

SUBJECTS FOR DISCUSSION WITH DEPUTY SECDEF ENGLAND 24 JUNE 2005

REVIEW THE ADDS PROCESS –

- WILL PROVIDE DOD LIST OF POSSIBLE ADDITIONS FOR CONSIDERATION TO THE SECRETARY'S LIST ON JULY 1 OR 2
- WE CONSIDER THE LIST TO BE A WORKING DOCUMENT AND WILL NOT MAKE IT PUBLIC – REQUEST DOD TAKE THE SAME APPROACH
- WILL OFFER OPPORTUNITY FOR THE SECRETARY TO TESTIFY REGARDING THE ADDITIONS ON JULY 18.
- COMMISSION WILL VOTE ON THE ADDITIONS (7 COMMISSIONERS MUST AGREE) ON 19 JULY.
- TWO COMMISSIONERS WILL VISIT THE BASES ADDED FOR CONSIDERATION
- PUBLIC HEARINGS WILL BE HELD TO RECEIVE COMMUNITY INPUT
- CONGRESSIONAL TESTIMONY WILL BE IN LATE JULY
- SECDEF AND CJCS TESTIMONY WILL BE IN MID-AUGUST
- FOLLOWED BY FINAL DELIBERATIONS AROUND AUGUST 23
- REPORT DUE TO THE PRESIDENT ON SEPTEMBER 8.

REVIEW ANG ISSUE: IS DOD VIOLATING THE LAW BY EFFECTING CHANGES TO ANG UNITS WITHOUT CONSULTATION WITH AND APPROVAL OF THE GOVERNORS OF THE STATES WHERE THE UNITS ARE LOCATED?

- WE EXPECT AN OPINION FROM DOJ IN MID-JULY
- DODGC HAS NOT BEEN FORTHCOMING WITH ITS OPINION – WE HAVE ASKED!
- WE HAVE ALSO ASKED THE QUESTION OF DOD VIA THE CLEARING HOUSE (AND RECEIVED A PARTIAL ANSWER TO INCLUDE THERE WAS NO CONSULTATION WITH THE GOVERNORS)
- GOVERNORS AND TAGS APPEAR UNANIMOUS IN THEIR BELIEF THE ANG RECOMMENDATIONS ARE WRONG AND ILLEGAL

- WE EXPECT TO LEARN MORE ABOUT THE ANG ISSUE AT JUNE 30 HEARING IN ATLANTA WHEN THE TAGS AND DHS TESTIFY
- DHS INITIALLY APPEARED HESITANT TO TESTIFY BUT HAVE RECENTLY INDICATED MORE WILLINGNESS

QUICK COMMENTS

- FAST RESPONSES FROM THE CLEARINGHOUSE VERY IMPORTANT TO US
- WE WILL NEED EXPEDITED COBRA RUNS FOR THE ADDED BASES
- ASK THE SECRETARY TO ENCOURAGE SPEEDY RESPONSES TO OUR REQUESTS
- BRAC PROCESS TRULY TRANSPARENT – EVERYTHING GOES ON THE WEB AS SOON AS POSSIBLE AFTER WE RECEIVE IT
- MILITARY AIR SUPPORT HAS BEEN GOOD
- ALTHOUGH WE NOW HAVE ACCESS TO ALL OF THE MATERIAL WE FEEL IS NECESSARY TO DO OUR WORK, IT STILL REMAINS A THORN THAT ALL THE ISSUES RELATED TO DELAYS DUE TO REAL OR IMAGINED SECURITY ISSUES WERE NOT RESOLVED PRIOR TO MAY 13TH, OR AT LEAST SEVE DAYS THEREAFTER.
- THE READING ROOM WAS NOT IMMEDIATELY AVAILABLE TO OVER 60% OF OUR ANALYSTS FOR THE FIRST WEEK AND A HALF DUE TO THE LACK CLEARANCES – ISSUE NOW RESOLVED BUT IT HAD A SIZEABLE IMPACT AT THE TIME.
- WE ARE GETTING A GOOD TURNAROUND FROM THE CLEARINGHOUSE.
- WE ARE INCLINED TO ALLOW THE READING ROOM TO GO ON 2-HOUR STANDY VS. 40-HOUR MANNING.

