



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Law Department
One Commercial Place
Norfolk, Virginia 23514-3609
804 629-2836

Thomas W. Ambler
Assistant General Solicitor

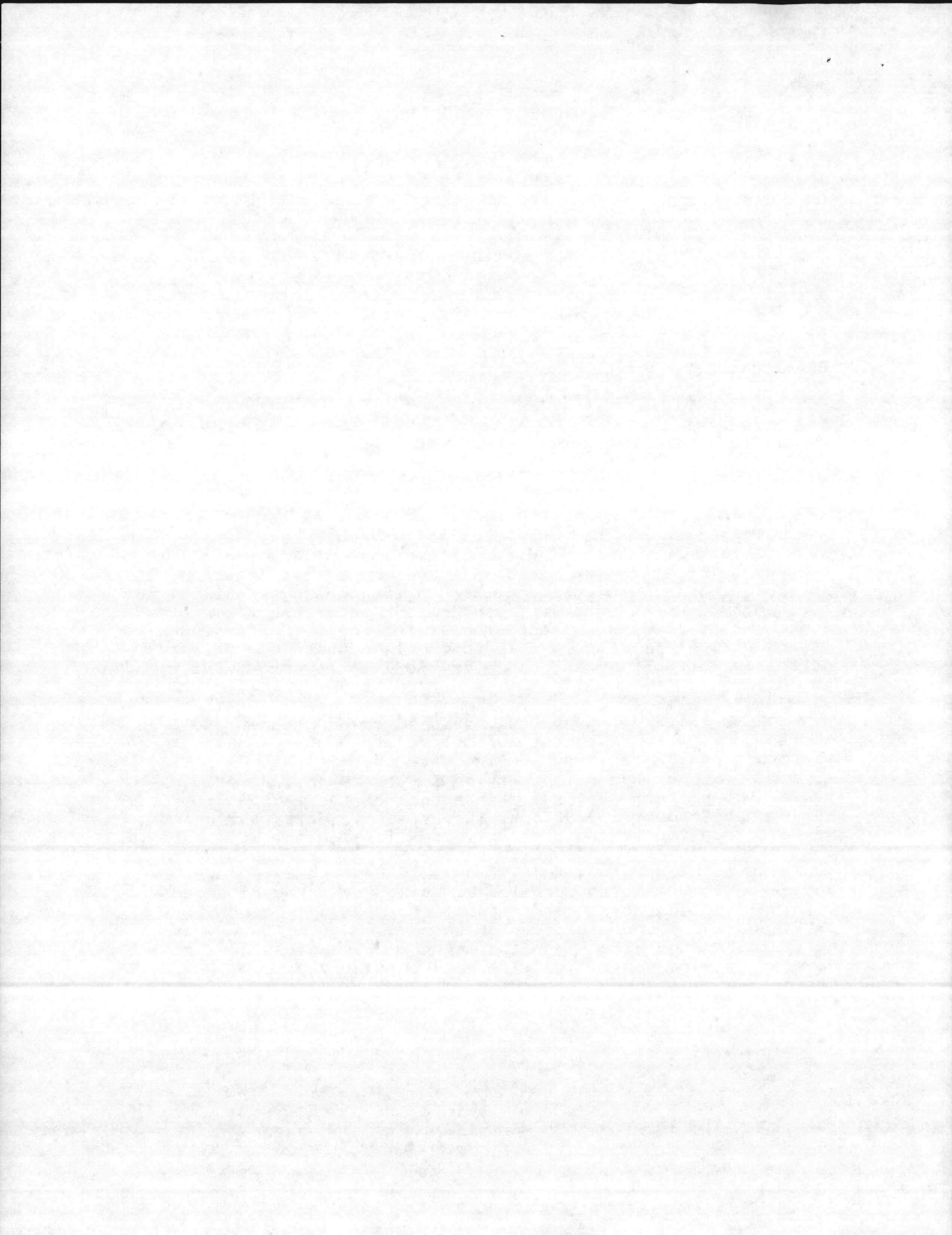
August 17, 1987

Ms. Frances M. Hoover
Head Operations Branch
Real Estate Division
Atlantic Division
Naval Facilities Engineering Command
Norfolk, VA 23511-6287

Dear Ms. Hoover:

This responds to your letter of November 28, 1986, to L. H. Smith, Jr. concerning the maintenance of the signals at six public crossings on the U. S. Government line between Havelock, North Carolina, and the Camp LeJeune Wye. This line is used by Camp LeJeune Railroad Company under the terms of a September 5, 1984, agreement it has with the U. S. Government. That September 5, 1984, agreement provides that, except for certain minor work, maintenance of the line is to be done by the U. S.

However, as we previously related in an October 28, 1986, letter to you, we have continued to maintain the signals at the six crossings. Since you now indicate that you are unwilling to compensate us for our expertise in this work, we have no choice but to turn over the maintenance of the signals to you. We suggest October 1, 1987, as the effective date, and unless we hear from you to the contrary, we will stop any such work on that date. We are also notifying the North Carolina Department of Transportation about this. You will note that we have indicated to the North Carolina DOT that the attached December 21, 1971, agreement is terminated in part as of October 1, 1987, and the responsibility for the crossings will be yours after that date. The signals at another five crossings are not covered by agreement. You will need to make your own arrangements with the North Carolina DOT.



Ms. Frances M. Hoover
Page Two
August 17, 1987

Incidentally, if after further consideration, you decide you want us to continue to maintain the signals for a fee, we remain willing to discuss that. Indeed, it may be that a meeting to discuss the situation would be beneficial for all concerned. However, we must now have prompt action.

Very truly yours,

Thomas W. Ambler

TWA/dwg

cc: Mr. J. M. Lynch
State Traffic Engineer
North Carolina Department of Transportation
Raleigh, NC 27611

Please note the above. Please also note that, to the extent Camp LeJeune Railroad Company and the Department of Transportation of the State of North Carolina's December 21, 1971, agreement concerning the protective devices at NC 24 is inconsistent with our new arrangement with the United States Government, the December 21, 1971, agreement is cancelled as of October 1, 1987, and that the responsibility for the crossing and signals after that date will be the responsibility of the United States Government. If you have any questions, please do not hesitate to contact me.

