



DCN: 12389

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

2521 South Clark Street, Suite 600

Arlington, VA 22202

Telephone: 703-699-2950

July 29, 2005

Senator John Ensign  
United States Senate  
Washington, DC 20510-5050

Dear Senator Ensign:

I am responding to your letter of July 29, 2005 in which you express concern about the openness and transparency of the Defense Base Closure and Realignment (BRAC) Commission.

Recognizing your authority and responsibility for oversight of the BRAC process, I readily accede to your request for a meeting between your staff and appropriate representatives of the Commission. We stand ready to meet as you request no later than August 3<sup>rd</sup> and will provide any and all assistance that is requested, to include access to Commission files and records.

I am confident that we have conducted all of our activities in the spirit of openness and complied with all provisions of the Base Closure Act. We have made unprecedented efforts to ensure transparency and to be receptive and responsive by every possible means to the public, community groups, and the Congress. We have been guided by a well-grounded understanding of the law, enhanced by interaction with your staff. I have made extraordinary efforts to ensure we fulfill the mandate that guides our actions, that is to be open and thorough in our deliberations and independent and resolute in our decisions.

Necessary arrangements can be made by your staff with my Executive Director, Mr. Charles Battaglia.

Sincerely,

A handwritten signature in cursive script that reads "Anthony J. Principi".

Anthony J. Principi  
Chairman

**Chairman:** Anthony J. Principi

**Commissioners:** The Honorable James H. Bilbray, The Honorable Philip E. Coyle III, Admiral Harold W. Gehman Jr., USN (Ret), The Honorable Jim Hansen, General James T. Hill, USA (Ret), General Lloyd Newton, USAF (Ret), The Honorable Samuel K. Skinner, Brigadier General Sue Ellen Turner, USAF (Ret)

**Executive Director:** Charles Battaglia

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JUDITH A. ANSLEY, STAFF DIRECTOR  
 RICHARD D. DeBOBES, DEMOCRATIC STAFF DIRECTOR

# United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, DC 20510-6050

July 29, 2005

Honorable Anthony J. Principi  
 Chairman, Base Closure and Realignment Commission  
 2521 South Clark Street, Suite 600  
 Arlington, Virginia 22202-3920

Dear Chairman Principi:

Section 2902 of the Defense Base Closure and Realignment Act of 1990, as amended, provides that "All the proceedings, information, and deliberations of the [Base Realignment and Closure] Commission shall be open, upon request" to the Chairman of the Subcommittee on Readiness and Management Support of the Committee on Armed Services and other named persons. By including this provision in the BRAC statute, Congress authorized my subcommittee to provide oversight on the Commission's activities. It is in my capacity as Chairman of the Subcommittee on Readiness and Management Support that I write to you regarding the performance of the Commission in carrying out its statutory duties. I have been asked to specifically look at whether Department of Defense officials, who were personally or substantially involved in the preparation of information and recommendations concerning the closure or realignment of military installations, provided members of the BRAC Commission *ex parte* or uncertified information that has not been made part of the public record to date by the BRAC Commission.

The Congress, in enacting the BRAC statute, was aware that the process of base closure is a highly controversial one, and that the deliberations of the Commission must be open and transparent. Therefore, the Congress included a provision in BRAC law which requires that Department of Defense officials, in submitting information to the Commission, "shall certify that such information is accurate and complete to the best of that person's knowledge and belief." (Section 2903) Other provisions in the BRAC law direct that all testimony at public hearings of the Commission be under oath and establish the requirements for open hearings and deliberations, site visits, separation of the Commission's staff from the Department of Defense, and other protections.

Moreover, insofar as the Administrative Procedure Act applies to the deliberations of the Commission, private conversations would appear to violate that Act's limitations on *ex parte* communications, as well as its fundamental requirement that decisions of agencies be made on the basis of evidence of record. Any deviation from these legal requirements clearly gives rise to potential litigation that could delay or

Honorable Anthony J. Principi  
July 29, 2005  
Page 2 of 2

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Apart from the potential legal ramifications is the risk of undermining the public's perception of the integrity and reliability of the BRAC process. We must remember that there inevitably will be the need for a future Secretary of Defense to initiate a BRAC process. We must simply have the support of the public and the Congress to enact that process.