Hague, David, CIV, WSO-BRAC

From: Cowhig, Dan, CIV, WSO-BRAC
Sent: Friday, June 10, 2005 5:09 PM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Hague, David, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL
Subject: BRAC Commission RFI

Clearinghouse -

Please respond to the following:

The Governors and Adjutants General of various states have indicated they believe some or all of the realignments of Air National Guard units recommended by the Department of Defense violate 10 USC 18238 and 32 USC 104, as well as the authority of the various states to raise, maintain and command their respective militias under the state and Federal statutory law and constitutions. Please provide a detailed analysis of application of these statutes to the proposed realignment actions involving the Air National Guard. Please include an analysis of the underlying issues of the division of powers between the state and Federal governments. The analysis should specifically address whether and why the proposed realignments would or would not violate existing law.

The Governors and Adjutants General of various states have indicated that in their view the Department of Defense did not adequately consult or coordinate with the Governors and Adjutants General regarding the impact of the proposed realignments of Air National Guard units recommended by the Department of Defense on their homeland security missions. Please describe in detail the consultation or coordination that occurred between the Department of Defense and the Governors and Adjutants General regarding the proposed realignments of Air National Guard units.

The Governors and Adjutants General of various states have indicated they believe the Department of Defense recommendations to relocate specified aircraft from one state's Air National Guard to the Air National Guard of another state fall outside the scope of authority established by the Defense Base Closure and Realignment Act of 1990, as amended. Please provide a detailed analysis of whether and why a recommendation to relocate aircraft from one state's Air National Guard to the Air National Guard of another state is or is not consistent with the purpose and authority of the Defense Base Closure and Realignment Act of 1990, as amended.

The Governors and Adjutants General of various states have indicated they believe the Department of Defense recommendations to retire certain numbers of specified aircraft fall outside the scope of authority established by the Defense Base Closure and Realignment Act of 1990, as amended. Please provide a detailed analysis of whether and why a recommendation to retire aircraft is or is not consistent with the purpose and authority of the Defense Base Closure and Realignment Act of 1990, as amended.

The Governors and Adjutants General of various states have indicated they believe some of the realignments of Air National Guard units recommended by the Department of Defense may violate the Constitutional separation of powers between the executive and legislative branches of the Federal Government. Some of the aircraft the Department of Defense has recommended for removal from specific states were purchased by Congress for the express purpose of equipping those states' militias. The Governors and Adjutants General of various states have suggested that removal of those aircraft from the designated state's militia and the transfer of the aircraft to another state's militia at the direction of the Department of Defense would employ the President's power as Commander-in-Chief to contravene Congress' exercise of its power to authorize, equip and fund that designated state's militia. Please provide a detailed analysis of that position as it applies to the proposed realignment actions involving the Air National Guard.

Thank you.

V/R

Dan Cowhig
Deputy General Counsel and Designated Federal Officer
2005 Defense Base Closure and Realignment Commission
2521 South Clark Street
Suite 600 Room 600-20
Arlington Virginia 22202-3920
Voice 703 699-2974

7 June 2005

Inquiry Response

Re: BI-0045 Commission Question on Congressional Prohibition of Aircraft Retirement
(OSD Clearinghouse Tasker C0240)

Requester: BRAC Commission

Question:

Please explain the impacts on the OSD BRAC recommendations where airframes are to be retired, but, Congress directs that the airframes not be retired. We note that C-130E and KC135E retirements result from numerous OSD recommendations for the Air Force and Air National Guard/Air Force Reserve.