The six affected crossings are as follows:

<u>Road</u>	<u>Mile Post</u>
1. Sneed's Ferry Road	CL 0.00
2. Route 24	CL 3.15
3. SR 1413	CO 3.70
4. Belgrade Road	CL 12.60
5. Route 58	CL 16.20
6. Lake Road	CL 26.90

T. W. Ambler

cc: Mr. L. H. Smith, Jr. - 125-Camp LeJeune

CODE 09P CONTROL ROUTE SHEET

REAL ESTATE CONTROL NO. 665R

FILE NO. A0-89

LANTDIV CONTROL NO. _____

DATE RECEIVED 2-13

DATE OF CORRESPONDENCE 2-3

ACTION DUE DATE 3-2

ACTION CODE	24 _____	241 _____	242 _____
	24A _____	241A _____	242A _____
	24S _____	241A1 _____	242B _____
		241A2 _____	242B1 _____
		241A3 _____	242C _____
		<u>241B</u> _____	242C1 _____
		<u>241B1</u> _____	242S _____
		241B2 _____	
		241B3 _____	
		241C _____	
		241S _____	

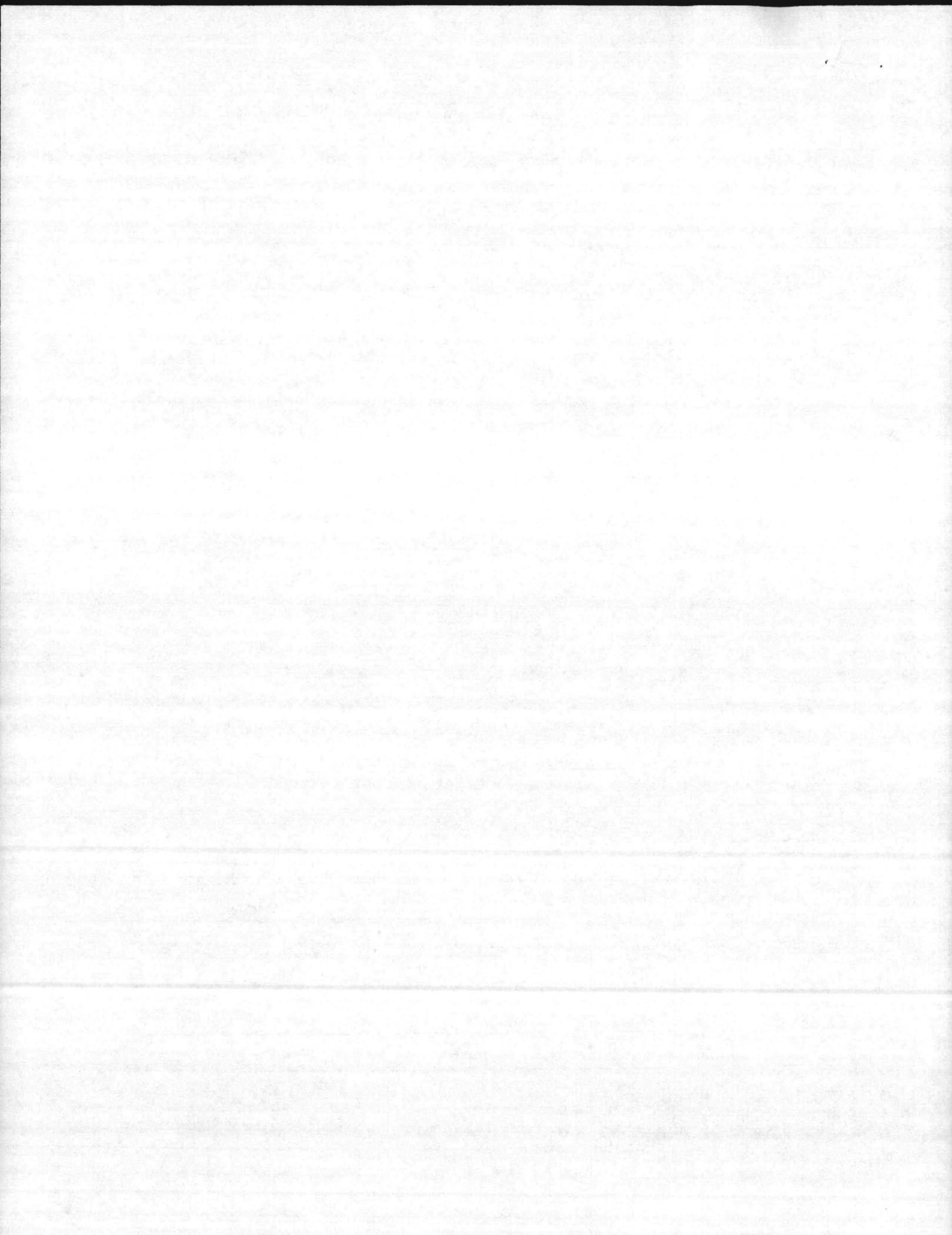
REMARKS you plan better special????

2/17/87 - REC'D A PHONE CALL FROM MR. JORDAN RE THIS LTR. HE SAID TO IGNORE IT AS HE HAD BEEN GIVEN IMPROPER INFORMATION. ANOTHER LETTER IS FOLLOWING - ACT UPON THAT LETTER - FILE THIS AS N.A.R.

ACTION COMPLETE DATE 2/17/87 INITIALS JW

SEQUENCE NO. ASSIGNED 2304 INITIALS mk

SEQUENCE NO. alt COMPLETED 2-17-87





UNITED STATES MARINE CORPS
Marine Corps Base
Camp Lejeune, North Carolina 28542-5001

IN REPLY REFER TO:

11000
PWO
3 Feb 1987

From: Commanding General, Marine Corps Base, Camp Lejeune
To: Commander, Atlantic Division, Naval Facilities Engineering Command,
Norfolk, VA 23511-6287 (Code 241B1)

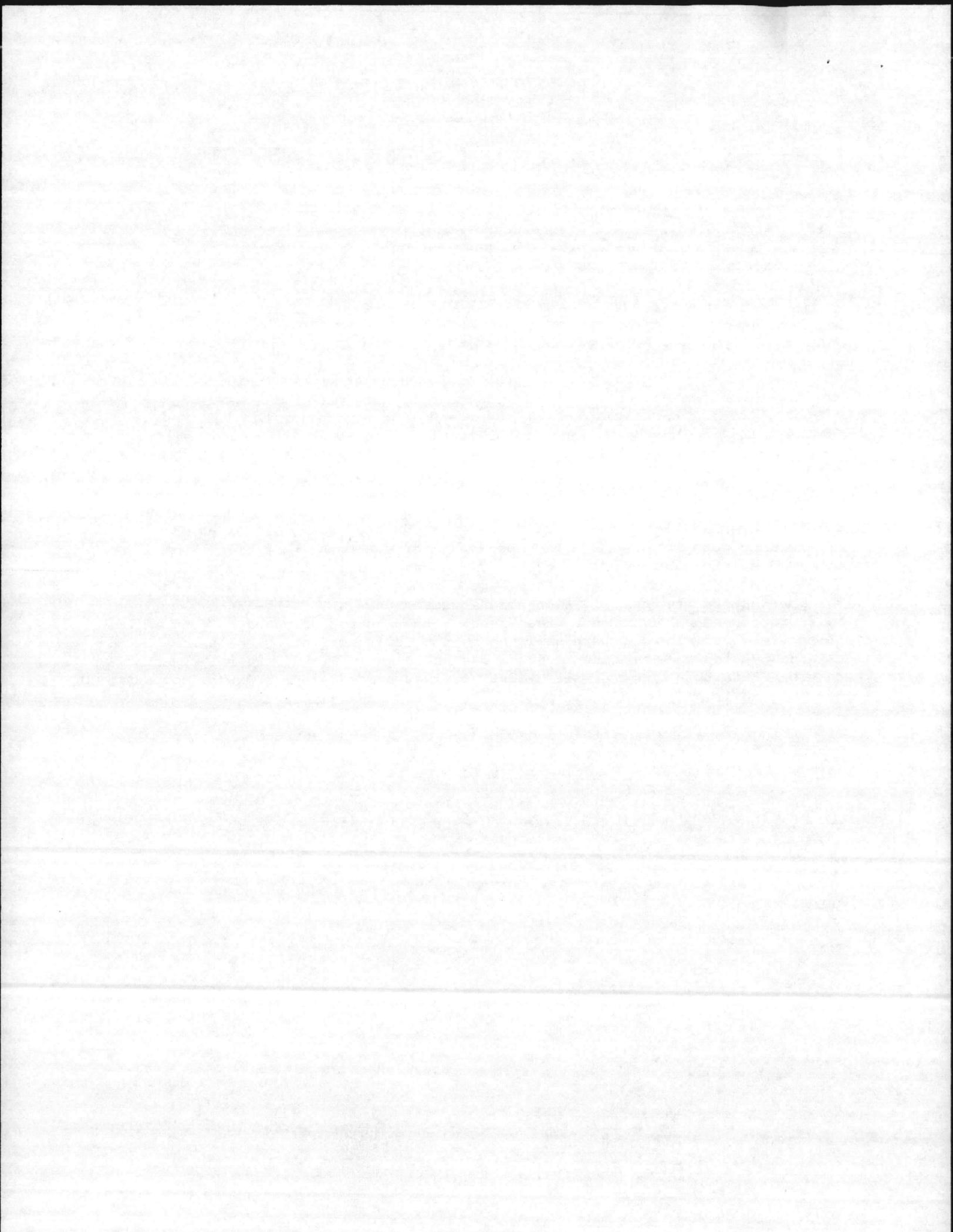
Subj: TRACKAGE AGREEMENT N62470-84-RP-00271, Camp Lejeune