Because of the vital importance of these matters, I therefore request that you allow my staff to meet with appropriate representatives of the 2005 BRAC Commission no later than August 3, 2005 and that all relevant documentation be produced by August 10, 2005, which will allow for examination of all records, materials, and other evidence relating to any *ex parte* communications and to assess, if in fact they occurred, whether these *ex parte* communications may have unduly or improperly influenced the Commission's actions to date.

I look forward to your prompt reply.

Sincerely,



John Ensign  
Chairman  
Subcommittee on Readiness and Management  
Support

cc: The Honorable Donald Rumsfeld



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John Ensign  
Chairman

Subcommittee on Readiness and Management  
Support

cc: The Honorable Donald Rumsfeld



UNITED STATES SENATOR

John Ensign

NEVADA

Washington, D.C. 20510

Phone (202) 224-6244

Fax (202) 228-2193

To: Chairman Principi (Christine Hill)

From: Senator Ensign

Re: BRAC Concern

Date: 29 July 2005

Number of pages: 3

(703) 699-2725

**NOTES:**

Senator Ensign has tried to reach Mr. Principi today without success.

-D. Grise

**CONFIDENTIALITY NOTICE:**

The documents accompanying this telecopy transmission contain confidential information. The information is intended only for the use of individual(s) or entity named above. If you are not the intended recipient, you are notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is not permissible. If you have received this telecopy in error, please immediately notify us by telephone at the number above to arrange for return of the original documents. Thank you.



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Necessary arrangements can be made by your staff with my Executive Director, Mr. Charles Battaglia.

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Chairman

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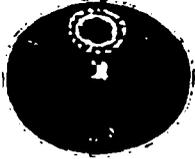
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Anthony J. Principi  
Chairman

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USN (Ret), The Honorable Jim Hansen, General James T. Hill, USA (Ret), General Lloyd Newton, USAF (Ret), The  
Honorable Samuel K. Skinner, Brigadier General Sue Ellen Turner, USAF (Ret)  
Executive Director: Charles Battaglia

# DRAFT

## Brief Statement Regarding Development of the Adds List as Contained in Commission July 1, 2005 Letter

1. **MCRD San Diego, CA:** was considered at the request of a commissioner who wished to explore the redundant capacity in Marine Corps Recruiting Depots in order to relieve the congested location of the current site and to provide the local community the opportunity to expand the international airport and/or commercially develop scarce real estate.
2. **Naval Shipyard Pearl Harbor, HI:** was considered at the request of commissioners who expressed concern that a shipyard with apparent higher military value and efficiency was proposed for complete closure in place of Pearl Harbor.
3. **NAS Brunswick, ME:** was presented for consideration to allow a fuller exploration of options for reducing excess infrastructure. DOD minutes show that DON had proposed for complete closure but was overruled at a late IEG meeting with the rationale of providing unspecified strategic presence and surge capability.
4. **Navy Broadway Complex, CA:** was considered at the request of a commissioner who was familiar with the installation and the development enabling legislation dating to the late 1980's. This dialogue was openly discussed during the July 19, 2005 Adds Hearing.
- 5a. **NAS Oceana, VA:** was included in the Chairman's letter as part of the "Realignment of Master Jet Base" consideration and was considered for addition as a potential closure at the request of commissioners who from the initial (May 17, 2005) hearings questioned the state of encroachment and alternatives for Navy. CNO testified that Navy needed to move and that several options had been considered but that no suitable alternatives had been found. Commissioners felt that another exploration of alternatives was warranted.
- 5b. **Moody AFB, GA:** was included in the Chairman's letter as part of the "Realignment of Master Jet Base" consideration and was generated as a result of testimony between the Commission and the CNO and the Commission and the CSAF during the May 17<sup>th</sup>, 2005 Navy and Air Force portions of Commission Hearings following receipt of the Recommendations.
6. **Galena Airport FOL, AK:** was noted as a consideration by attending commissioners as a result of dialogue during the Eielson AFB Visit on June 15, 2005 noting rather substantial operating costs with little apparent Military Value. The Commission requested Community comment regarding the consideration for such consideration in the course of open testimony at the June 15<sup>th</sup> Alaska Regional Hearing.
7. **Pope AFB, NC:** was added for consideration as a result of dialogue with commissioners regarding review by Commission staff of the Air Force BCEG minutes

## MEMORANDUM FOR THE RECORD

FROM: Chairman Anthony J. Principi

DATE: August 8, 2005

SUBJ: Summary of Meetings/Telephone Calls with DoD Officials

The following is a summary of meetings and telephone conversations Chairman Anthony Principi held with various DoD officials since May 13, 2005. This summary does not include meetings with DoD officials during site visits.