Below are two examples from the FY2006 National Defense Authorization Act that is presently being prepared in Congress:

Prohibition on retirement of KC-135E aircraft (sec. 132)

"The budget request included a plan to retire 49 KC-135Es in fiscal year 2006. The committee believes it is premature to retire any KC-135Es until the AOA is completed and the Secretary of Defense has presented to the congressional defense committees a comprehensive plan for the recapitalization and modernization of the aerial refueling fleet."

Prohibition on retirement of C-130E/H tactical airlift aircraft (sec. 135)

"The committee recommends a provision that would prohibit the Secretary of the Air Force from retiring any C-130E/H tactical airlift aircraft in fiscal year 2006.

The committee believes it would be premature to retire any C-130 aircraft until the results of the Mobility Capabilities Study, which is to be completed in fiscal year 2005, are known and intra-theater airlift requirements are determined."

Please comment on the impact of these two paragraphs and similar language if successive National Defense Authorization acts continue the current guidance.

Answer:

In accordance with the BRAC law, the Air Force developed BRAC recommendations based on the future force structure plan submitted to the congress in November, 2004. If the congress subsequently prohibits the retirement of aircraft, the Air Force will maintain the aircraft in accordance with the law and approved BRAC recommendations.

Approved

A handwritten signature in black ink, appearing to read 'D. L. Johansen', with a long horizontal line extending to the right.

DAVID L. JOHANSEN, Lt Col, USAF
Chief, Base Realignment and Closure Division

Sarkar, Rumu, CIV, WSO-BRAC

From: MacGregor, Timothy, MAJ, WSO-BRAC
Sent: Thursday, June 09, 2005 6:05 PM
To: Sarkar, Rumu, CIV, WSO-BRAC
Subject: FW: OSD BRAC Clearinghouse C0240 - BRAC Commission Official Request - Relationship Between BRAC Recommendations and USAF Airframe Retirements

Attachments: BI-0045 CT-0240 Commission Question on Congressional Prohibition of Aircraft Retirement 7 Jun 051.pdf

From: Small, Kenneth, CIV, WSO-BRAC
Sent: Wednesday, June 08, 2005 8:54 AM
To: Cirillo, Frank, CIV, WSO-BRAC; Cook, Robert, CIV, WSO-BRAC; Beauchamp, Arthur, CIV, WSO-BRAC; Breitschopf, Justin, CIV, WSO-BRAC; Combs, David, CIV, WSO-BRAC; Cruz, Tanya, CIV, WSO-BRAC; Flinn, Michael, CIV, WSO-BRAC; Hall, Craig, CIV, WSO-BRAC; MacGregor, Timothy, MAJ, WSO-BRAC; Small, Kenneth, CIV, WSO-BRAC
Cc: Sillin, Nathaniel, CIV, WSO-BRAC; Saxon, Ethan, CIV, WSO-BRAC
Subject: FW: OSD BRAC Clearinghouse C0240 - BRAC Commission Official Request - Relationship Between BRAC Recommendations and USAF Airframe Retirements

FYI

Ken

From: RSS dd - WSO BRAC Clearinghouse
Sent: Wednesday, June 08, 2005 8:45 AM
To: Small, Kenneth, CIV, WSO-BRAC
Cc: Flood, Glenn, CIV, OASD-PA; Hoggard, Jack, CTR, WSO-OSD_DST JCSG
Subject: OSD BRAC Clearinghouse C0240 - BRAC Commission Official Request - Relationship Between BRAC Recommendations and USAF Airframe Retirements

In response to subject inquiry, the attached PDF file is provided.

OSD BRAC Clearinghouse



BI-0045 CT-0240
Commission Q...

-----Original Message-----

From: Small, Kenneth, CIV, WSO-BRAC
Sent: Monday, June 06, 2005 3:45 PM
To: RSS dd - WSO BRAC Clearinghouse
Cc: Breitschopf, Justin, CIV, WSO-BRAC; Cirillo, Frank, CIV, WSO-BRAC; Meyer, Robert, CTR, OSD-ATL; Saxon, Ethan, CIV, WSO-BRAC
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Clearinghouse:

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Ken Small
AF Team Leader
BRAC Commission R&A Staff