Ref: (a) Your ltr AO-89 over 241B1 To CG, MCB dtd 28 Nov 86.

1. The reference requested a response as to what degree the Government has performed maintenance on Government trackage in accordance with its responsibilities under subject agreement and a determination be made whether Southern Railway has been requested to supply any services by this Command.
2. It has been determined from information as supplied by our Base Maintenance Division that the Government has not done any maintenance on the trackage and has requested Southern Railroad to provide certain maintenance for the crossing lights and signals whenever the need would arise, as Base Maintenance does not have adequate personnel or equipment to provide the required maintenance on the trackage or lights and signals.
3. The Base Maintenance Division has requested that due to the fact that the railroad trackage has recently been rebuilt to required standards a contract be entered into with Southern Railroad by the Government to cover basic maintenance and the crossing lights and signals until FY-88. It is projected that by FY-88 this Command will execute a fixed price contract with a company for the repair of the railroad trackage, lights and signals.
4. If there are any questions contact Mr. John Jordan, Realty Specialist, Public Works Division, at Autovon 484-2818 or Mr. Greg Shoemaker, Planner/Estimator, Base Maintenance Division at Autovon 484-5796.

✓
T. L. HUGUELET
By direction

Copy to:
FAC



804-445-2375

AO-89
241B1
28 NOV 1986

From: Commander, Atlantic Division, Naval Facilities Engineering Command
To: Commanding General, Marine Corps Base, Camp Lejeune

Subj: TRACKAGE AGREEMENT N62470-84-RP-00271, CAMP LEJEUNE

Encl: (1) Southern Railway System Itr 125-Camp Lejeune of 28 Oct 86

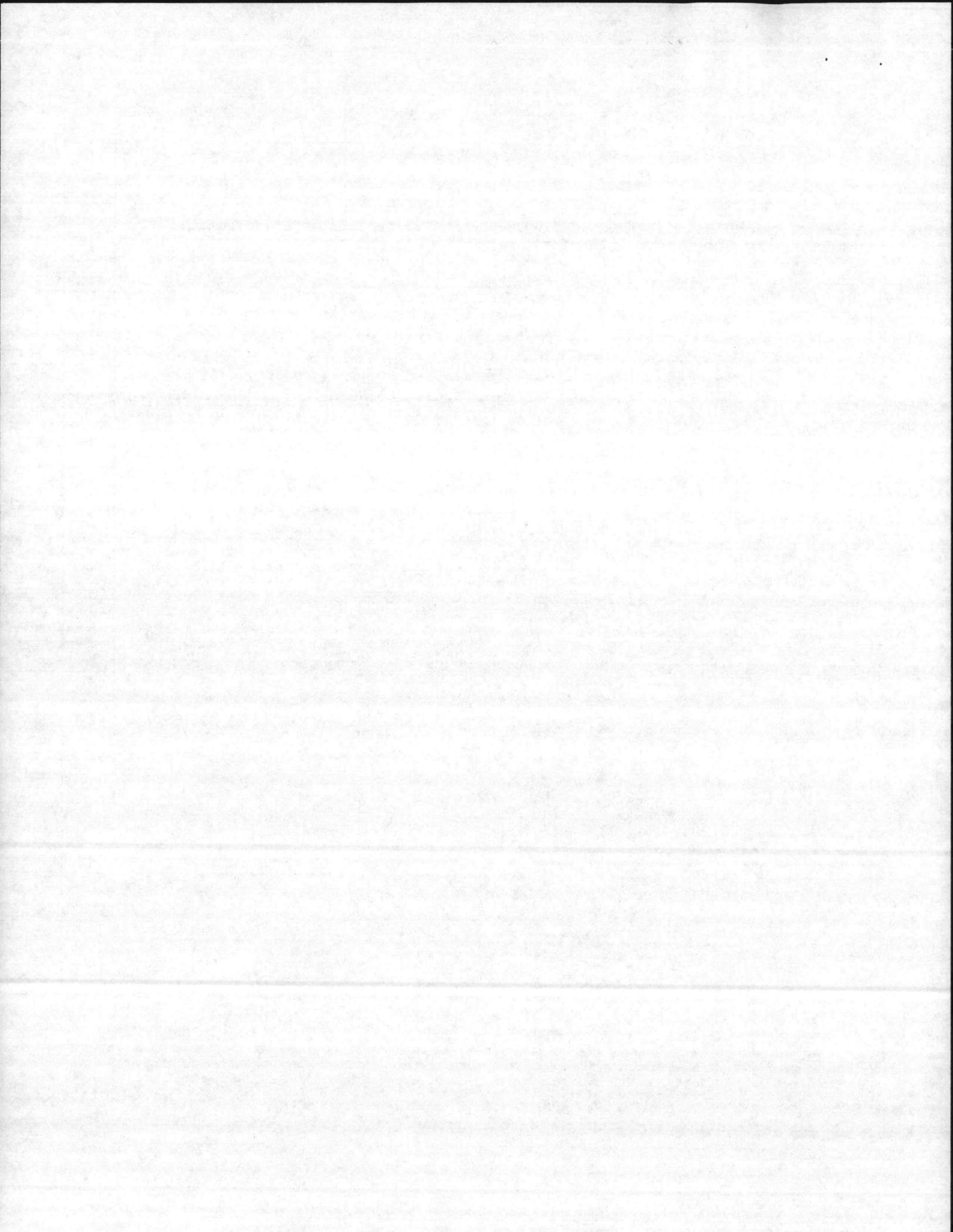
1. Subject Agreement was effective 1 September 1984. Article 2, OWNERSHIP AND MAINTENANCE OBLIGATION, states: "The GOVERNMENT shall maintain at its own cost and expense aforesaid GOVERNMENT TRACK, INCLUDING ALL SIGNS AND MARKERS (emphasis added) for safe and efficient operation." Please ascertain to what degree the Government has performed in accordance with its responsibilities under Article 2.
2. Enclosure (1) is forwarded for your review. Please determine whether Southern Railway has been requested to supply any of these services by your Activity. If so, please provide a copy of all relevant documents.
3. We would appreciate your reply by 15 December 1986. Point of contact in this Command is Mr. F. Lee Warren, AUTOVON 565-2375.