1. Lieutenant General Steven Blum, USA, Chief of the National Guard Bureau: Breakfast meeting on June 21, 2005 to clarify issues related to the BRAC recommendations on the Air National Guard. Homeland Security concerns, impact on states losing aircraft assets, Air National Guard recruitment and retention and potential solutions were discussed.
2. Acting Deputy Secretary of Defense Gordon England: A meeting was held on June 24, 2005 to discuss the BRAC Commission process. A general discussion ensued regarding the need for the Secretary's recommendations to be favorably considered by the Commission.
3. Admiral Vernon Clark, USN (ret.), Chief of Naval Operations: A meeting was held on July 12, 2005 to clarify issues related to Navy BRAC recommendations. Particular emphasis was on Portsmouth Naval Shipyard, New London Submarine Base, Pearl Harbor Naval Shipyard and Brunswick Naval Air Station. The issue of encroachment at Oceana Naval Air Station was discussed along with whether there were options for movement to a new location, including, several Air Force installations.
4. General Michael Hagee, USMC, Commandant of the Marine Corps: A meeting was held on July 12, 2005 to discuss the need for two recruit depots and the potential consolidation of Marine Corps Recruit Depot San Diego at Marine Corps Recruit Depot Parris Island. The feasibility of relocating MCRD San Diego to Camp Pendleton was discussed as well.
5. General William L. Nyland, USMC, Assistant Commandant of the Marine Corps: A meeting was held on July 19, 2005 at the General's request to clarify cost issues and to urge the Commissioners not to close MCRD San Diego.
6. Acting Deputy Secretary of the Army Dubois and Vice Chief of Staff General Cody, USA: A meeting was held on July 20, 2005 to receive a briefing on the Army's Re-Stationing Plan.
7. Admiral Michael G. Mullen, USN, Chief of Naval Operations: A meeting was held with the new Chief of Naval Operations on August 3, 2005 to clarify issues related to Navy BRAC recommendations. All major Navy BRAC recommendations were

discussed, including, the Commission's additions of Oceana NAS, Navy Broadway Complex and Postgraduate School at Monterey for consideration for closure or realignment.

8. General Michael Moseley, USAF, Deputy Chief of Staff: At the request of Governor Hoven (ND) a telephone discussion was held with General Moseley to discuss future mission requirements at Grand Forks AFB. During the conversation I asked for clarification on mission requirements for Ellsworth AFB and Cannon AFB.
9. Mr. Wayne Arny, Deputy Assistant Secretary of the Navy for Installations: A telephone conversation was held to obtain Mr. Arny's clarification and amplification on several Navy BRAC recommendations, particularly the closure of Portsmouth Naval Shipyard and New London Submarine Base. Environmental remediation costs, liability issues with privatized housing, economic impact and COBRA cost analysis at these installations were discussed. I also inquired whether any progress had been made since 1988 in the enhanced-use lease project of the Navy Broadway Development Complex in San Diego. Consolidation of Army, Navy and Air Force post-graduate education at Monterey to reduce Base Operating Support was discussed in light of the CNO's comments at the May 17, 2005 hearing that he wanted to retain the PG School..
10. Lieutenant General Steven Blum, USA, Chief of the National Guard Bureau: A telephone conversation was held to obtain clarification on the status of a compromise Air National Guard compromise solution being developed by the Adjutant Generals.
11. Lieutenant General Steven Blum, USA, Chief of the Air National Guard Bureau: A meeting was held on July 29, 2005 to discuss progress on reaching a solution on Air National Guard BRAC recommendations. Legal issues were discussed as well.
12. Acting Air Force Secretary Michael Dominguez: A telephone call was held with Secretary Dominguez to determine whether the Air Force could assist Commissioners with clarification on any pending issue.

