should consider doing the same. Certainly, one of the Department's goals should be evaluating the prevalence of other than honorably discharged North Carolina service men and women, mapping their presence overlaid with EJ communities, and evaluating the Department's authority for and the anticipated societal benefits of expanding services to this population of veterans.

Finally, while the DMVA invests a large proportion of its resources in VSOs and assisting honorably discharged veterans in applying for federal VA benefits, it should consider devoting some of those resources to helping veterans who were discharged other than honorably. There are virtually no resources dedicated to assisting veterans seeking a change in or appeal of their discharge status. Three pro bono legal clinics, run by limited staff and law students at North Carolina Central University, the University of North Carolina, and Wake Forest University, are the only assistance available to veterans seeking to have their full benefits restored. The DMVA could add the contribution of its resources to this cause and assist with paperwork, documentation, and outreach to help more veterans—particularly those who were discharged for minor offenses that are not civil crimes—change their status such that they and their families are eligible for benefits.

The exclusion from benefits is particularly urgent because of the closing window for veterans and their families to file claims under the Camp Lejeune Justice Act. Untold numbers of veterans and their families who passed through Camp Lejeune from 1953 through 1987 drank, cooked, and bathed in water heavily contaminated with perchloroethylene ("PCEs"), trichloroethylene ("TCEs"), and volatile organic compounds ("VOCs"), including highly toxic benzene and vinyl chloride.¹⁷ Claims must be filed by August 10 of this year, but *veterans and the families of veterans who received other than honorable discharges are ineligible to apply* for relief from having been poisoned by the government in the course of their service. While the onus for this gap is undoubtedly on the federal government, the state DMVA could, over the course of the next four months, assist with changing the discharge status for at least some veterans who received other than honorable discharges based in racism or racial bias so that they and their families

¹⁶ CONN. GEN. STAT. § 27-103 (2022); see also Matthew H. Frame, *Benefits for Veterans Without Wartime Service*, CONNECTICUT GENERAL ASSEMBLY (Sept. 19, 2022), <https://www.cga.ct.gov/2022/rpt/pdf/2022-R-0155.pdf>.

¹⁷ *Camp Lejeune, North Carolina: Background*, CENTER FOR DISEASE CONTROL AND PREVENTION, <https://www.atsdr.cdc.gov/sites/lejeune/background.html> (last visited Apr. 22, 2024).

might be eligible for recovery under the Camp Lejeune Justice Act prior to the filing deadline.

B. DMVA should publicize opportunities and assist veterans in filing claims under the Camp Lejeune Justice Act of 2022.

The Camp Lejeune Justice Act of 2022, signed into law as Section 8 of the Honoring Our Promise to Address Comprehensive Toxics (“PACT”) Act allows people exposed to contaminated water at Camp Lejeune who later developed certain health conditions as a result to file a claim for recovery.¹⁸ However, the limited waiver of sovereign immunity allowing such recovery expires in August of 2024.¹⁹ Time is therefore of the essence, and many veterans and their families may not be taking advantage of these benefits because they do not know how to navigate the labyrinthine system of claims management and the deluge of attorneys offering various terms of representation.

More generally, the DMVA could identify a related goal of ensuring that veterans have adequate information about per- and polyfluoroalkyl substances (“PFAS”) and other chemicals that are particularly prevalent in the drinking water around military bases. This might include the identification of which chemicals were prevalent at which bases during which time periods and information on the health effects of exposure.

One potential environmental justice goal of the DMVA, therefore, could be to conduct immediate outreach and information sessions in EJ communities, particularly in areas known to home to a large percentage of Camp Lejeune veterans and their families, informing people of their rights and assisting them with the process of claims filing.

C. Scholarship programs could focus specifically on awards to EJ communities to mitigate disparate impacts that disadvantage children of veterans in EJ communities.

One further way that DMVA can mitigate disparate impacts to EJ communities is through the provision of scholarships to members of these communities. Currently, the Department offers scholarships through the North Carolina Scholarship for Children of Wartime Veterans. Currently, DMVA does not publicize any scholarship parameters beyond basic qualifying information; it is not clear whether there is any discretionary component to these awards. The Department can begin by assessing what percentage of current and recent scholarship awardees are members of EJ communities using the North Carolina EJ Mapping Tool to document its impact and identify the potential for

¹⁸ Camp Lejeune Justice Act of 2022, Pub. L. No. 117-168, 136 Stat. 1759 (2022).

¹⁹ *Id.* § (j)(2)(A).

greater awards to members of disparately impacted communities. Then, DMVA should evaluate its authority for discretionary awards to members of EJ communities.

At a minimum, the DMVA can take steps to promote and publicize its scholarship offerings in EJ communities through outreach events at high schools and community centers within populations identified as EJ Communities using the EJ Mapping Tool. The Department should create a draft goal providing dates and identifying locations and methods for such outreach and publicization, and develop intended outcomes around increasing applications from students in EJ communities by a set percentage, increasing stepwise from year to year, to measure the success of this goal.

D. DMVA could conduct a comprehensive assessment of the environmental health and justice impacts of DOD activities in North Carolina.

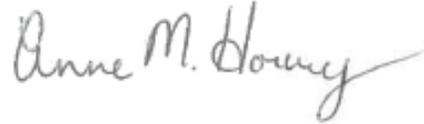
Finally, to further inform the efforts above and other DMVA programs, the Department could undertake a comprehensive assessment and analysis of the environmental exposures that may or do result from U.S. Department of Defense activities within North Carolina. This evaluation would assist and inform the DMVA's understanding of the health impacts to which the population it serves is most vulnerable.

It seems likely that a spatial analysis using the forthcoming EJ mapping tool will show that families of enlisted men and women in the armed forces disproportionately reside in low-income neighborhoods with nearby pollution sources. Integrating environmental justice considerations into its programming and leveraging interagency efforts to address environmental injustice will help to ensure that our military families are treated as well as other North Carolinians.

Once again, we appreciate the Department's efforts to consider the scope of environmental justice impacts on service members and veterans and hope you will consider our comments to further enrich these efforts. In addition to gathering data for inclusion in the EJ Mapping Tool and ensuring that its existing programs reach veterans in EJ communities, we advise that the DMVA develop more ambitious goals to fill the gaps in existing services for veterans who received other than honorable discharges as a result of overt or implicit racial bias in the military, assist veterans and their families in filing claims for exposure to contaminated drinking water at Camp Lejeune, expand scholarship program availability and outreach to ensure that they too reach EJ communities, and conduct a comprehensive assessment of environmental health and justice impacts from federal military activities.

Please do not hesitate to contact us if we can be of assistance as the DMVA finalizes its environmental justice goals.

Sincerely,

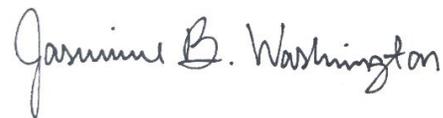


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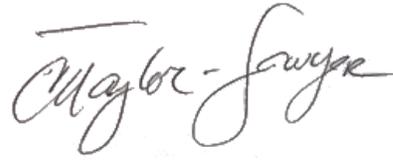
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