FRANCES M. HOOVER
By direction

*12/19/86
Plw is by
Called J. Jordan
who was someone
of who who to
J. Jordan
2/3/89 - J. Jordan called,
said activity HAD AGREED
to do as some work
but had no RECORD of it.
I told him to check &
DESIST until we could
either get an agreement
or cancel it.*

Ted

R/O	CODE	INIT & DATE
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	24	<i>mtt</i>
Drafter's Name		<i>WARREN</i>
Typed By		<i>ott</i>
Date Prepared		<i>11-28-86</i>
R/S No.		<i>1743F</i>



Southern Railway System

Transportation Department

Eastern Lines

Atlanta, Georgia 30303

L. H. SMITH, JR.
GENERAL MANAGER

October 28, 1986

99 SPRING STREET, S.W.
TEL: (404) 529-1323

125 - Camp Le Jeune

Mr. R. H. Swiader
Head, Operations Branch
Real Estate Division, Atlantic Division
Naval Facilities Engineering Command
Department of the Navy
Norfolk, Virginia 23511-6287

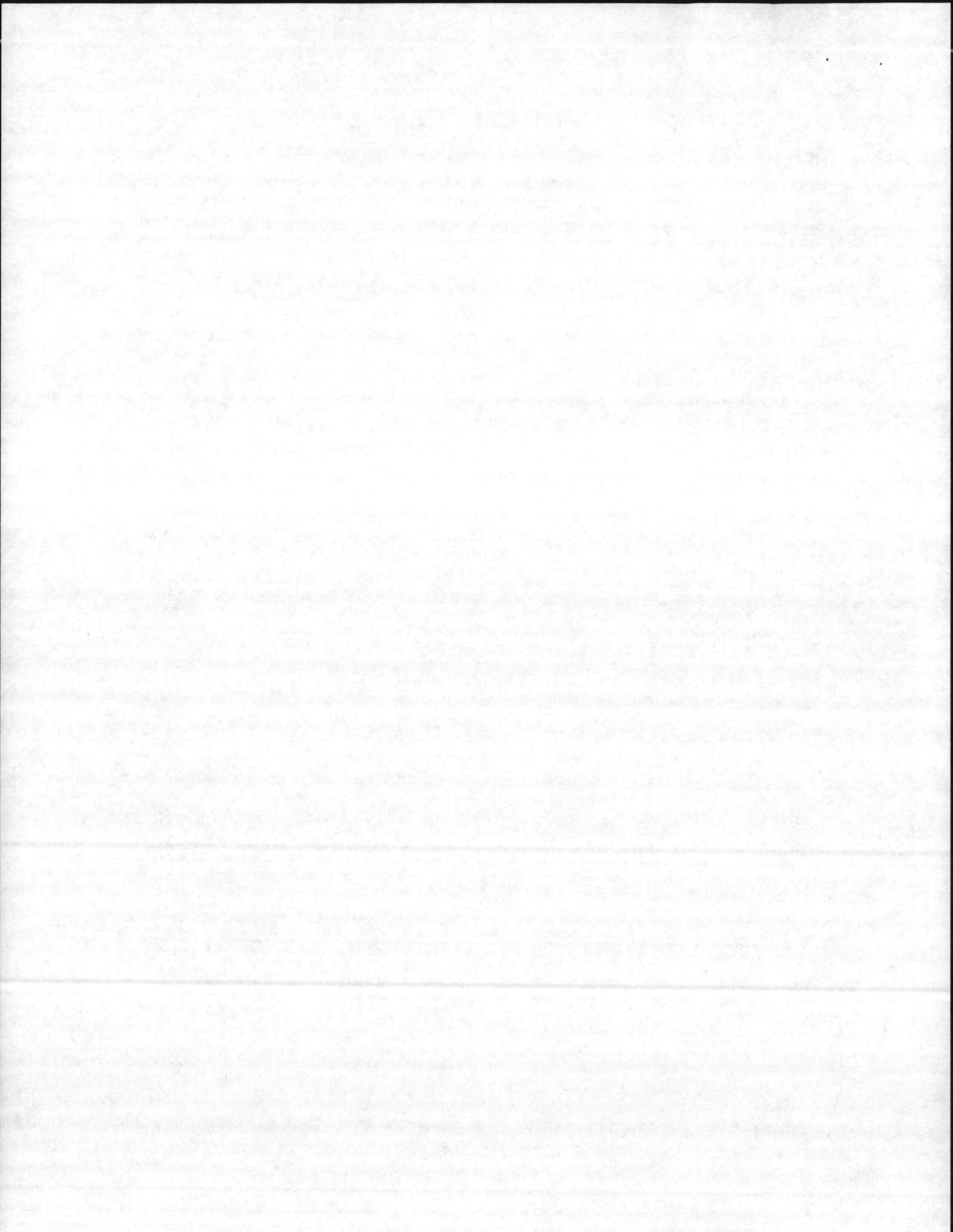
RE: Trackage Agreement - N62470-84-RP-00271,
Effective September 1, 1984 between Camp
LeJeune Railroad Company and United States
of America - Concerns track between Havelock,
North Carolina and Camp LeJeune, North
Carolina.

Dear Mr. Swiader:

Although the provisions of the captioned agreement state otherwise, Camp LeJeune Railroad Company has continued to maintain the signals at six public grade crossings crossed by the trackage covered by the captioned agreement. We are willing to continue to do this, but wish to cover the work by a Second Supplemental Agreement.

We have prepared such an agreement, and it is attached. Please review this proposed agreement, and if you find it to be acceptable, please have all three originals signed on behalf of the United States of America and return them to me for further handling.

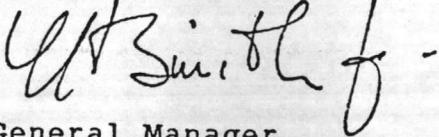
As information, our yearly inspection fee is based on a charge of \$1,438.00 per crossing. Also, our charge for work done between September 1, 1984 and July 31, 1986 is based on a regular maintenance fee of \$16,531.25 and service calls at a cost of \$2,498.69.



Mr. R. H. Swiader
October 28, 1986
Page 2

Incidentally, we failed to retain one original of the First Supplemental Agreement dated January 15, 1985. Please return one original of that agreement to me for our records.