**MEMORANDUM**

August 5, 2005

**FOR** Charles Battaglia, Staff Director, 2005 Defense Base Closure and Realignment Commission

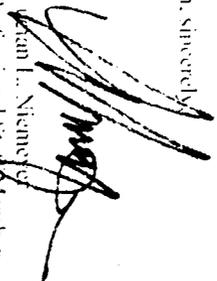
**FROM** Review Team, Subcommittee on Readiness and Management Support, Committee on Armed Services, United States Senate

**RE:** Review of 2005 Base Closure and Realignment Commission

Charlie:

As discussed, please find attached a statement of the scope for the subcommittee's review, which has been approved by Senator Insign. Pursuant to Senator Insign's letter to Chairman Principi on July 29, 2005, we look forward to receiving any information related to the matter from the Commission by August 10, 2005. Thank you.

On behalf of the BRAC Commission Review Team, sincerely,



Megan L. Nemer  
Professional Staff Member  
Committee on Armed Services  
United States Senate

On enclosure

## **Review of 2005 Defense Base Closure and Realignment (BRAC) Commission**

### **PURPOSE AND SCOPE OF REVIEW**

Recently, the Subcommittee on Readiness and Management Support has received information on the activities of the Defense Base Closure and Realignment (BRAC) Commission regarding their deliberations of July 19, 2005. That information has raised concerns regarding the extent and openness of information used by the BRAC Commission in deliberations of matters before the Commission.

As a result, Subcommittee Chairman Ensign has initiated a review of the Commission's activities in fulfillment of its oversight responsibilities as intended by Congress in accordance with section 2002 of the Defense Base Closure and Realignment Act of 1990, as amended. As part of this review, the Subcommittee is requesting access to all the proceedings, information, and deliberations of the Commission relating to any *ex parte* communications from May 2, 2005 to the present that were, in any way, related to the Commission's activities on July 19, 2005.

This review will assess the degree to which Department of Defense officials, who were personally and substantially involved in the preparation of information and recommendations concerning the closure or realignment of military installations, provided BRAC Commissioners or Commission staff *ex parte* information that has not been made part of the public record. Further review will assess whether such *ex parte* communications, if required to be certified, may have unduly or improperly influenced the Commission's deliberations of July 19, 2005.

### **QUESTIONS FOR THE COMMISSION THE REVIEW WILL ADDRESS**

1. What are your criteria and processes to determine which information received from all sources is placed in the commission record?
2. What processes and practices have been established for a Commissioner or Commission staff to receive information from the Department of Defense regarding BRAC recommendations pending before the Commission?
3. Have all Commissioners and Commission staff made every attempt to ensure that information received by DoD officials was certified? Have all Commissioners and Commission staff strictly adhered to established procedures for receiving and handling certified information received by DoD officials?
4. Has any Commissioner or any Commission staff received *ex parte* information from DoD officials who were personally or substantially involved in the preparation of information and recommendations concerning the closure or realignment of military installations?
5. If yes to question 4, From whom? How often? In what form was this information transmitted (i.e. phone call, meeting, e-mail, letter, etc)? What was the content of the information and recommendations transmitted? Did the information or communications involve matters before the commission on July 19, 2005? To what extent did the information support or oppose DoD

BRAC recommendations? How did the Commission person treat such information (i.e. was log entry or a memo for record completed)?

6. What internal analysis was developed and used that contributed to the Commission's deliberations regarding Marine Corps Recruit Depot, San Diego, CA; Grand Forks AFB, ND; Navy Broadway Complex, San Diego, CA; Pearl Harbor, HI and NAS Oceana, VA?
7. Did any Commissioner or Commission staff receive information from any DoD official regarding Marine Corps Recruit Depot, San Diego, CA; Grand Forks AFB, ND; Navy Broadway Complex, San Diego, CA; Pearl Harbor, HI and NAS Oceana, VA that has not been made part of the public record?

#### TYPES OF DATA/INFO/ANALYSIS REQUIRED FOR REVIEW — SOURCES

The following only pertains to any contact with DOD officials after May 2, 2005 that have not been made a part of the public record:

- Telephone logs, with descriptions of the contents of those discussions
- Appointment books
- E-mails
- Written documents
- Analytical documents impacting the deliberations of July 19<sup>th</sup>.