Very truly yours,


General Manager

SECOND SUPPLEMENTAL AGREEMENT TO
TRACKAGE AGREEMENT N62470-84-RP-00271

THIS SECOND SUPPLEMENTAL AGREEMENT, made this ____ day of _____, 198__, by and between CAMP LeJEUNE RAILROAD COMPANY, a corporation organized and existing under the laws of the State of North Carolina, hereinafter called the RAILROAD and the UNITED STATES OF AMERICA, acting by and through the Department of the Navy, hereinafter called the GOVERNMENT;

W I T N E S S E T H:

WHEREAS, by virtue of Trackage Agreement N62470-84-RP-00271, effective 1 September 1984, RAILROAD, an affiliate of the Southern Railway Company, entered into an agreement with the GOVERNMENT to supply rail service over GOVERNMENT TRACKAGE to the Marine Corps Base, Camp LeJeune, North Carolina; and

WHEREAS, by Guarantee Agreement attached to the aforesaid Trackage Agreement N62470-84-RP-00271 as Exhibit "B", SOUTHERN RAILWAY COMPANY, agreed to guarantee the performance of its affiliate, CAMP LeJEUNE RAILROAD COMPANY; and

WHEREAS, said Trackage Agreement N62470-84-RP-00271 was modified by a FIRST SUPPLEMENTAL AGREEMENT dated 15 January 1985 between RAILROAD and GOVERNMENT to provide for certain emergency maintenance work by RAILROAD, said Trackage Agreement N62470-84-RP-00271, as amended, being hereinafter together sometimes called the AGREEMENT; and

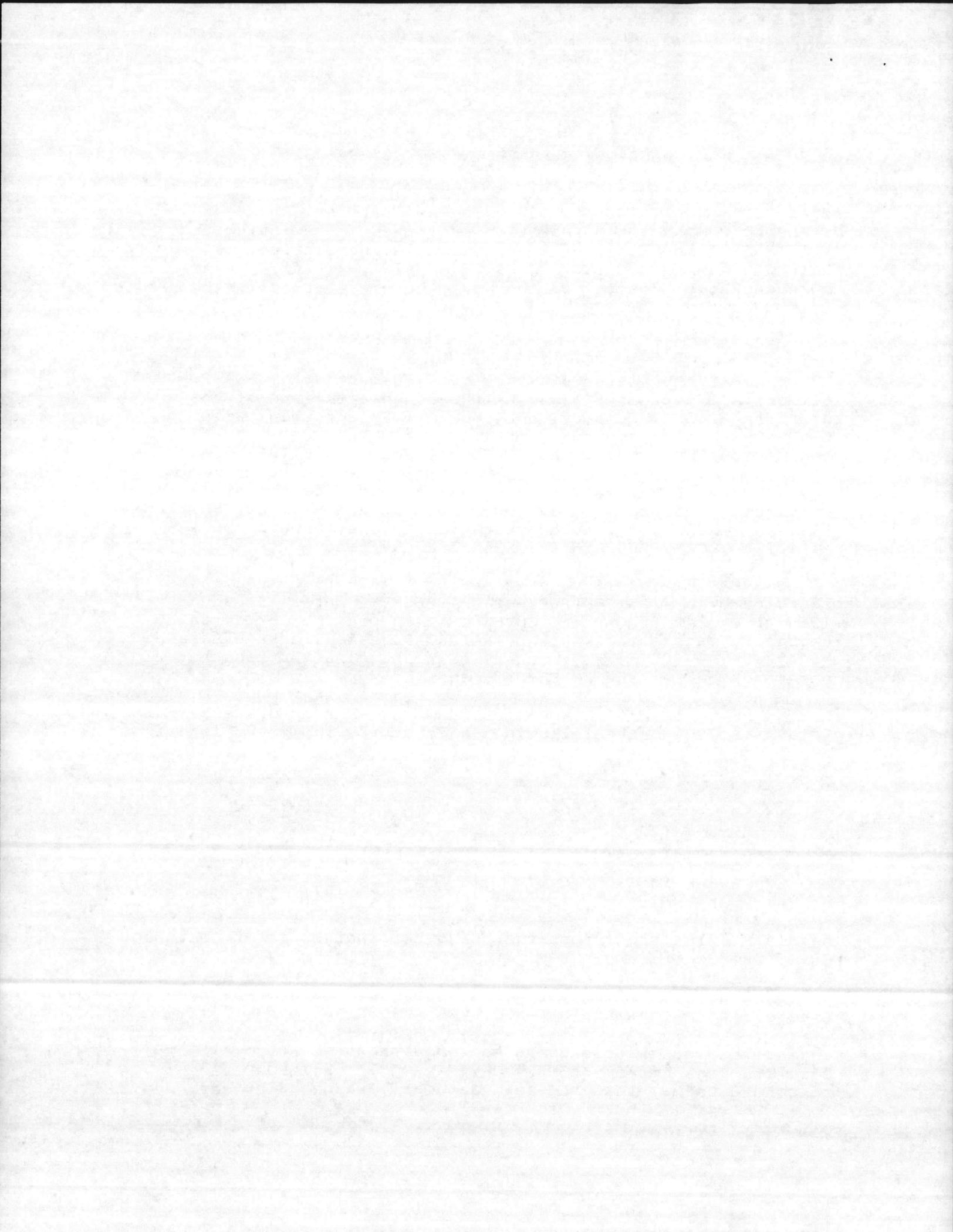
WHEREAS, said GOVERNMENT TRACKAGE crosses at grade certain roads, including the following roads at the indicated locations:

<u>Road</u>	<u>Mile Post</u>
1. Sneed's Ferry Road	CL 0.00
2. Route 24E	CL 3.15
3. SR 1413	CL 3.70
4. Belgrade Road	CL 12.60
5. Route 58	CL 16.20
6. Lake Road	CL 26.90

said six (6) listed crossings being hereinafter referred to as GRADE CROSSINGS; and

WHEREAS, automatic warning devices have heretofore been erected and maintained at said GRADE CROSSINGS; and

WHEREAS, notwithstanding the provisions of Article 2 of said Trackage Agreement N62470-84-RP-00271, RAILROAD has continued to maintain the said automatic warning devices; and



WHEREAS, GOVERNMENT has requested that RAILROAD continue to perform the said maintenance at the cost of GOVERNMENT; and

WHEREAS, RAILROAD is willing so to do upon the following terms and conditions;

NOW, THEREFORE, the parties hereto agree as follows:

1. RAILROAD will continue to maintain the existing automatic warning devices at the said GRADE CROSSINGS referred to hereinabove.

2. a. Railroad will inspect and service the said warning devices one (1) time each month making such tests and adjustments as it normally would do on similar devices on its line of railroad.

b. During the regular monthly inspection, RAILROAD shall have no obligation to provide new or replacement parts or to provide any machine work without receiving those additional payments specified in Article 4b hereof. In the event new parts, structural changes or machine work are required the same shall be provided by RAILROAD at the sole cost and expense of the GOVERNMENT, and installed by RAILROAD, such installation to be at the sole cost and expense of GOVERNMENT. If vandalism or damage occurs to said warning devices, GOVERNMENT shall also pay to RAILROAD, over and above the annual payment, all costs for repairs and/or replacements of said vandalized or damaged crossing signals.

c. RAILROAD will upon written request submit a copy of any inspection record or report to an officer of GOVERNMENT designated to receive such reports.

d. RAILROAD will respond to SERVICE CALLS, herein defined as all calls other than the regular monthly inspection and servicing (SERVICE CALLS being defined to include, but not be limited to, those made under Article 2b hereof). All SERVICE CALLS shall be directed to: Chief Dispatcher Eastern Division, Southern Railway Company, Greensboro, North Carolina, present telephone 919-370-2400. RAILROAD may, upon written notice to GOVERNMENT, from time to time change the person designated for receipt of SERVICE CALLS.

3. GOVERNMENT agrees to pay RAILROAD within one month of the effective date of this agreement the sum of \$19,029.94, being RAILROAD's cost for regular maintenance and SERVICE CALLS during the period from September 1, 1984 until July 31, 1986. GOVERNMENT also agrees to pay within one month of receipt of bill rendered by RAILROAD for RAILROAD's cost for regular maintenance and service calls between August 1, 1986 and the effective date hereof, such charges to be based on the rates specified in Article 4 hereof.

4. a. GOVERNMENT agrees to pay the RAILROAD \$8,628.00 per year for the monthly inspection and service, said payment to be made annually in advance upon receipt from RAILROAD of bill rendered. (\$8,628.00 = \$1,438 per crossing per year times 6)

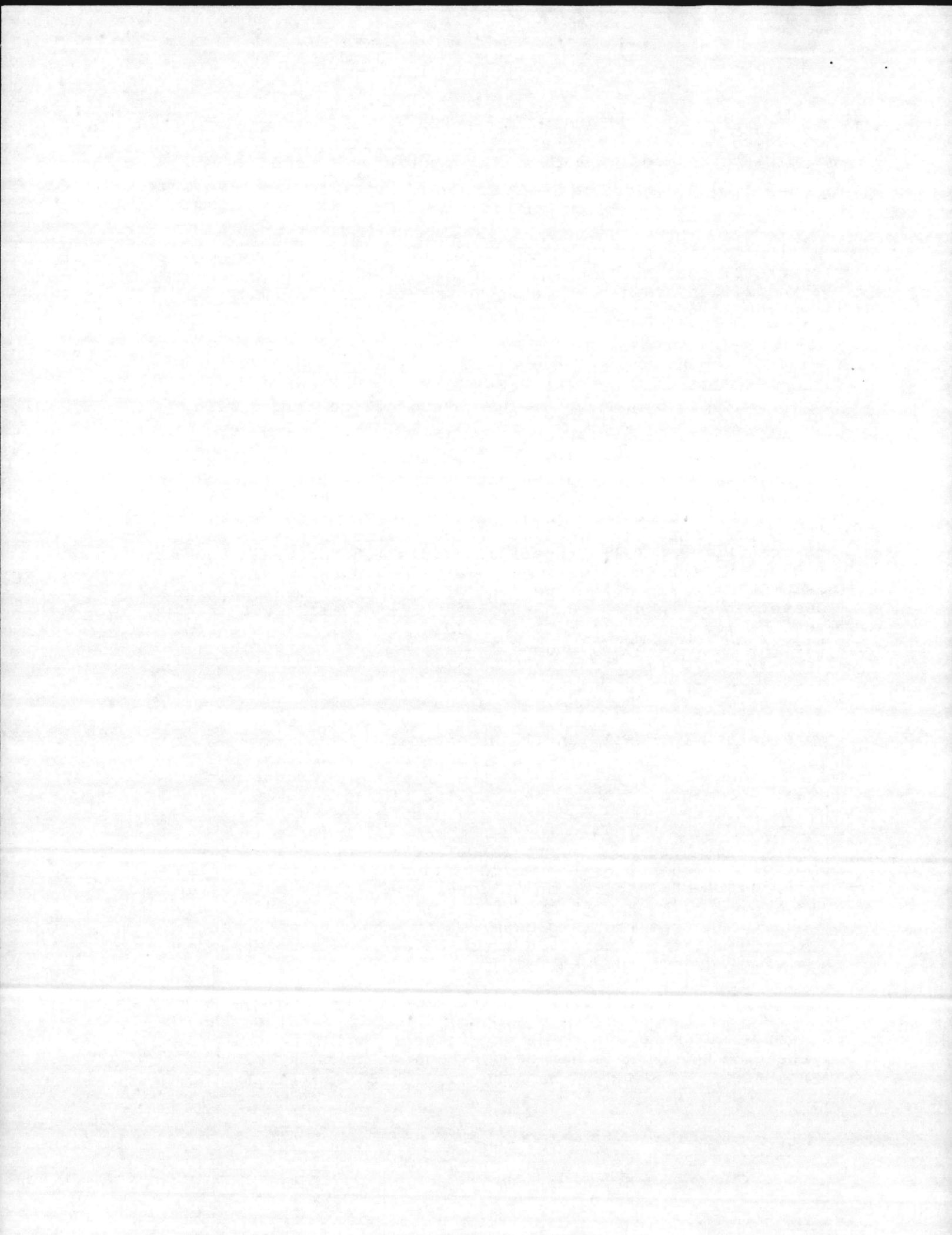
b. GOVERNMENT agrees to pay RAILROAD for SERVICE CALL work related to installation of new part structural changes, machine work or repair and/or repair of vandalized crossing signals at the rate of \$35.00 also the mileage thereto at the rate of 22 cents per also the cost of any part that RAILROAD may agree to

c. GOVERNMENT agrees to pay RAILROAD for other SERVICE CALLS at the rate of \$35.00 per hour and in addition thereto mileage at the rate of 22 cents per mile.

d. Each of the rates provided for in Articles 4a, b and c hereof may be increased or decreased each year on the anniversary of the effective date hereof by increasing or decreasing each of the rates quoted above by the percentage increase or decrease in the U.S. Department of Commerce, Bureau of Economic Analysis' Implicit Price Deflators for Gross National Product (all items 1982 equals 100 reference base) between the effective date of this SECOND SUPPLEMENTAL AGREEMENT and the effective date of such adjustment; provided, however, that each of such adjusted rates shall never in any event be less than the rates provided for the first year of this SECOND SUPPLEMENTAL AGREEMENT. For identification purposes, said Index for 1985 was 111.7.

4. The RAILROAD agrees that the Comptroller of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after any payment under this SECOND SUPPLEMENTAL AGREEMENT, have access to and the right to examine any directly pertinent books, documents, papers, and records of the RAILROAD and any such payment made pursuant to this SECOND SUPPLEMENTAL AGREEMENT. The RAILROAD further agrees to include in all subcontracts hereunder a provision to the effect that the Comptroller General of the United States or his representatives shall, until the expiration of 3 years after any payment under this SECOND SUPPLEMENTAL AGREEMENT with the GOVERNMENT, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving any such payment.

5. The liabilities of the GOVERNMENT and the RAILROAD with respect to the death or injury to any person, or the loss or damage to the property of any person, including the property of the GOVERNMENT, whether or not covered by this SECOND SUPPLEMENTAL AGREEMENT, shall be subject to applicable law.



6. No member of or delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this SECOND SUPPLEMENTAL AGREEMENT, or to any benefit to arise therefrom, but this provision shall not be construed to extend to this if made with a corporation for its general benefit.

7. RAILROAD hereby warrants that no person or agency has been employed or retained to solicit or secure this SECOND SUPPLEMENTAL AGREEMENT upon agreement or understanding for a commission, percentage, brokerage or contingent fee, expecting bona fide employees or bona fide established commercial agencies maintained by the RAILROAD for the purpose of securing business. For breach or violation of this warranty, the GOVERNMENT shall have the right to annul this SECOND SUPPLEMENTAL AGREEMENT without liability or in its discretion to require the RAILROAD to pay the full amount of such commission, percentage, brokerage, or contingent fee.