## **Battaglia, Charles, CIV, WSO-BRAC**

---

**From:** Cirillo, Frank, CIV, WSO-BRAC  
**Sent:** Sunday, August 28, 2005 11:14 PM  
**To:** Cook, Robert, CIV, WSO-BRAC; Battaglia, Charles, CIV, WSO-BRAC; Hague, David, CIV, WSO-BRAC; Hanna, James, CIV, WSO-BRAC; Schaefer, James, CIV, WSO-BRAC; Small, Kenneth, CIV, WSO-BRAC; Carnevale, Diane, CIV, WSO-BRAC; Hill, Christine, CIV, WSO-BRAC; Van Saun, David, CIV, WSO-BRAC; Dinsick, Robert, CIV, WSO-BRAC  
**Subject:** Guess What - 84.7 percent

Early exit poles say we again achieved the magic 85 percent mark. This time the Accept or Reject count is not as direct as past rounds due to multiple actions in many of the 190 recommendations so my observations are not strictly objective.

Army 55/1 - Navy 18/3 - Air Force 33/9 - JCSG (UNVALIDATED) 55/16 for a grand total of 161/29 Accept/Reject or 84.7 percent.

Thus if my figures bear out the final count and second guessing, all four Commission Rounds will have resulted in a 84-85 percent acceptance of DoD recommendations.

Frank

This e-mail has been sent from the Blackberry of Frank Cirillo, Director of Review and Analysis, Defense Base Closure and Realignment Commission

JOHN ENSIGN  
NEVADA

COMMITTEES:  
ARMED SERVICES  
COMMERCE, SCIENCE, AND  
TRANSPORTATION  
HEALTH, EDUCATION, LABOR,  
AND PENSIONS  
BUDGET  
VETERANS' AFFAIRS

# United States Senate

WASHINGTON, DC 20510-2805

August 17, 2005

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Honorable Anthony J. Principi  
Chairman, Base Closure and Realignment Commission  
2521 South Clark Street, Suite 600  
Arlington, Virginia 22202-3920

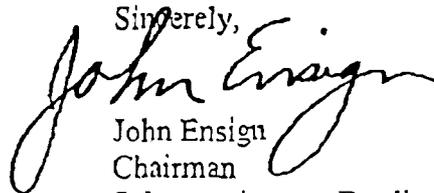
Dear Chairman Principi:

Thank you for your letter of August 9, 2005. After reviewing the enclosures, it is apparent that previously undocumented conversations between the Commission and senior-level Department of Defense officials occurred on matters before the Commission. I commend your decision to take immediate steps to post "reports of future meetings and other contacts" with Department of Defense officials on the Commission's website to preserve our common interest in a fair and transparent process. I request that you continue to make all information received by the Commission part of the public record at the earliest time possible.

Further, the information contained in the summary of your meetings/telephone calls also confirms that discussions occurred with Department of Defense officials who were personally or substantially involved in the preparation of information and recommendations concerning the closure or realignment of military installations. To assess whether *ex parte* communications may have influenced the Commission's actions to date, I request that you provide to my staff a complete detailed account of (1) information exchanged in meetings and telephone calls, particularly as it related to subsequent Commission deliberations; and (2) information on *ex parte* contacts that the other eight commissioners, as well as the Commission staff, had with Department of Defense officials between May 2 and July 19, 2005. I also request that you allow my staff to interview individual Commissioners and Commission staff, as necessary.

I am committed to quickly resolving this matter as to not impede the critical work of the BRAC Commission. I request that you provide the requested documentation and access to my staff before September 6, 2005. I look forward to your reply.

Sincerely,



John Ensign  
Chairman

Subcommittee on Readiness and Management Support

cc: The Honorable Donald H. Rumsfeld

Date: 22 June 2005:

Official / Purpose: Meeting between Mr. Jim Hanna and RDML Harry Harris for lunch in Pentagon. Unrelated to BRAC. RDML Harris was one of Mr. Hanna's plebes at USNA and was Operations Officer in Naval Forces Central Command during Mr. Hanna's tour as Chief of Staff while conducting OEF and OIF in the Middle East.

Date: 12 July 2005

Official / Purpose: Attended meetings with CMC and CNO in company of the Chairman during which CMC and CNO voiced their concerns with potential adds.

Date: 20 July 2005

Official / Purpose: Office call with ADM Mullen, Perspective CNO, on BRAC process and his concerns with adds.