8. a. The GOVERNMENT may, by written notice to the RAILROAD, terminate the right of the RAILROAD to proceed under this SECOND SUPPLEMENTAL AGREEMENT if it is found, after notice and hearing by the Secretary of the Navy or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the RAILROAD, or any agent or representative of the RAILROAD, to any officer or employee of the GOVERNMENT with a view toward securing this SECOND SUPPLEMENTAL AGREEMENT or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of this SECOND SUPPLEMENTAL AGREEMENT; provided, that the existence of the facts upon which the Secretary of the Navy or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this SECOND SUPPLEMENTAL AGREEMENT is terminated as provided in paragraph 8a hereof, the GOVERNMENT shall be entitled (1) to pursue the same remedies against the RAILROAD as it could pursue in the event of a breach of the SECOND SUPPLEMENTAL AGREEMENT by the RAILROAD, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Navy or his duly authorized representative) which shall be not less than three or more than ten times the costs incurred by the RAILROAD in providing any such gratuities to any such officer or employee.

9. The effective date of the SECOND SUPPLEMENTAL AGREEMENT to Track Agreement N62470-84-RP-00271 shall be _____, 19 ____.

10. Except as expressly modified and amended hereinabove, all other provisions and conditions of the AGREEMENT shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused the
SECOND SUPPLEMENTAL AGREEMENT to be executed by their duly
authorized representatives as of the date hereinabove written.

ATTEST:

CAMP LEJEUNE RAILROAD COMPANY
By:

Assistant Secretary

Vice President.

Date: _____

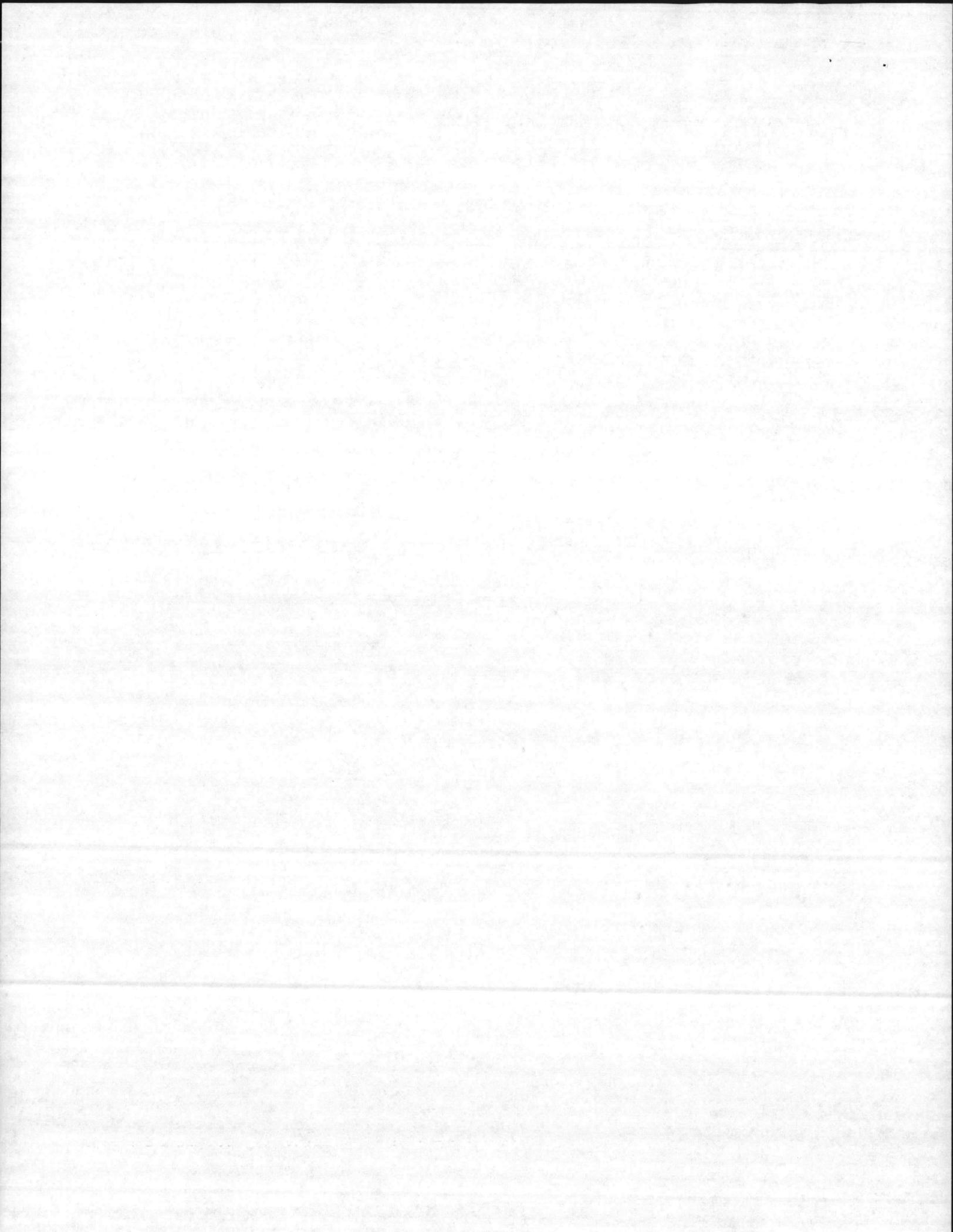
(SEAL)

UNITED STATES OF AMERICA
By:

By direction of the Commander,
Atlantic Division, Naval
Facilities Engineering Command
Norfolk, Virginia 23511-6287

Date: _____

9800L/102286



MEMORANDUM TO CODE 09CA

Subj: TRACKAGE AGREEMENT N62470-84-RP-00271 CAMP LEJEUNE RAILROAD SYSTEM,
CAMP LEJUENE, NORTH CAROLINAEncl: (1) Southern Railway System ltr 125 Camp Lejeune to R. H. Swiader of 28
October 86
(2) LANTNAVFACENGCOM Norfolk ltr AO-89/241B1 to Mr. L. H. Smith, Jr.

1. Enclosure (1) has been received in this Comand and an appropriate reply drafted as enclosure (2). Request you review enclosures in light of subject Agreement. If in order, request your concurrence of contents. Point of Contact is F. Lee Warren, telephone 445-2375.

2. Time may be charged to Job Order No. 12EA33.

Frances M. Hoover

FRANCES M. HOOVER
By direction

24 NOV 86.

DISCUSSED WITH CODE 09CA. HE HAS A PROBLEM WITH WORKING OF TRACKAGE AGREEMENT. WHAT CONSTITUTES "SIGNS AND MARKERS"? DOES THAT INCLUDE SIGNALING DEVICES? WHO AUTHORIZED R.R. TO DO WORK (SUPPOSEDLY) THE RESPONSIBILITY OF THE GOV'T?

CODE 09CA ASKED ME TO DISCUSS WITH SOMEONE KNOWLEDGEABLE IN CIVIL BRANCH - DESIGN.

I CALLED 4-9905, GOT BOBBY TAYLOR, WHO PARTICIPATED IN THE PRE-AGREEMENT DISCUSSION, ALONG WITH CODE 24A AND JOHN LEVICK. HE REMEMBERS THAT R.R. ARGUED FOR REIMBURSEMENT FOR INSPECTION COSTS BUT CODE 24A CALLED IT A "WASH-OUT" - GOV'T WOULD GIVE FREE USAGE OF TRACKS FOR R.R. MAINTAINING SIGNS & MARKERS. NO REQUEST WAS MADE OF THE R.R. FOR PRICES OR FEES AND GOV'T HASN'T REQUESTED R.R. TO PERFORM THESE SERVICES.

4087 Lee
over
action

CODE 09P CONTROL ROUTE SHEET

REAL ESTATE CONTROL NO. 194R FILE NO. 70 89

LANTDIV CONTROL NO. _____

DATE RECEIVED 11-7-86

DATE OF CORRESPONDENCE 10-28-86

ACTION DUE DATE ~~11-21-86~~ INTER 12/3 completion 12/3/80

ACTION CODE 24 → 241 3041 11/2/80 242 _____

24A 1147 241A _____ 242A _____

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241A2 _____ 242B1 _____

241A3 _____ 242C _____

241B _____ 242C1 _____

241B1 11/19 242S _____

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REMARKS 20 2yrs 11/18

A 241 4070

20 09CA 11/19/86

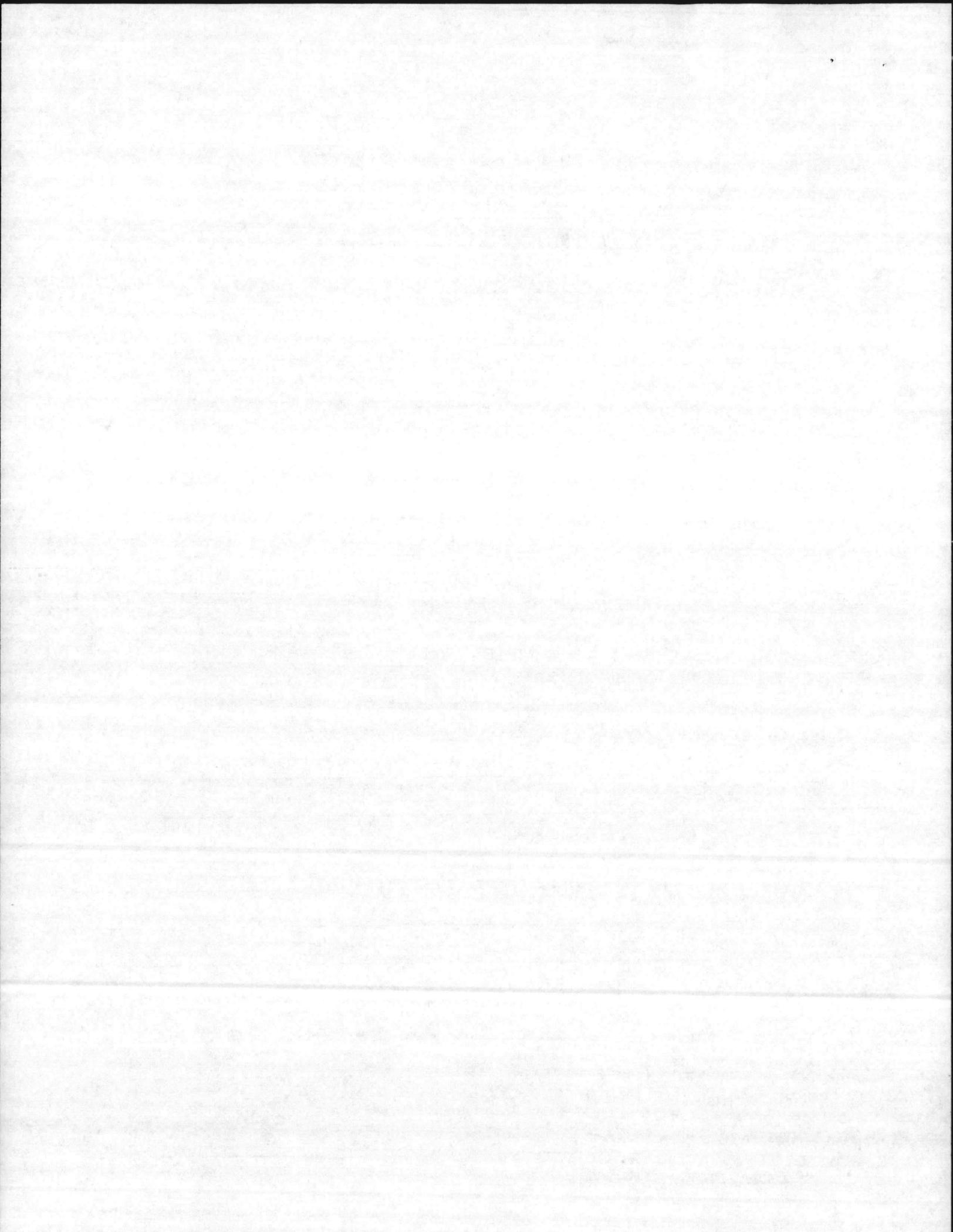
Please send copy of agreement and explain we
can't pay for past services not ordered (discovered out of state fr. Hudson)
but USMC 'over maintenance' and HUDS
'cannot pay in advance for services' IS THIS A RE. ACTION?
of 90,000,000 dollars, etc.

Better run this through 09CA in addition to checking
against 1st supplement to D

ACTION COMPLETE DATE 11/28/86 INITIALS Jhu

WANG LOG OUT DATE _____ INITIALS _____

SEQUENCE NO. 2132 ott/VA COMPLETED _____



(804) 445-2375

AD-83
24181

28 NOV 1986

Mr. L. H. Smith, Jr.
General Manager
Southern Railway System
95 Spring Street SW
Atlanta, Georgia 30303

Dear Mr. Smith:

This is in reference to your letter dated October 26, 1986 regarding maintenance of signals at six (6) public grade crossings as covered by Trackage Agreement NG2470-84-RP-00271.

This is the first reference made to this matter and no record can be found of the Government request to you for this service. Consequently, we cannot accept your request for payment.

As requested, we enclose a copy of First Supplemental Agreement to Trackage Agreement NG2470-84-RP-00271. Mr. F. Lee Warren is the designated point of contact in this Command. His telephone number is (804) 445-2375.

Sincerely,

FRANCES W. HOOVER
head, Operations Branch
Real Estate Division
By direction of the Commander

Encl

Blind copy to:
MORRB Camp Lejeune

R/O CODE	INIT & DAT
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Drafter's Name WARREN	
Typed By ott/ds	
Date Prepared 11-25-86	
R/S No. 171E	

TIC
12-15-86

Southern Railway System

*Transportation Department
Eastern Lines
Atlanta, Georgia 30303*

L. H. SMITH, JR.
GENERAL MANAGER

October 28, 1986

99 SPRING STREET, S.W.
TEL: (404) 529-1323

125 - Camp Le Jeune

Mr. R. H. Swiader
Head, Operations Branch
Real Estate Division, Atlantic Division
Naval Facilities Engineering Command
Department of the Navy
Norfolk, Virginia 23511-6287

RE: Trackage Agreement - N62470-84-RP-00271,
Effective September 1, 1984 between Camp
LeJeune Railroad Company and United States
of America - Concerns track between Havelock,
North Carolina and Camp LeJeune, North
Carolina.

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