Date: 21 July 2005

Official / Purpose: Office call with Ms. Anne Davis and Mr. Dennis Biddick to discuss analytic support required of DoN BRAC team during BRAC endgame. This was to ensure that DoN retained adequate personnel to accommodate Clearinghouse taskers and provide necessary clarification and amplification of existing recommendations.

## JCSG

Date: 13 June 2005

Official / Purpose: RC Transformation Recommendations, Tim Abrell met with Col Day USAR rep to RC-PAT .

Date: 1 June 2005

Official / Purpose: Technical Joint Cross-Service Recommendations, Les Farrington met with Al Shaffer (SES) BG Fred Castle.

Date: 29 June 2005

Official / Purpose: BRAC Actions Affecting NBVC (Point Mugu) VADM Walter Massenburg and RADM Michael Bachmann.

Date: 2 August 2005

Official / Purpose: Technical Joint Cross-Service Recommendations, Al Shaffer (SES) National Defense University

Date: 3 August 2005

Official / Purpose: Impact of proposed BRAC recommendations on the science and technology program. Dr. Hans Binnendijk, Dr. Richard Chait, Dr. Don Daniel, Dr. Elihu Zimet, Dr. John Lyon.



COPY

**\*\* SENATE ARMED SERVICES COMMITTEE \*\***

**Fax Cover Sheet**

**Return this receipt to:**

**FAX TO:**

Christine Hill  
Director Congressional Affairs

**COMMENTS:**

Per your request  
Re: Interview with Chairman  
Principis 8/22/05

Regina Dubey cell: 202-256-1139

**FROM:** Barbara Gannon  
Committee on Armed Services  
United States Senate  
Room SR-228, Russell Senate Office Building  
Washington, D.C. 20510-6050

**PHONE:** (202) 224-3874  
8753

This transmission consists  
of 2 pages, including  
this cover sheet.

Ms. Hill

The following is a copy of the question asked Chairman Principi on 22 August 2005 including the participants from the SASC/Sen. Ensign's Staff.

**Senate Armed Services Committee (SASC) staff present**

Regina Dubey—Lead Interviewer

Marc Schwartz

Barbara Gannon

**Sen. John Ensign's Staff (Chairman, Subcommittee on Readiness and Management)**

Alexi Beyer

D'Arcy Grisier

**Questions for Commissioner Principi**

**We explained to Commissioner Principi that we need to know the following about the summary of meetings/telephone calls he provided to the committee on August 8<sup>th</sup>. 1) Who initiated the discussion? 2) Details of the discussion—who said what? 3) Is the discussion documented or in the process of being documented? 4) How did he weigh the information given in these communications?**

1. As part of the summary of meetings/telephone calls with DOD officials submitted to the committee on August 8<sup>th</sup>, you listed three discussions with LTG Blum that occurred on June 21, July 29, and another on an unknown date regarding recommendations related to the Air Guard, could you elaborate on these discussions?
2. Could you elaborate on the clarifying issues discussed with ADM Vernon Clark concerning Portsmouth Naval Shipyard, New London Submarine Base, Pearl Harbor Naval Shipyard, and Brunswick Naval Air Station, including the issue of encroachment at Oceana Naval Air Station?
3. You have also documented discussions with Marine Corps officials on July 12<sup>th</sup> and 19<sup>th</sup> concerning the Recruiting Depot in San Diego; could you please detail the nature of these discussions?
4. Similarly, you spoke with ADM Mullen on Aug 3<sup>rd</sup> on Navy BRAC issues related to Naval Air Station Oceana, the Navy Broadway Complex, and the Post Graduate School at Monterrey, what was the substance of these discussions?
5. You discussed the nature of future missions at Ellsworth Air Force Base and Cannon Air Force Base with General Moseley, the date is unknown, could you detail the subject matter discussed in this conversation?

6. You spoke with Wayne Army, the Deputy, Assistant Secretary of the Navy, on a number of issues (no date given): Portsmouth Naval Base, New London Submarine Bases, environmental issues, privatized housing, economic impact and COBRA analysis, the Broadway Complex, and the consolidation of post-graduate education, what was specifically discussed in this conversation?
7. You also listed a conversation with Acting Secretary England on June 24<sup>th</sup> on what you described as the "BRAC Recommendation Process." Do you recall the details of this discussion?